

1 John St. Croix
2 Executive Director
3 San Francisco Ethics Commission
4 25 Van Ness Avenue, Suite 220
5 San Francisco, CA 94102
6 (415) 252-3100

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BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of:

ETHICS COMPLAINT NO. 19-131115

ACCUSATION

This document has been issued pursuant to Section IX.A of the San Francisco Ethics Commission Regulations for Investigations and Enforcement Proceedings (“Regulations”).

This Accusation is a public document.

DATE ISSUED: February 5, 2015

COMPLAINT NUMBER: 19-131115

RESPONDENTS: Lynette Sweet and Sweet for Supervisor 2010

INTRODUCTION

On January 26, 2015, the Ethics Commission (“the Commission”) held a Probable Cause Hearing concerning the complaint described herein, and determined that there is probable cause to believe that Lynette Sweet and Sweet for Supervisor 2010 (“Respondents”) committed eight violations of the California Government Code and two violations of the San Francisco Campaign and Governmental Conduct Code.

During the course of its investigation, staff determined that there was reason to believe that Respondents committed eight violations of the California Government Code by:

- 1 • failing to file campaign disclosure statements (Recipient Committee Campaign Statement
- 2 Form 460s); and
- 3 • failing to maintain campaigns records.

4 During the course of its investigation, staff also determined that there was reason to believe
5 that Respondents committed two violations of the San Francisco Campaign and Governmental
6 Conduct Code by:

- 7 • failing to pay accrued expenses within 180 days after services were rendered.

9 **I. BACKGROUND & PROCEDURAL HISTORY**

10 **A. BACKGROUND**

11 This matter concerns a publicly-funded candidate for Supervisor, Respondent Lynette Sweet,
12 who failed to comply with basic requirements under state and local campaign law. Perhaps most
13 serious among Respondents' violations is the failure to maintain adequate campaign records, as this
14 failure prevents the Ethics Commission from confirming that public funds were in fact used for
15 legitimate campaign purposes. The relevant facts regarding this violation and Respondent's other
16 violations follows.

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18 On January 27, 2010, Lynette Sweet formed the committee "Sweet for Supervisor 2010" ("the
19 Committee") as a candidate controlled committee for the purpose of her candidacy for District 10
20 Supervisor in the November 2010 election. In the course of the campaign, Respondents qualified for
21 the City's public financing program and received \$57,438.96 in public funds in support of Ms. Sweet's
22 candidacy. On January 28, 2011, Respondents filed the Committee's most recent campaign disclosure
23 statement, a Form 460 that covered the reporting period from October 17 to December 31, 2010. On
24 that Form 460, Respondents reported receiving \$71,398.92 in total contributions, and making
25 \$127,549.59 in total expenditures in 2010. Respondents also reported an ending cash balance of
26 \$1,991.89, and outstanding debts in the amount of \$2,150.00. There was no indication on that Form
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1 460 that it was a termination statement, and Respondents did not file a separate termination statement,
2 a Form 410 indicating that the Committee ended all of its activity. Since January 28, 2011,
3 Respondents have not filed any additional campaign statements.

4 **B. PROCEDURAL HISTORY**

5 Respondents were informed by letter dated March 9, 2011, that the Committee was subject to a
6 mandatory audit because it received public funds. That letter instructed Respondents that all
7 Committee records should have been provided to the Commission by February 1, 2011, but that the
8 Ethics Commission had not received any records to date. Commission staff proceeded with the audit
9 without all necessary documents. By letter dated June 27, 2013, Respondents were notified that there
10 were many expenses reported by the Committee for which Respondents did not submit any type of
11 documentation, and the Ethics Commission provided Respondents with a list of those expenses. On
12 May 13 and 28, 2014, Respondents were notified by email that the documentation requested to
13 evidence certain expenses and contributions reported by the Committee had not been provided during
14 the audit process. In total, the audit determined that documentation for \$61,791.33 in expenditures and
15 for \$8,750 in contributions was not maintained by the Committee and were not provided to the Ethics
16 Commission. On July 17, 2014, a final audit report was issued and Respondents did not provide any
17 response to the audit report. The audit report contained three material findings that form the basis of
18 the allegations presented herein.
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21 The Ethics Commission held a probable cause hearing regarding this matter on January 26,
22 2015, and determined that there was probable cause to believe that Respondents committed all ten
23 violations as presented in the Probable Cause Report. Respondents did not attend the Probable Cause
24 Hearing and did not submit a response to the Probable Cause Report.
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26 **II. ALLEGED VIOLATIONS OF LAW**

27 In the Probable Cause Report, staff presented the following ten counts against Respondents.
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A. Counts 1 through 7 – Seven Violations of California Government Code, section

84200(a)

California Government Code, section 84200(a), incorporated into local law by San Francisco Campaign and Governmental Conduct Code, section 1.106, provides that elected officers, candidates, and committees pursuant to California Government Code, section 82013(a), shall file semi-annual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. California Government Code, section 84214, states that committees and candidates that qualify as a committee under California Government Code, section 82013(a), must terminate their filing obligations by addressing any outstanding cash balance and/or debts and by filing a separate termination statement, using the Form 410.

On January 28, 2011, Respondents reported that the Committee still had an ending cash balance of \$1,991.89, and outstanding debts in amount of \$2,150.00. Respondents never wound down its financial affairs or formally terminated the Committee as required by state law. Respondents did not file any required Form 460 for any reporting period following the Committee's most recent filing of January 28, 2011. California Government Code, section 84200(a), requires that Respondents continue to file semi-annual Form 460s on every January 31 for the reporting period of July through December and on every July 31 for the reporting period of January through June until the Committee is formally terminated. Respondents did not file any of the required semi-annual statements as of the time of the Probable Cause Hearing. Respondents last filed a Form 460 on January 28, 2011, for the period ending December 31, 2010, and Respondent's filing obligation for the Committee continues until the Committee is formally terminated.

1 **Count 1.** By failing to file the required semi-annual Form 460 covering the reporting
2 period of January through June 2011 by August 1, 2011, Respondents committed one
3 violation of California Government Code, section 84200(a).¹

4 **Count 2.** By failing to file the required semi-annual Form 460 covering the reporting
5 period of July through December 2011 by January 31, 2012, Respondents committed one
6 violation of California Government Code, section 84200(a).

7 **Count 3.** By failing to file the required semi-annual Form 460 covering the reporting
8 period of January through June 2012 by July 31, 2012, Respondents committed one
9 violation of California Government Code, section 84200(a).

10 **Count 4.** By failing to file the required semi-annual Form 460 covering the reporting
11 period of July through December 2012 by January 31, 2013, Respondents committed one
12 violation of California Government Code, section 84200(a).

13 **Count 5.** By failing to file the required semi-annual Form 460 covering the reporting
14 period of January through June 2013 by July 31, 2013, Respondents committed one
15 violation of California Government Code, section 84200(a).

16 **Count 6.** By failing to file the required semi-annual Form 460 covering the reporting
17 period of July through December 2013 by January 31, 2014, Respondents committed one
18 violation of California Government Code, section 84200(a).

19 **Count 7.** By failing to file the required semi-annual Form 460 covering the reporting
20 period of January through June 2014 by July 31, 2014, Respondents committed one
21 violation of California Government Code, section 84200(a).

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¹ The deadline of July 31, 2011, was a Sunday, making the filing deadline the next business day.

1 **B. Count 8 – One violation of California Government Code, section 84104**

2 California Government Code, section 84104, states campaign committees must maintain
3 detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish
4 that campaign statements were properly filed. San Francisco Campaign and Governmental Conduct
5 Code, section 1.109, requires records to be maintained for a period of four years.

6 By letter on June 27, 2013, Respondents were notified that the Committee reported expenses
7 for which Respondents did not submit any type of documentation. On May 28, 2014, Respondents
8 were notified again that documentation to support certain reported expenses and contributions had not
9 been provided during the audit process. In total, documentation to evidence \$61,791.33 in
10 expenditures and \$8,750 in contributions was never provided to the Ethics Commission by
11 Respondents.
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13 **Count 8.** By failing to maintain campaign records for \$61,791.33 in expenditures and for
14 \$8,750 in contributions, Respondents committed one violation of California Government Code,
15 section 84104.
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17 **C. Count 9 and 10 – Two violations of San Francisco Campaign and Governmental**
18 **Conduct Code, section 1.118.**

19 San Francisco Campaign and Governmental Conduct Code, section 1.118, provides that a
20 candidate committee that accepts goods or services on credit shall pay for such accrued expenses in
21 full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180
22 calendar days after the last calendar day of the month in which the goods were delivered or the
23 services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably
24 based on a good faith dispute.
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26 As of the issuance of the audit report, no documentation was provided to the Ethics
27 Commission showing that two expenditures totaling \$4,650 were paid within 180 days of incurring the
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1 expenses. The two unpaid expenditures were to Clear Channel for posters and advertisements in the
2 amount of \$2,500; and to David Binder Research for a telephone survey in the amount of \$2,150. The
3 expense to Clear Channel was incurred on September 21, 2010; and the expense to David Binder
4 Research was incurred on March 2, 2010, which was only partially paid.

5 **Count 9.** Because the expense to Clear Channel was not paid in full within 180 of the date of
6 the invoice, Respondents committed one violation of San Francisco Campaign and
7 Governmental Conduct Code, section 1.118.

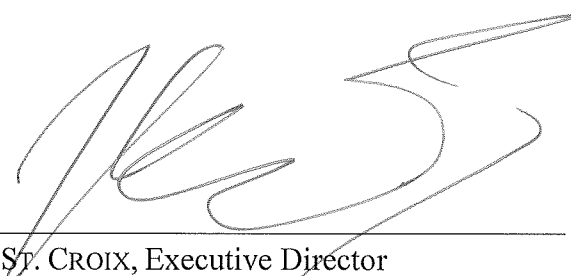
8 **Count 10.** Because the expense to David Binder Research was not paid in full within 180 days
9 of the invoice, Respondent committed one violation of San Francisco Campaign and
10 Governmental Conduct Code, section 1.118.
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13 **III. ADDRESS FOR ALL SERVICE OR DELIVERY**

14 Wherever the Regulations require service on or delivery to the Commission, the Chairperson,
15 its members, or the Executive Director, service and delivery shall be effected at the Commission
16 office:
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18 San Francisco Ethics Commission
19 Attn: *Enforcement Division*
20 25 Van Ness Avenue, Suite 220
21 San Francisco, CA 94102

22 Dated: 2/5/15

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25 JOHN ST. CROIX, Executive Director
26 San Francisco Ethics Commission
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