

**CITY AND COUNTY OF SAN FRANCISCO
ETHICS COMMISSION**

**CANDIDATE COMMITTEE 2018 ELECTION
ASSESSMENT REPORT:**

Theo Ellington for District 10 Supervisor 2018

September 14, 2017 through December 31, 2018



Certified
Public
Accountants



Theo Ellington Committee 2018 Election Assessment Report

Executive Director, Ethics Commission
City and County of San Francisco

Macias Gini & O'Connell LLP (MGO) presents its report concerning the assessment of the Theo Ellington for District 10 Supervisor Committee (Candidate Committee, or Committee) for the period September 14, 2017 through December 31, 2018 as follows:

Background

The Committee was formed on September 14, 2017, to support the election of Theo Ellington to the City and County of San Francisco (City) Board of Supervisors, to represent District 10, in the general election of November 6, 2018. During the period covered by the assessment, the Committee's Treasurer was Stacy Owens. During the assessment, MGO submitted inquiries to Marissa Quaranta.

MGO was engaged to assess candidate committees per the City's Campaign Finance Reform Ordinance, Section 1.150(a), which requires the Ethics Commission to audit all candidate committees that have received public financing.

Objectives and Scope

The objectives of this assessment were to reasonably conclude whether the Committee:

- Accurately reported all campaign contributions and expenditures, as required by City campaign finance law;
- Supported all contributions and expenditures with sufficient documentation, as required by City campaign finance laws;
- Accepted only contributions that comply with State and City campaign finance laws;
- Made only expenditures that comply with State and City campaign finance laws; and
- Complied with applicable campaign disclosure and disclaimer requirements and timeframes required by applicable laws and regulations.

The scope of our assessment included contributions and expenditures the Committee reported from September 14, 2017 through December 31, 2018.¹ The assessment included determining whether funds remaining in the Campaign Contribution Trust Account on December 6, 2018, were subsequently remitted to the Ethics Commission, as City campaign finance law requires.²

¹ Although the assessment period ended December 31, 2018, we reviewed documentation that supported contributions and expenditures after this date to ensure compliance with campaign finance laws during the reporting period.

² December 6, 2018 is 30 days after the date of the election. Section 1.148(c) of the City's Campaign Finance Reform Ordinance states, "Any candidate who received public financing and whose committee has unexpended public funds shall pay to the City and County of San Francisco and deliver to the Ethics Commission those funds for deposit in the Election Campaign Fund no later than 30 days after the Ethics Commission completes its audit of the candidate's committee." The City's Campaign Finance Reform Ordinance defines unexpended public funds as, "... all funds remaining in the candidate committee's account on the 30th day after the candidate controlling committee is either elected or not elected to office regardless of the source of the funds, but shall not exceed the amount of public funds provided to the candidate."

Methodology

To meet the objectives of this assessment, MGO tested and reconciled contributions listed on the Form 460s³ to deposits listed on the bank statements and vouched them to the Committee's verified records. MGO also reconciled expenditures listed on the Form 460s to the bank statements and vouched to the Committee's verified records. MGO performed other tests to determine whether the Committee complied with State and City campaign finance laws. MGO performed the following procedures: reviewed the Form 460s the Committee filed and the supporting documentation, conducted non-statistical testing of a random selection of contributions and expenditures to confirm that proper documentation was obtained, and reviewed mailings and other advertisements that were listed on the Form 161s⁴ for compliance with City campaign finance laws.

MGO conducted this assessment in accordance with the statements on standards for consulting services as issued by the American Institute of Certified Public Accountants (AICPA) and the terms of our contract agreement. Those standards require that MGO plan and perform the engagement to obtain sufficient, appropriate data to provide a reasonable basis for our conclusions based on our objectives. MGO believes that the data obtained provides a reasonable basis for our conclusions based on our assessment objectives.

Assessment Results

From September 14, 2017 through December 31, 2018, the Committee received \$180,932 in monetary contributions, and \$139,710 in public funds – for a total of \$320,642 – and expended \$320,664.⁵ The Committee owes no unexpended funds to the City. MGO found that the Committee, in general:

- Accurately and completely reported all campaign contributions and expenditures.
- Supported reported contributions with sufficient documentation with the exception of one \$50 cash contribution that the Committee did not provide a contributor card for, as noted in observation 2019-01 below.
- Supported reported expenditures with sufficient documentation with the exception of 20 expenditures that totaled \$1,017 for which the Committee did not provide supporting documentation, as noted in observation 2019-02 below.
- Accepted only contributions that complied with State and City campaign finance laws.
- Only made expenditures that complied with State and City campaign finance laws.
- Did not comply with applicable campaign disclosure and disclaimer requirements and timeframes. MGO identified four mass mailings that were not submitted within the required timeframe, as noted in observation 2019-03.

The exceptions are noted below:

Observation 2019-01 – The Committee did not provide a contributor card for one contributor who made a cash contribution of \$50.

Our assessment procedures included reviewing 100% of all contributions reported by the Committee on the Form 460s and reviewed supporting documentation for each contribution. The Committee received two cash contributions during the assessment period. The Committee did not provide a contributor card for the first cash contribution received, which was a \$50 cash contribution received during the reporting period of 1/1/17-12/31/17. The second cash contribution received by the Committee was during the reporting period of 7/1/18-9/22/18, which was accompanied by a contributor card.

³ California Form 460 – Recipient Committee Campaign Statement.

⁴ San Francisco Ethics Commission Form 161 – Itemized Disclosure Statement for Mass Mailings.

⁵ In addition to monetary contributions, the Committee reported that it received \$22 in miscellaneous increases to cash – a refund of a transaction fee for online contributions – which was not identified as a contribution on the Form 460.

According to the *Supplemental Guide for Board of Supervisor Candidates Seeking Public Funding in the June and/or November 2017 Election*, “Contributions made by cash require a contributor card that was signed and dated at the time the contribution was made from each contributor. The contributor cards for cash contributions must clearly state: the committee’s name, the amount of the contribution, that the method of payment was ‘cash,’ the date of the contribution, the contributor’s name, and contributor’s residential address.” Without a contributor card, it cannot be determined who made the contribution.

Observation 2019-02 – Out of over 260 expenditures totaling \$320,664, the Committee did not provide supporting documentation for 20 expenditure transactions that totaled \$1,017.

Our assessment included reviewing supporting documentation for 100% of all expenditures incurred by the Committee and determining whether the expenditures were appropriately recorded. Out of 263 expenditure transactions, MGO identified 20 expenditures (approximately 7.6% of the total number of expenditure transactions) that totaled \$1,017 (approximately three-one hundredths of a percent of the total campaign expenditures), for which the Committee failed to maintain appropriate documentation. The expenditures for which there was a lack of supporting documentation were made over two reporting periods: 9/23/18-10/20/18 and 10/21/18-12/31/18. See Exhibit 1 below for the number and amount of expenditures within each reporting period that lacked supporting documentation. The Committee was unable to provide the invoices or receipts for the expenditures summarized below.

Exhibit 1		Expenditures Reported Without Supporting Documentation	
Reporting Period	Number of Expenditures	Amount	
9/23 - 10/20/18	4	\$	370
10/21 - 12/31/18	16		647
Total	20	\$	1,017

According to the City’s Campaign Finance Reform Ordinance, Section 1.109(a), “All candidates and committees that are required to file statements prescribed by this Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare those statements. Each candidate or committee shall retain for a period of four years detailed information and original source documentation supporting those statements.”

Observation 2019-03 – The Committee submitted three Form 161s after the reporting deadlines.

Our assessment included reviewing 100% of all Form 161s and mass mailings submitted to the Ethics Commission and determining whether the Form 161s were submitted within the required timeframe. Out of eight Form 161s submitted to the Ethics Commission, we identified three Form 161s that were submitted after the due date. The Committee did not have an explanation for why the three Form 161s were submitted after the due date. See Exhibit 2 below for the Form 161s that were submitted after the deadline.

Exhibit 2		Form 161s Submitted Late		
Report Number	Date of Mass Mailing	Due Date for Form 161	Date of Form 161 Submission	
1	10/10/2018	10/15/2018	10/16/2018	
2	10/9/2018	10/14/2018	10/16/2018	
6	10/26/2018	10/28/2018	10/29/2018	

According to the City's Campaign Finance Reform Ordinance, Section 1.161(b)(3)(A), "Each candidate committee that pays for a mass mailing shall, within five working days after the date of the mailing, file a copy of the mailing and an itemized disclosure statement with the Ethics Commission for that mailing." Also, Section 1.161(b)(3)(B) of the City's Campaign Finance Reform Ordinance states, "Each candidate committee that pays for a mass mailing shall file a copy of the mailing and the itemized disclosure statement required by subsection (b)(3) within 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election." In addition, the City's Campaign Finance Reform Ordinance, Section 1.170(d)(2) states, "In addition to any other penalty, any person who files an electronic copy of a statement or report after the deadline imposed by this Chapter shall be liable in the amount of twenty five dollars (\$25) per day after the deadline until the electronic copy or report is filed." As such, the Committee is liable to the Ethics Commission for \$25, \$50, and \$25, respectively, for each mass mailing late filing, which is \$100 in total.

Conclusion

The observations identified in this report will be reviewed further by the Ethics Commission's Enforcement Division, who will determine whether or not any further action is warranted based on the degree to which the Committee substantially complied with State and City campaign finance laws as outlined in the objectives and scope section of this report.

The Committee was provided a copy of this report and an opportunity to respond. The Committee's response is attached to this report.

This report is intended for the information and use of the Ethics Commission and the Committee. The report will be posted to the Ethics Commission website for the purpose of informing the public of the Committee's compliance with State and City campaign finance laws.

Macias Gini & O'Connell LLP

Walnut Creek, California
June 29, 2020

S.E. Owens & Company
312 Clay Street, Suite 300
Oakland, CA 94607

LeeAnn Pelham
Executive Director
San Francisco Ethics Commission
25 Van Ness Ave, Suite 220
San Francisco, CA 94102

June 29, 2020

Dear Ms. Pelham,

Response to Candidate Committee 2018 Election Assessment Report for Theo Ellington for Supervisor 2018.

We believe that the committee materially complied with campaign finance laws.

Exceptions:

Observation 2019-01 – The Committee did not provide a contributor card for one contributor that made a cash contribution of \$50.

In context of total funds raised, this is an immaterial amount. The Committee requests that the Ethics Commission takes this into account in the assessment of this report.

Observation 2019-02 – Out of over 260 expenditures totaling \$320,664, the Committee did not provide supporting documentation for 20 expenditure transactions that totaled \$1,017.

The expenditures noted are a small fraction of total expenditures. All but one are debit card expenditures, details for which can be seen on provided debit card monthly statements.

Observation 2019-03 – The Committee submitted three Form 161s after the reporting deadlines.

The three mass mailing forms are listed as one day late in two cases, and two days late in one case. The Committee requests that the Ethics Commission takes the short time frame into account in the assessment of this report.

Thank you,



Marissa Quaranta | Director
(Pronouns: she/her/hers)
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