BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:  
B.D. HOWARD  
Respondent.  

Case No.:  2010-42  
ADMINISTRATIVE ENFORCEMENT ORDER  
[SDMC § 26.0439]  
Date:  July 12, 2012  
Time:  5:00 p.m.  
Location:  202 C Street, 12th Floor  
San Diego, CA  92101


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The Administrative Complaint alleges that Respondent violated the Election Campaign 
Control Ordinance [ECCO] in connection with his candidacy for the Eighth District City 
Council seat in the June 8, 2010, primary election. After deliberating pursuant to SDMC 
section 26.0438 with regard to each violation alleged by Petitioner in the Administrative 
Complaint, and based on findings of fact, conclusions of law, and the entire record of the 
proceedings, the Ethics Commission found by the concurring votes of at least four 
Commissioners as set forth in the Ethics Commission Resolution dated July 13, 2012, that 
Petitioner established by a preponderance of the evidence that Respondent violated ECCO as set 
forth below.

Further, for each finding of a violation of ECCO, the Ethics Commission voted on the 
penalty to be imposed in consideration of all of the relevant circumstances, including, but not 
limited to: (1) the severity of the violation; (2) the presence or absence of any intention to 
conceal, deceive, or mislead; (3) whether the violation was deliberate, negligent, or inadvertent; 
(4) whether the Respondent demonstrated good faith by consulting the Commission staff for 
written advice that does not constitute a complete defense; (5) whether the violation was an 
isolated incident or part of a pattern, and whether the violator has a prior record of violations of 
governmental ethics laws; (6) the existence of any mitigating information; and (7) the degree to 
which the Respondent cooperated with Commission staff by providing full disclosure, 
remedying a violation, or assisting with the investigation. SDMC §26.0438(f). Based on the 
concurring votes of at least five Commissioners as set forth in the Ethics Commission 
Resolution dated July 13, 2012, the Ethics Commission imposed on Respondent the penalties 
set forth below for his violations of ECCO.

Counts 1 and 2 – Violation of SDMC section 27.2930

SDMC section 27.2930 requires candidates to file campaign statements in the time and 
manner required by California Government Code sections 81000 et seq. In addition to the two 
pre-election filings required by state law, SDMC section 27.2930(e) requires City candidates to 
file a third pre-election campaign statement on the Friday before the election, covering the 
period from the last campaign statement through the Thursday before the election. Government
Code section 84200 requires candidates to file semi-annual statements no later than July 31 for the period ending June 30, and no later than January 31, for the period ending December 31.

The Ethics Commission finds that Respondent committed two violations of SDMC section 27.2930 by failing to timely file two campaign statements. The Ethics Commission’s specific findings and imposition of penalties on Counts 1 and 2 are as follows:

**Count 1** - Respondent failed to timely file a campaign statement covering the period from May 23, 2010, through June 3, 2010, and is ordered to pay a penalty in the amount of $1,000.

**Count 2** - Respondent failed to file a campaign statement covering the period from July 1, 2010, through December 31, 2010, and is ordered to pay a penalty in the amount of $1,000.

**Counts 3 through 6 – Violation of SDMC section 27.2930**

SDMC section 27.2930 requires City candidates to disclose all of the information required by state law on their campaign statements. With respect to expenditures, California Government Code section 84211 requires disclosure of the following information:

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(k) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) The amount of each expenditure.
(4) A brief description of the consideration for which each expenditure was made.

The Ethics Commission finds that Respondent committed four violations of SDMC section 27.2930 by failing to accurately disclose information on four campaign statements. The Ethics Commission’s specific findings and imposition of penalties on Counts 3 through 6 are as follows:

**Count 3** - Respondent failed to accurately disclose expenditures on the campaign statement covering the period from January 1, 2010, through March 17, 2010, and is ordered to pay a penalty in the amount of $500.

**Count 4** - Respondent failed to accurately disclose expenditures on the campaign statement covering the period from March 18, 2010, through May 22, 2010, and is ordered to pay a penalty in the amount of $1,000.

**Count 5** - Respondent failed to accurately disclose expenditures on the campaign statement covering the period from May 23, 2010, through June 3, 2010, and is ordered to pay a penalty in the amount of $1,000.

**Count 6** - Respondent failed to accurately disclose expenditures and the ending cash balance on the campaign statement covering the period from June 4, 2010, through June 30, 2010, and is ordered to pay a penalty in the amount of $2,000.

**Count 7 - Violation of SDMC section 27.2925**

SDMC section 27.2925 requires candidates to maintain records in accordance with Fair Political Practices Commission Regulation 18401. With respect to expenditures, Regulation 18401 requires candidates to maintain records that reflect the expenditure date, amount, payee, and a description of the goods or services for which the expenditure was made.

The Ethics Commission finds that Respondent violated SDMC section 27.2925 by failing to maintain copies of campaign-related records, and imposes a penalty on Count 7, as follows:

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Count 7 - Respondent failed to maintain records that describe the nature of the goods or services associated with 39 expenditures totaling $3,987.19, and is ordered to pay a penalty in the amount of $2,500.

Counts 8 and 9 - Violations of SDMC section 27.2950

SDMC section 27.2950 prohibits City candidates from accepting contributions from any person other than an individual.

The Ethics Commission finds that Respondent violated SDMC section 27.2950 by accepting two contributions from non-individuals. The Ethics Commission’s specific findings and imposition of penalties on Counts 8 and 9 are as follows:

Counts 8 and 9 - Respondent accepted two contributions from non-individuals on March 9, 2010, and May 26, 2010, and is ordered to pay a penalty in the amount of $500.

Based on the findings set forth above and pursuant to SDMC section 26.0439, the Ethics Commission orders that Respondent:

(1) Cease and desist the violations of SDMC section 27.2930 by filing a campaign statement for the period from July 1, 2010, through December 31, 2010, as well as any other subsequent campaign statements necessary to terminate his committee, and by amending any previously-filed campaign statements so they are true and accurate; and

(2) Pay a monetary penalty in the amount of $9,500 to the General Fund of the City of San Diego in accordance with the provisions of SDMC sections 26.0439(b)(3) and 26.0440, within 90 days of the date this Order is served on Respondent.

IT IS SO ORDERED.

Dated: July 13, 2012

CITY OF SAN DIEGO ETHICS COMMISSION

By ________________________________

Clyde Fuller, Chair