



San Francisco Ethics Commission

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Campaign Finance Audit Report: Dean Preston for Supervisor 2020 FPPC ID #: 1423313 January 1, 2019 – December 31, 2020

Introduction

Public disclosure of election campaign activity is essential to voters making informed decisions. The Political Reform Act (California Government Code [CA Gov. Code] Section [Sec.] 81000 et seq.) and supporting regulations, and the San Francisco Campaign Finance Reform Ordinance (San Francisco Campaign & Governmental Conduct Code [SFC&GCC] Sec. 1.100 et seq.) and supporting regulations, were established to impose reasonable disclosure requirements to reveal information about election campaign activity. By requiring proper and timely disclosure of campaign activity pertaining to contributions, loans, expenditures, and accrued expenditures, the laws and regulations are designed to inform voters and deter improper practices.

To promote campaign compliance with laws and regulations, the San Francisco Ethics Commission (hereinafter "the Commission") conducted an audit of **Dean Preston for Supervisor 2020: 1423313** (hereinafter "the Committee") covering the audit period January 1, 2019, through December 31, 2020. This Audit Report summarizes the results for the audit.

Authority

The Commission has a duty and responsibility under San Francisco Charter Sec. C3.699-11(4) to audit campaign statements and other relevant documents that are filed with the Commission to ensure compliance with applicable state and city campaign finance laws and regulations. Under SFC&GCC Sec. 1.150(a), all candidate committees whose candidates have received public financing must be audited and committees that have not received public financing may be randomly selected for audit at the discretion of the Executive Director of the Commission.

Objectives and Scope

The objective of the audit was to reasonably determine whether the Committee substantially complied with requirements of the Political Reform Act Sec. 81000 et seq. and supporting regulations, and the San Francisco Campaign Finance Reform Ordinance Sec. 1.100 et seq. and supporting regulations. The audit was performed based on a review of the Committee’s filings and records covered by the audit period to determine, among other things:

- Compliance with campaign activity disclosure and record-keeping requirements, and
- Compliance with applicable campaign activity limits, restrictions, and prohibitions.

As a recipient of public financing, the Committee was subject to mandatory audit.

Nothing in this report shall be interpreted to prevent an enforcement action by the Commission or another appropriate agency for conduct in violation of the law, whether or not that conduct is covered by this report.

This report will be forwarded to the Commission’s Enforcement Division for review to determine whether any further action may be warranted.

Auditee Information

Background

At all times relevant to the audit, the Committee’s primary purpose was to support the election of Dean Preston to the Board of Supervisors, District 5, for the City and County of San Francisco (the City) in the November 3, 2020, election. During the period covered by the audit, the Committee’s Treasurer was Albany Aroyan. The Committee was established on December 11, 2019, and terminated on June 30, 2023.

Committee Reported Activity

	<u>Total Funds Raised</u>	<u>Total Expenditures Made</u>
Private Contributions	\$231,595	
Public Funds Received	\$252,000	
	\$483,595	\$484,646

The committee activity totals were taken from disclosure statements filed with the Commission covering the period January 1, 2019, through December 31, 2020.

Unexpended Public Funds

As defined by SFC&GCC Sec. 1.104, "unexpended public funds" shall mean all funds remaining in the candidate committee's account on the 30th day after the candidate controlling the 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. Funds raised after this date are not unexpended funds. Under SFC&GCC Sec. 1.148(c) and Regulation 1.148-1, candidate committees that receive public funds are required to pay unexpended public funds to the City and deliver to the Commission those funds for deposit in the Election Campaign Fund no later than 30 days after the Commission completes its audit of the committee. Unexpended public funds may be reduced by a limited range of expenses incurred after the election that do not directly affect the outcome of the election, including expenses associated with an audit such as bank fees, treasurer fees, and storage fees, until the Commission completes its audit of the committee.

Per review of documents and records, Auditor determined that the Committee may have unexpended public funds estimated to be approximately \$7,797. It is the responsibility of the Committee to determine the final amount of unexpended public funds that should be paid to the City and ensure the funds are paid no later than 30 days from the date of this report.

Audit Respondent

The Audit Respondent identified below was the primary audit contact during the audit and responded to audit inquiries and requests on behalf of the Committee.

Albany Aroyan
Treasurer
584 Castro Street #2230
San Francisco, CA 94114

Audit Findings

The CA Gov. Code Sec. 81000 et seq. and supporting regulations, and SFC&GCC Sec. 1.100 et seq. and supporting regulations, require campaign committees to timely disclose information about election campaign activity and adhere to applicable campaign activity limits, restrictions, and prohibitions.

Findings noted during the audit, including any applicable responses submitted by the Respondent, are summarized below.

Monetary Contributions

- Under SFC&GCC Sec. 1.114(a), candidate committees shall not solicit or accept contributions from a single source that exceed \$500. Under SFC&GCC Sec. 1.114(f), candidate committees that receive contributions that exceed established limits shall forfeit the amount received in excess of permitted amounts to the Commission for deposit in the General Fund of the City and County. Per review of documents and records provided for audit, Auditor identified ten contributors for which the Committee accepted contributions that exceeded the \$500 contribution limit. See **Table 1** below. The excess contributions totaled \$1,325. The Committee forfeited \$525 in excess contributions on behalf of seven contributors, as required by law, leaving \$800 that remained subject to forfeiture. Notwithstanding the \$525 forfeiture, the acceptance and deposit of the contributions constituted violations of local contribution limits.

Table 1

<u>Source</u>	<u>Cumulative Received</u>	<u>Forfeiture Owed</u>	<u>Forfeiture Amount</u>
Beinart, Amy	\$750	\$250	None
Brennan, Monica	\$550	\$50	None
Bush, Larry	\$600	\$100	\$100
Crow, Dave	\$550	\$50	\$50
Jaypal, Pramila	\$1,000	\$500	None
Kenady, Carolyn	\$600	\$100	\$100
Pangilinan, Michael	\$525	\$25	\$25
Sengottaiyan, Adolfo	\$600	\$100	\$100
Snelson, Karen	\$600	\$100	\$100
Wilson, Ian	\$550	\$50	\$50
Total		\$1,325	\$525

- Under SFC&GCC Sec. 1.114(b) and Regulation 1.114-1, no corporation, limited liability company, or limited liability partnership shall make a contribution to a candidate committee. Under SFC&GCC Sec. 1.114(f), candidate committees that receive contributions that do not comply with contribution requirements shall forfeit the amount received to the Commission for deposit in the General Fund. Per review of documents and records provided for audit, Auditor identified a \$500 contribution that was accepted by the Committee from a registered corporation. See **Table 2** below. The Committee forfeited \$500 to the City in the name of Henry Chan/MMVW Holding Inc. on October 18, 2020, as required by law. Notwithstanding the \$500

forfeiture, the acceptance and deposit of the contribution constituted a violation of local prohibitions.

Table 2

<u>Source</u>	<u>Date</u>	<u>Amount</u>
MMVW Holding Inc	9/5/20	\$500

3. Under CA Gov. Code Sec. 84211(f), committees are required to report the total amount of contributions received from all persons during a reporting period. If the cumulative amount received from any one source is \$100 or more, committees must also disclose the full name, street address, and occupation/employer information of the contributor. Per review of documents and records provided for audit, Auditor identified two monetary contributions totaling \$30 received by the Committee that were not disclosed on campaign statements (Schedule A of Form 460) filed with the Commission. See **Table 3** below. Rich Cleland and Angela Sibelman each made contributions via monthly recurring credit card transactions. Rich Cleland made 11 contributions totaling \$220 (one per month of \$20 each) beginning December 2019 and ending October 2020. Angela Sibelman made 10 contributions totaling \$100 (two per month of \$10 each) beginning June 2020 and ending October 2020. Auditor found no records to indicate that the unreported contributions received in October 2020 were returned and not deposited and therefore not subject to disclosure.

Table 3

<u>Name</u>	<u>Date</u>	<u>Amount</u>
Cleland, Rich	10/29/20	\$20
Sibelman, Angela	10/29/20	\$10
Total		\$30

4. Under Cal. Code Regs. Tit. 2 Sec. 18401, committees are required to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements. This includes maintaining detailed information and original source documentation. Per review of contribution campaign activity, Auditor identified two contribution refunds to contributors that were disclosed on Form 460 Schedule A for which source documentation was not available. See **Table 4** below.

Table 4

<u>Name</u>	<u>Date</u>	<u>Amount</u>
Beinart, Amy	10/26/20	-\$250
Chan, Cecilia	11/04/20	-\$200
Total		-\$450

The Amy Beinart refund appeared to be connected to a June 11, 2020, credit card contribution. The Respondent stated that the June 11, 2020, contribution and October 26, 2020, refund resulted in the transactions offsetting each other and the Committee's credit card vendor excluding the transactions from certain transaction reports that were submitted as part of the audit record. For the Cecilia Chan refund, the Respondent stated that the contributor made two check contributions of \$200, however, one check was returned to Chan undeposited, and the reported refund reflects the returned check.

Auditor could not independently verify how or why the Beinart June 11, 2020, contribution and October 26, 2020, refund resulted in the Committee's credit card vendor excluding the refund from transaction reports. Credit card vendor reports showed refunds processed for other contributors but not for Beinart. For the Chan transactions, Auditor noted contribution and banking records appeared to indicate that two check contributions of \$200 were received on or about August 31, 2020, and October 28, 2020, and were included in deposit batches posted to the Committee's account. This appeared to be inconsistent with the claim that a check was returned "undeposited" and was communicated to the Respondent. As of the time of the audit, source documentation remained unavailable for the disclosed contribution refunds for Beinart and Chan identified above.

Expenditures

5. Under CA Gov. Code Sec. 84211(k), for each expenditure of \$100 or more, committees are required to disclose the full name of the payee, amount paid, and nature or purpose of the expenditure on Schedule E of Form 460. Disclosure requirements for Form 460 require that payments reported on Schedule E that are contributions to other committees must also be disclosed on Schedule D of Form 460. Under Cal. Code Regs. Tit. 2 Sec. 18215, a "contribution" is any payment to a candidate or registered campaign committee that is made for political purposes for which a donor does not receive full and adequate consideration in exchange for the payment. A payment is made "for political purposes" if it is made to influence or attempt to influence the action of the voters in relation to the election of a candidate or passage of a measure. "Full and adequate consideration" as used in the Political Reform Act and accompanying Regulations means estimated "fair market value" of goods, services, facilities, or anything of value other than money (CA Gov. Code Sec. 82025.5). Per review of documents and records provided for audit, two payments made to the San Francisco Democratic County Central Committee (SF DCCC) reported on Schedule E of Form 460 were not also disclosed on Schedule D as

required. See **Table 5**. The SF DCCC is a registered local political party per Fair Political Practices Commission records and the payments made by the Committee appeared to be contributions to the political party committee.

Table 5

<u>Payee Name</u>	<u>Purpose</u>	<u>Date</u>	<u>Amount</u>
San Francisco Democratic County Central Committee	LIT	10/09/20	\$5,000
San Francisco Democratic County Central Committee	PHO	11/30/20	\$450
		Total	\$5,450

The Respondent stated that the Committee made the payments "in return for full consideration of the benefits received (appearance on slate card and inclusion in phone banking activities)" and therefore "no portion of this amount...represents a 'contribution' within the meaning provided in FPPC Regulation 18215." The Respondent further stated that the Committee negotiated a "mutual agreement" with the SF DCCC where "the Committee would compensate the SF DCCC for being included in these specific communications." The Respondent viewed this arrangement as "analogous to purchasing advertisement space" and that the SF DCCC was functioning as a vendor who was allowed to set their own "fair market rate" for their service (i.e., the cost of inclusion in campaign communications).

Any payment received by the SF DCCC as a local political party committee (as defined in CA Gov. Code Sec. 85205) is considered a "contribution" unless it can be established that (1) the payment was not made for political purposes and (2) the payor received full and adequate consideration in exchange for the payment, as described above. Source documents provided for audit (e.g., invoices and email correspondence from the SF DCCC) indicated that the payments were made for political purposes (i.e., the election of the candidate). Invoices for the payments indicated "SF DCCC Contribution" and did not indicate the payments were for goods or services in exchange for the payments, despite the Respondent's claim that the payments were negotiated for the express purpose of receiving a "benefit" (e.g., inclusion in a slate card and phone banking activities). Also, source documentation lacked sufficient information to evidence that the payment amounts represented the fair market value for any goods or services received in exchange for the payments. In addition, the SF DCCC reported the transactions as "contributions" received on Schedule A of their Form 460s and, in the case of the \$5,000 payment, on a Form 497 Late Contribution Report. Based on the above, the payments appeared to be contributions to a political party that also required disclosure on Schedule D.

Campaign Disclosure Statements

6. Under CA Gov. Code Sec. 84200, candidate committees are required to timely file semi-annual statements, in furtherance of full and truthful disclosure of election campaign receipts and expenditures as described in CA Gov. Code Sec. 81002(a). Per review of disclosure statements filed by the Committee, Auditor identified one Form 460 statement that was not timely filed by the required deadline. See **Table 6** below.

Table 6

<u>Type of Report</u>	<u>Reporting Period</u>	<u>Filing Deadline</u>	<u>Date Filed</u>	<u>Days Late</u>
Form 460 Semi-Annual	10/29/20 - 12/31/20	2/1/21	2/2/21	1

7. Under CA Gov. Code Sec. 84200.5, candidate committees are required to timely file pre-election statements, in furtherance of full and truthful disclosure of election campaign receipts and expenditures as described in CA Gov. Code Sec. 81002(a). Per review of disclosure statements filed by the Committee, Auditor identified one Form 460 statement for which reported beginning and ending cash balances did not appear consistent with balances reported in prior and subsequent statements. See **Table 7** and **Table 8** below.

Table 7

<u>Reporting Period</u>	<u>460 Summary Page Totals</u>	<u>Reported</u>	<u>Per Audit</u>	<u>Difference</u>
Period 4 09/20/20 - 10/17/20	Beginning Cash Balance 09/20/20	\$193,367.71	\$193,367.71	
	Cash Receipts	\$34,775.60	\$34,775.60	
	Misc Increases to Cash	\$48,198.00	\$48,198.00	
	Cash Payments	\$166,359.90	\$166,359.90	
	Ending Cash Balance 10/17/20	\$109,981.41	\$109,981.41	
Period 5 10/18/20 - 10/28/20	Beginning Cash Balance 10/18/20	\$117,930.74	\$109,981.41	\$7,949.33
	Cash Receipts	\$11,690.57	\$11,690.57	
	Misc Increases to Cash	\$0.00	\$0.00	
	Cash Payments	\$38,121.11	\$38,121.11	
	Ending Cash Balance 10/28/20	\$91,500.20	\$83,550.87	\$7,949.33

Table 8

<u>Reporting Period</u>	<u>460 Summary Page Totals</u>	<u>Reported</u>	<u>Per Audit</u>	<u>Difference</u>
Period 5 10/18/20 - 10/28/20	Beginning Cash Balance 10/18/20	\$117,930.74	\$109,981.41	\$7,949.33
	Cash Receipts	\$11,690.57	\$11,690.57	
	Misc Increases to Cash	\$0.00	\$0.00	
	Cash Payments	\$38,121.11	\$38,121.11	
	Ending Cash Balance 10/28/20	\$91,500.20	\$83,550.87	\$7,949.33
Period 6 10/29/20 - 12/31/20	Beginning Cash Balance 10/29/20	\$83,550.87	\$83,550.87	
	Cash Receipts	\$7,777.00	\$7,777.00	
	Misc Increases to Cash	\$1,604.28	\$1,604.28	
	Cash Payments	\$91,426.79	\$91,426.79	
	Ending Cash Balance 12/31/20	\$1,505.36	\$1,505.36	

The Respondent stated that the discrepancies "originated from erroneous/duplicate bank transfers recorded within NetFile" which were the result of a "technical glitch" related to the starting dates for the internal bank account in the Committee's electronic filing system, and that the "issue has now been resolved." Amendments were filed on September 17, 2023, with reported cash balance totals on the summary page reflecting the correct amounts.

Auditor could not independently verify that the issues, as described by the Respondent, impacted the summary page totals or were the causes of the discrepancies identified, and noted that the amendments were filed by the Committee after the discrepancies were identified during the audit.

8. Under CA Gov. Code Sec. 82036, "late contributions" are defined as contributions that total in the aggregate \$1,000 or more and are made to or received by a candidate, a controlled committee, a committee formed or existing primarily to support or oppose a candidate or measure, or a political party committee during the 90-day period before an election. "Political party committees" include county central committees for political party organizations. Under CA Gov. Code Sec. 84203, candidate committees that make or receive late contributions, as defined in Sec. 82036, are required to timely report the contributions within 24 hours of the time the contributions are made or received on Form 497 (497 Contribution Report). Per review of documents and records provided for audit, Auditor identified a payment of

\$5,000 made by the Committee on October 9, 2020, to the San Francisco Democratic County Central Committee during the 90-day period before the election that was not timely reported on Form 497. The payment required disclosure on Form 497 by October 12, 2020. As of the time of the audit, a Form 497 had not been filed to disclose the payment.

9. Under SFC&GCC Sec. 1.152(a)(1) and Regulation 1.152-1(a), candidate committees are required to file Form SFEC-152: Threshold Notice with the Commission disclosing when they have received contributions or made expenditures that equal or exceed \$10,000 within 24 hours of reaching or exceeding that amount. Also, under SFC&GCC Sec. 1.152(a)(2) and Regulations 1.152-1(b) and 1.152-1(c), candidate committees are required to file Form SFEC-152 disclosing when they have received contributions or made expenditures that in the aggregate equal or exceed \$100,000 within 24 hours of reaching or exceeding the threshold. Thereafter, committees are required to file an additional Form SFEC-152 within 24 hours of every time they receive additional contributions or make additional expenditures that in the aggregate equal or exceed \$10,000. Per review of transaction data (i.e., monetary contributions, nonmonetary contributions, public funds received, expenditures) reported by the Committee on disclosure statements, Auditor determined that the initial SFEC-152 notice was not timely filed by the required deadline. See **Table 9** below.

Table 9

<u>Threshold Level</u>	<u>Date Reached</u>	<u>Date Due</u>	<u>Date Filed</u>	<u>Days Late</u>
\$10,000	12/20/19	12/21/19	2/5/20	46

10. Under SFC&GCC Sec. 1.161(b)(3), candidate committees must disclose information related to the distribution of mass mailings on an Itemized Disclosure Statement (Form SFEC-161) within five business days of the mail date. If the mail date occurs within the last 16 days before an election, Form SFEC-161 must be filed within two calendar days of the mail date. Per review of disclosure statements filed by the Committee, Auditor identified two Form SFEC-161s that were not timely filed by the required deadline. See **Table 10** below. Auditor also identified two Form SFEC-161s that were filed without complete itemized cost information. See **Table 11** below. It is noted that the total cost of the mailers and all required sub-vendor payments were accurately and timely reported on Form 460 Schedules E and G, respectively.

Table 10

<u>Filing Number</u>	<u>Reported Date Mailed</u>	<u>Date Due</u>	<u>Date Filed</u>	<u>Days Late</u>
40120	4/1/20	4/8/20	5/18/20	40
103020F	10/27/20	10/29/20	10/30/20	1

Table 11

<u>Filing Number</u>	<u>Total Cost</u>	<u>Itemized Cost</u>	<u>Missing/Unitemized Cost</u>
40120	\$7,586.50	\$6,134.83	\$1,451.67
81020	\$10,008.54	\$9,592.94	\$415.60

Conclusion

Except as indicated in the **Audit Findings** section above, and in our opinion, the Committee substantially complied with the requirements of the Political Reform Act Sec. 81000 et seq. and supporting regulations, and the San Francisco Campaign Finance Reform Ordinance Sec. 1.100 et seq. and supporting regulations.