

**San Francisco
Ethics Commission**



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**2018 Election Cycle
Mark Leno for Mayor 2018
FPPC ID #1396338
Report posted October 23, 2020**

San Francisco Charter section C3.699-11 authorizes the Ethics Commission to audit campaign statements that are filed with the Commission, along with other relevant documents, to determine whether a committee materially complied with applicable requirements of State and local laws. San Francisco Campaign & Governmental Conduct Code Section 1.150(a) requires audits of all candidates who received public financing in their campaigns and authorizes other audits to be initiated of other committees irrespective of whether the committee received any public funds. The Ethics Commission's audit program issues public reports that detail these committees' compliance with applicable campaign finance and reporting laws. The Commission posts its reports to its website and, in cases of apparent violations of law, forwards them to the appropriate enforcement agency.

As part of its audit program in connection with the June and November 2018 elections, the Ethics Commission engaged Macias Gini & O'Connell LLP (MGO) to assess compliance with applicable campaign laws for the 14 committees of candidates that received public funds during those elections. The report that follows is one of the reports issued by MGO pursuant to that engagement.

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

**CANDIDATE COMMITTEE 2018 ELECTION
ASSESSMENT REPORT:
Mark Leno for Mayor 2018**

May 4, 2017 through December 31, 2018



Certified
Public
Accountants

Mark Leno 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 Mark Leno for Mayor Committee (Candidate Committee, or Committee) for the period May 4, 2017 through December 31, 2018 as follows:

Background

The Committee was formed on May 4, 2017, to support the election of Mark Leno for Mayor of the City and County of San Francisco (City), in the special election held on June 5, 2018. During the period covered by the assessment, the Committee's Treasurer was Mark Leno. During the assessment, MGO submitted inquiries to Leilani Rudow Beaver.

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 laws;
- 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 May 4, 2017 through December 31, 2018.¹ The assessment included determining whether funds remaining in the Campaign Contribution Trust Account on July 5, 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 expenditures after this date to ensure compliance with campaign finance laws during the reporting period.

² July 5, 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, we 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. We also reconciled expenditures listed on the Form 460s to the bank statements and vouched to the Committee's verified records. We performed other tests to determine whether the Committee complied with State and City campaign finance laws. We 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.

We 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 we plan and perform the engagement to obtain sufficient, appropriate data to provide a reasonable basis for our conclusions based on our objectives. We believe that the data obtained provides a reasonable basis for our conclusions based on our assessment objectives.

Assessment Results

From May 4, 2017 through December 31, 2018, the Committee received \$963,636 in monetary contributions, and \$975,000 in public funds – for a total of \$1,938,636 – and expended \$1,941,839. The Committee owes no unexpended funds to the City. We found that the Committee, in general:

- Accurately and completely reported all campaign contributions and expenditures.
- Supported reported contributions with sufficient documentation.
- The Committee did not provide sufficient documentation to support nine expenditures that totaled \$1,567.38, as noted in observation 2019-01 below.
- Substantially complied with State and City campaign finance laws with the exception of accepting contributions that exceeded the contribution limit, 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.
- Generally complied with applicable campaign disclosure requirements and timeframes with the exception of two mass mailing disclosure statements that were not submitted within the required timeframe, as noted in observation 2019-03.

The exceptions are noted below:

Observation 2019-01 – Out of over 900 expenditures, the Committee could not provide supporting documentation for nine expenditures that total \$1,567.38.

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 over 900 expenditure transactions, MGO identified nine expenditures (one percent of the total number of expenditure transactions) that totaled \$1,567.38 (slightly less than one tenth of one percent of total campaign expenditures), for which the Committee failed to maintain appropriate documentation. The nine expenditures for which there was a lack of supporting documentation were made during the reporting period of 1/1/18-6/30/18. The Committee was unable to locate the receipts for these nine transactions.

³ California Form 460 – Recipient Committee Campaign Statement.

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

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 2019-02 – Out of over 2,500 contributors, the Committee received funds from two contributors in excess of the maximum contribution limit (\$500 per contributor) per local ordinance. In addition, the Committee did not subsequently remit the excess contributions to the Ethics Commission pursuant to local campaign finance law.

Our assessment procedures included reviewing 100% of all contributions received by the Committee and determining whether any contributors contributed in excess of \$500 (the maximum contribution limit per local ordinance), except for the Candidate. Out of over 2,500 contributors, we identified two contributors that made contributions that totaled \$1,000 and \$750, respectively, exceeding the contribution limit by \$500 and \$250, respectively, pursuant to the City’s Campaign Finance Reform Ordinance. Upon our inquiry to the Treasurer regarding these discrepancies totaling \$750, the Treasurer stated that no refund was given to the contributor and the \$750 was not forfeited to the Ethics Commission as required by Section 1.114(f) of the City’s Campaign Finance Reform Ordinance. The Committee should remit \$750 to the Ethics Commission for receiving contributions in excess of the contribution limit.

According to the City’s Campaign Finance Reform Ordinance, Section 1.114(a), “No person other than a candidate shall make, and no campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause the total amount contributed by such person to such candidate committee in an election to exceed \$500.”

Observation 2019-03 – The Committee submitted two Itemized Disclosure Statements for Mass Mailings (Form 161) after the reporting deadline.

Our assessment included reviewing 100% of all Form 161s (Itemized Disclosure Statement for Mass Mailings) and mass mailings submitted to the Ethics Commission and determining whether the Form 161s were submitted within the required timeframe. Out of 11 Form 161s submitted to the Ethics Commission, we identified two Form 161s that were submitted after the due date. The Committee did not have an explanation for why the Forms 161 were submitted after the due date. See Exhibit 1 below summarizing information related to the Form 161s that were submitted after the deadline.

Exhibit 1		Form 161s Submitted Late			
Report Number	Date of Mass Mailing	Due Date for Form 161	Date of Form 161 Submission		Days Late
4	4/5/2018	4/12/2018	5/17/2018		25
6	5/8/2018	5/15/2018	5/16/2018		1
					<u>26</u>

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 \$650 (26 days at 25 dollars per day).

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
October 16, 2020

KAUFMAN LEGAL GROUP

A PROFESSIONAL CORPORATION

October 16, 2020

Direct: (213) 452-6550

VIA E-MAIL & EXPRESS OVERNIGHT

LeeAnn Pelham, Executive Director
City & County of San Francisco Ethics Commission
25 Van Ness Ave., Suite 220
San Francisco, CA 94102
E-Mail: leeann.pelham@sfgov.org

Re: Mark Leno for Mayor 2018 Assessment Report
Our File No.: LEN2705.001

Dear Ms. Pelham:

This shall serve to respond on behalf of our client, Mark Leno for Mayor 2018 (“Committee”), to the draft Assessment Report issued in connection with the audit of the Committee.

As noted in the draft report, the Committee accurately and completely reported all campaign contributions and expenditures, maintained sufficient documentation to support contributions received by the committee, accepted contributions and made expenditures in compliance with State and City campaign finance laws, and generally complied with all applicable disclosure and disclaimer laws. With respect to those exceptions noted in the draft report, we provide the following responses:

Observation 2019-01: The Committee exercised due diligence and undertook reasonable efforts to collect and maintain supporting documentation for all expenditures. Out of over 900 expenditures made by the Committee totaling \$1,941,839, the auditors found that the Committee did not have sufficient documentation supporting 10 expenditures totaling \$1,567.38 – less than one-tenth of one-percent of total expenditures. This amount is de minimis and should not result in any further action by the Commission.

Observation 2019-02: The Committee exercised due diligence and undertook reasonable efforts to ensure that contributions received did not exceed the \$500 contribution limit. Out of over 2,500 contributors, the auditors identified only two (2) contributors exceeding the limit by a combined total of \$750. The Committee has issued a forfeiture payment of \$750 payable to the General Fund of the City and County of San Francisco, which we have forwarded to the Ethics Commission.

Observation 2019-3: The Committee exercised due diligence and undertook reasonable efforts to ensure that all mass mailings were timely disclosed. The Committee filed two Form 161s

after the due date. However, both were filed prior to the election and one of them was filed only one (1) day late. Therefore, there was minimal harm to the public. The Committee has issued a payment of \$650 (\$25 per day) to the General Fund of the City and County of San Francisco for the late filings, which we have forwarded to the Ethics Commission.

Based on the Committee's accurate and complete reporting of all contributions and expenditures; its receipt of contributions and payment of expenditures in compliance with State and City campaign finance laws; its due diligence in complying with record-keeping, disclosure and filing requirements; and the Committee's forfeiture of excess contributions and payment of late fees for untimely Form 161s, we urge the Commission to determine that no further action is warranted.

We thank you for the opportunity to respond to the report. Please let us know if you have any further questions or require additional information.

Very truly yours,



Stephen J. Kaufman

SJK:VCC