

September 13, 2019

VIA REGULAR & ELECTRONIC MAIL

Ms. Lori Saldaña
Lori Saldaña for Mayor 2016
4211 Conrad Avenue
San Diego, CA 92117

Re: Lori Saldaña for Mayor 2016 (ID # 1382219)

Dear Ms. Saldaña:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was delivered to the Ethics Commission at its regularly-scheduled meeting held on September 12, 2019. Although the report reflects one material finding, the Commission does not believe that the finding warrants an additional administrative remedy. In summary, the Commission determined that education was more appropriate than enforcement in this situation. As a result, the Commission voted to accept the report and take no further action.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

Enclosure

cc: Simon Mayeski, Treasurer
11152 Portobelo Drive
San Diego, CA 92124-4016

FINAL AUDIT REPORT

September 3, 2019

Ms. Lori Saldaña
Lori Saldaña for Mayor 2016
4211 Conrad Avenue
San Diego, CA 92117

Treasurer: Simon Mayeski
11152 Portobelo Drive
San Diego, CA 92124-4016

SAN DIEGO ETHICS COMMISSION
AUDIT REPORT:
Lori Saldaña for Mayor 2016

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Lori Saldaña for Mayor 2016, Identification Number 1382219 (“the Committee”) for the period from January 22, 2016, through August 4, 2016. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 14, 2017. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego’s Election Campaign Control Ordinance (San Diego Municipal Code Chapter 2, Article 7, Division 29). The Election Campaign Control Ordinance (ECCO) has been amended on several occasions; all Municipal Code references in this report relate to the provisions of ECCO that were in effect at the time of the actions described herein.

During the period covered by the audit, the Committee reported total contributions of \$59,783.58 (inclusive of \$1,86.64 in non-monetary contributions) and total expenditures of \$59,932.83. Total cash contributions relative to total expenditures resulted in a \$149.25 differential that was reconciled by the Committee’s miscellaneous increase to cash. **The audit revealed one material finding: the committee failed to maintain records associated with four mass telephone communications in violation of San Diego Municipal Code sections 27.2925 and 27.2971.**

II. Committee Information

On January 22, 2016, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to support the election of Lori Saldaña for Mayor in the June 7, 2016, primary election. On August 22, 2016, the Committee filed a Statement of Termination indicating that its filing obligations were completed on August 4, 2016. The Committee's treasurer was Simon Mayeski.

III. Audit Authority

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

IV. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements, pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with applicable filing deadlines;
3. Compliance with restrictions on contributions, loans and expenditures;
4. Accuracy of total reported receipts, disbursements and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

V. Summary of Applicable Law

Section 27.2925 – Recordkeeping

....

- (c) Every candidate or committee paying for campaign advertisements supporting or opposing on or more City candidates or City measures shall maintain records in accordance with the following requirements:

....

- (2) for mass telephone communications subject to section 27.2971, records that identify the date(s) the telephone calls were made and the number of calls made, as well as a transcript of the messages communicated and a copy of any recorded messages;

....

Section 27.2971 – Telephone Communications

(a) It is unlawful for any candidate or committee to engage or hire other to engage in mass telephone communications unless the communications include a statement that the communications are “paid for by,” or are otherwise being made “on behalf of” immediately followed by the name of each candidate or committee that is paying for any of the resources used for the communications or that is otherwise authorizing the communication. For purposes of this subsection, “resources” include the purchase of a contact list, the development of a script, overhead expenses, and telephone charges. The type of disclosure required by this section shall be determined as follows:

(1) A call is “paid for by” a candidate or committee when the candidate or committee pays directly for the call or pays another person to make the call on its behalf.

....

(e) Any candidate or committee paying for a live or recorded telephone communication subject to this section shall maintain for four years a transcript of the message being communicated, a copy of any recorded messages, and a record of the number of calls for each message.

....

VI. Material Findings

Sections 27.2925 and 27.2971 - Recordkeeping for Telephone Communications

SDMC section 27.2971 requires committees that pay for mass telephone communications to include the words “paid for by” immediately followed by the name of the committee that paid for it. In addition, SDMC sections 27.2925 and 27.2971 require committees to maintain records associated with their telephone communications, including transcripts of the telephone communications and copies of any recorded messages. The audit revealed that the Committee paid a vendor to deliver seven robocalls to 100,461 households for the purpose of inviting voters to seven different “meet the candidate” events. The following table details the Committee’s robocall dissemination:

	Date	Description	No. of Contacts
1	05/15/16	35 second robocall	3,605
2	05/21/16	35 second robocall	7,844
3	05/28/16	35 second robocall Claremont	8,954
4	05/28/16	35 second robocall UTC	10,871
5	05/28/16	35 second robocall Tierrasanta	3,559
6	06/02/16	35 second robocall Debate	26,418
7	06/06/16	35 second robocall	39,210
			<hr/> 100,461

The Committee provided a script for the first robocall and explained that the same script was used for the subsequent calls with a modified date and location. Although the script does not include the requisite “paid for by” disclosure, Committee representatives contend that the disclosure was included on all seven robocalls. In support of this contention, the Committee provided audio recordings for the three calls made on May 28, 2016, each of which included the disclosure. The Committee was unable to locate the audio recordings for the remaining four robocalls. The Committee’s failure to maintain records associated with these telephone communications prevented the Auditor from verifying that the “paid for by” disclosure was included during the robocalls.

VII. Conclusion

Through the examination of the Committee’s records and campaign disclosure statements, the Auditor verified that the Committee timely disclosed all contributions received and all expenditures made, and that the Committee maintained all necessary documentation regarding contributions and expenditures in accordance with disclosure and record-keeping provisions of ECCO. **However, the audit revealed the following material finding: the committee failed to maintain records associated with four mass telephone communications in violation of San Diego Municipal Code sections 27.2925 and 27.2971.**

[REDACTED]

Rosalba Gomez
Audit Program Manager

Date

[REDACTED]

Stacey Fulhorst
Executive Director

Date