



**SAN FRANCISCO ETHICS COMMISSION
FINAL AUDIT REPORT:**

**No Plan, No Accountability, No on Prop C,
Sponsored by the San Francisco Chamber of Commerce
FPPC ID #1408152**

I. Introduction

This Final Audit Report summarizes the audit results for the committee No Plan, No Accountability, No on Prop C, Sponsored by the San Francisco Chamber of Commerce, FPPC Identification Number 1408152 (“the Committee”), for the period from January 1 through December 31, 2018. The Committee was selected for audit using an objective criteria method pursuant to San Francisco Campaign and Governmental Conduct Code (“Code”) section 1.150(a) and the Commission’s authority under San Francisco Charter section C3-699-11(4), from a pool of eligible committees active in elections during the 2018 calendar year. The audit was conducted by Ethics Commission staff following the 2018 City election as part of the Commission’s 2018 audit cycle to determine whether the Committee materially complied with requirements of the Political Reform Act (“the Act”) (California Government Code section 81000, et seq.) and San Francisco’s Campaign Finance Reform Ordinance and Code (section 1.100, et seq).

II. Audit Authority

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. Code section 1.150(a) requires the Commission to audit all candidates who receive public financing and authorizes audits of other committees to be initiated irrespective of whether the committee received any public funds.

III. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards. The audit is based on documentation provided by the Committee and involved a review of the Committee’s filings and records for the period covered by the audit. This review was conducted to determine, among other things:

- A. Compliance with all disclosure requirements pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
- B. Compliance with applicable filing deadlines;

- C. Compliance with any applicable restrictions on contributions, loans, and expenditures;
- D. Accuracy of total reported receipts, disbursements, and cash balances as compared to bank records; and
- E. Compliance with all record-keeping requirements.

The Commission posts to its website all Audit Reports. The Audit Division forwards Audit Reports to the Commission's Enforcement Division or other appropriate agency, for review to determine whether any further action regarding findings of non-compliance are warranted. The scope of an audit is not exhaustive of all conduct by a committee during the audit period and conduct by a committee not identified as a material finding in an Audit Report may be subject to investigation and possible enforcement action by the Ethics Commission or another agency with jurisdiction to enforce applicable laws.

IV. Committee Information

The Committee was established on July 27, 2018, as "Right Priorities, Wrong Approach, Sponsored by the San Francisco Chamber of Commerce" and a Statement of Organization (Form 410) was filed on the same day. The Committee was primarily formed to oppose a ballot measure for "additional tax on gross receipts of business to fund homeless services: TBD", later designated as Measure C, set to appear on the November 6, 2018 San Francisco ballot.

Following the July 2018 designation of ballot measuring lettering by the San Francisco Department of Elections, the Committee filed an amended Form 410 in September 2018 to re-name the Committee as "No Plan, No Accountability, No on Prop C, Sponsored by the San Francisco Chamber of Commerce."

For the period of this audit, Jim Sutton and Matthew Alvarez served as Treasurer and Assistant Treasurer, respectively, from July 27, 2018 through August 20, 2018. Andrew Sinn and Derek Lee were identified as Treasurer and Assistant Treasurer, respectively, from August 20 through the close of the Audit Period. Over the course of the audit period, the Committee reported \$1,988,921 in contributions and \$1,968,882 in expenditures. As of the close of the audit period, the Committee was open and active.

V. Audit Findings

Auditors concluded there were five findings with respect to the Committee.

Finding 1

The Committee failed to timely disclose a contribution made as required on a Late Contribution Report. (CA Gov't Code § 84203 and 2 C.C.R. § 18421.1(a) & 18425)

Auditors identified one contribution of \$5,000 that the Committee made during the late reporting period that was required to be disclosed on a Form 497 within 24 hours, but which the Committee failed to report as required. This contribution is summarized in Table 1.1 below. This contribution was reported on a campaign statement filed before the November 2018 election; however, it was reported five days late and

therefore denied San Francisco voters timely access to information about campaign funding and expenditure activities designed to influence their vote.

Table 1.1

Date of Contribution	Committee Name (FPPC #)	Amount	Candidate / Measure (Support – Oppose)	Office / Jurisdiction	Date Form 497 Due	Date Contribution Reported
10/19/18	San Francisco Republican County Central Committee	\$5,000	Measure C – Oppose	San Francisco	10/20/18	10/25/18

Committee Response to Finding 1

The \$5,000 PAYMENT to the San Francisco Republican Party was a PAYMENT for the appearance of Measure C on their Slate Mailer, and not a CONTRIBUTION – therefore not reportable on the Late Contribution Report.

§ 82015. Contribution. (a) “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes.

In this case, full and adequate consideration has been received from the RCCC, by virtue of the committee’s appearance on their slate mailer.

Auditor Comment on Finding 1

Expenditure records provided by the Committee were insufficient for Auditors to conclude that the payment was not a contribution.

Under CA Gov’t Code § 82025.5, “Full and adequate consideration” is defined as “‘fair market value’, which means the estimated fair market value of goods, services, facilities or anything of value other than money.” The SF Republican Party invoice provided by the Committee as documentation of the expenditure included a description “SFGOP Slate Card – No on Proposition C” but did not include documentation of the specific costs to produce the slate card, or how valuation of the Committee’s appearance in the slate card was established. Auditors, therefore, could not independently substantiate that full and adequate consideration had been made and, therefore, that the payment was not a contribution.

Finding 2

The Committee failed to report expenditures as required. (CA Gov’t Code § 84211(k) and 2 C.C.R. § 18421.6 (2018))

Auditors identified three payments through the Committee’s bank records that totaled \$109,690 which were not reported on the Committee’s campaign statements. Failure to report these expenditures a required deprived the public of full information about the Committee’s campaign spending. These payments are listed in Table 2.1 and represented 5.5 percent of the Committee’s total expenditures reported.

Table 2.1

Payment Date	Check #	Payee Name	Amount
11/5/18	1080	50+1 Strategies	\$20,000
Unknown	1003	Whitehurst Mosher	\$20,000
11/4/18	1056	Whitehurst Mosher	\$69,690
		Total	\$109,690

Committee Response to Finding 2

Expenditures in question were in fact reported as seen in the following screenshots below.

50+1 Strategies: \$20,000 F460 09/23/18-10/20/18 Page 10 & 17
Filing ID 176224213

Whitehurst Mosher: \$20,000 F460 09/23/18-10/20/18 Page 9

Whitehurst Mosher: \$69,690 F460 10/21/18-12/31/18 Page 11
Filing ID 176224042

Auditor Comment on Finding 2

Based on Auditors' reconciliation of Committee expenditures reported on campaign statements and banking records, the expenditures identified by the Committee matched payments that were recorded as lost in transit or canceled and reversed by the bank after they were deducted from the Committee's bank account. The payments listed in Table 2.1 represent the reissued or second attempt payments to these vendors. While the committee reported the initial payments disbursed, they failed to disclose the reissued payments as required.

Under the reporting requirements of the Political Reform Act and state regulations, committees are required to disclose each transaction that results in a credit or debit to their account. Any deductions from the Committee's bank account are considered unique expenditures that require separate disclosure, even if a previously reported payment is canceled or returned. The expenditures referenced by the Committee in its response were payments cancelled or reversed by its bank and should have been reported as such.

Finding 3

The Committee failed to report credits and other "miscellaneous increases to cash" on campaign statements as required. (CA Gov't Code § 84211(I))

Auditors identified two deposit transactions on the Committee's bank statements that qualified as "miscellaneous receipts" which were not reported on the Committee's campaign statements. Failure to include these payments in campaign statements did not provide the public with a full and accurate accounting of the Committee's financial activity. These miscellaneous receipts are summarized in Table 3.1 below and totaled \$89,690.

Table 3.1

Source	Date of Deposit (Per Bank Statements)	Amount Received
Bank of America	10/01/18	\$20,000
Bank of America	10/31/18	\$69,690
Total		\$89,690

Committee Response to Finding 3

- \$20,000 (10/01/2018) - This is a bounced transaction - From the bank statements, Check 1002 was cashed on 09/28/18, but bounced on 10/01/18. Thus no funds were actually received.
- \$69,690 (10/31/2018) - This is also a bounced transaction - From the bank statements, Check 1045 was cashed on 10/30/18, but bounced on 10/31/18. Thus no funds were actually received.

Auditor Comment on Findings 3

The transactions summarized in Table 3.1 were identified in banking records provided by the Committee and were labeled as “Return of Posted Check”. Auditors’ reconciliation of Committee records determined that these credits to the Committee’s bank account represent funds redeposited by the bank after check payments had cleared and were later reversed. Because the funds were first deducted from the Committee’s account and later credited back, these transactions constitute “funds received” by the Committee and require disclosure. Bank-originated deposits into (e.g. interest earned, refund of bank fees, canceled payments) are not considered “contributions,” but should be disclosed as a “miscellaneous increase to cash”.

Finding 4

The Committee failed to accurately report accrued expenditures as required. (CA Gov’t Code § 84211(k) and 2 C.C.R. § 18421.6 (2018))

Auditors identified four expenditures, summarized in table 4.1 below, totaling \$17,382 which were not reported as “accrued” in the proper reporting period. By failing to report its accrued expenditures as required, the Committee understated its overall expenditures by \$6,282 or 3.5 percent of its total expenditures in the first reporting period, and understated its overall expenditures by \$11,100, or 1.4 percent of its total expenditures in the second reporting period. These expenditures are summarized in Table 4.1 below.

Table 4.1

Vendor Name	Amount of Expenditure As Reported	Reporting Period When Expenditure Was Disclosed	Amount of Expenditure Accrued in a Prior Reporting Period	Reporting Period in Which Accrued Expense Should be Reported
Whitehurst Mosher	\$6,000	N/A	\$6,000	1/01 – 9/22/18
50+1 Strategies	\$15,673	10/21 – 12/31/18	\$5,674	9/23 – 10/20/18
50+1 Strategies	\$88,466	10/21 – 12/31/18	\$282	1/01 – 9/22/18
50+1 Strategies	\$88,466	10/21 – 12/31/18	\$5,426	9/23 – 10/20/18
Total			\$27,545	

Finding 5

The Committee failed to comply with applicable disclaimer requirement for distributed communications as required. (CA Gov't Code § 84501(c) & 84503, 2 C.C.R. § 18450.5, and S.F. C.&G.C.C. § 1.161(a))

Auditors identified one communication, a text message, that did not include the proper disclaimer notices. The absence of this disclaimer language masks the source or party responsible for this message from recipients. Recipients are also not directed to any website or similar page where information regarding the persons responsible for the message can be found. This communication is summarized in Table 5.2 below.

Table 5.2

Type of Communication (e.g. phone call, text message)	Production Date / Drop Date (Per Invoices)	Disclaimer Language Required for Communication	Disclaimer Language Used by Committee
E-Day Text Message	11/05/18	"Who Funded this Ad" link	None

Committee Response to Finding 5:

We disagree with this finding. The SMS Text script clearly directs the recipient to the committee's web page which contains the full disclaimer through an abbreviated url (See "Find out more here: bit.ly/NoPropC"). Furthermore text messages are limited to 160 characters, according to the regulations, an abbreviated url is the appropriate disclaimer per 18450.4 (that was in effect at that time).

Auditor Comment on Finding 5

This finding does not take issue with the use of an abbreviated URL in the disclaimer but rather the use of the phrase "Find out more here" in place of the required text, "Who paid for this ad."

The full text of the message distributed by the Committee reads:

Homelessness deserves new solutions and real ideas. Prop C will only spend money on the same failed programs. Find out more here: bit.ly/NoPropC"

The purpose of the disclaimer notice in text messages is to help identify the message as a paid political communication and who is responsible for paying for the message. The phrase "find out more here" does not sufficiently meet this objective as it does not clearly establish that the persons responsible for paying for the message and for producing the website are one in the same.