



# San Francisco Ethics Commission

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## Campaign Finance Audit Report: Vote Vallie Brown for Supervisor 2019 FPPC ID #: 1407918 January 1, 2018 – December 31, 2019

### 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 **Vote Vallie Brown for Supervisor 2019: 1407918** (hereinafter "the Committee") covering the audit period January 1, 2018, through December 31, 2019. 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 Vallie Brown to the Board of Supervisors, District 5, for the City and County of San Francisco in the November 5, 2019, election. During the period covered by the audit, the Committee’s Treasurer was Vallie Brown and the Assistant Treasurer was Patricia Mar (View Avenue Group). The Committee was established on July 18, 2018, and terminated on October 5, 2020.

### **Committee Reported Activity**

	<b><u>Total Funds Raised</u></b>	<b><u>Total Expenditures Made</u></b>
Private Contributions	\$344,080	
Public Funds Received	\$152,500	
	<b>\$496,580</b>	<b>\$486,803</b>

The committee activity totals were taken from disclosure statements filed with the Commission covering the period January 1, 2018, through December 31, 2019.

### **Audit Respondent**

The Audit Respondents identified below were the primary audit contacts during the audit and responded to audit inquiries and requests on behalf of the Committee.

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### **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.

The following findings were noted during the audit:

#### **Campaign Bank Account Activity**

1. Under CA Gov. Code Sec. 84211(a)(c)(f), committees are required to report “the total amount of contributions **received**” (emphasis added), total amount of contributions “**received**” (emphasis added) from persons giving \$100 or more, personal information of those giving \$100 or more, and date and amount of contributions \$100 or more. Under CA Gov. Code Sec. 84211(i)(k), committees are required to report the total amount of expenditures paid to persons who receive \$100 or more, personal information of those receiving \$100 or more, and date, amount, and description of expenditures \$100 or more. Schedule A of Form 460 (Campaign Statement) may be used to disclose the receipt of monetary contributions, and Schedule E may be used to disclose payments made and money spent by a committee during a reporting period.

Per review of records and documents provided for audit, Auditor determined the following:

- A deposit entry made to the Committee campaign bank account on November 4, 2019, in the amount of \$2,350, and a withdrawal entry made from the Committee campaign bank account on November 6, 2019, in the amount of \$2,350, were not disclosed on campaign disclosure statements filed for the audit period. The Respondent stated that the deposit entry represented a deposit intended for the *Re-Elect Mayor London Breed 2019* committee, another View Avenue Group client, that was mistakenly deposited into the Committee bank account, and the withdrawal entry represented a withdrawal made to rectify the mistaken deposit.

Despite evidence that the deposit entry referenced above was deposited to the wrong campaign, the deposit represented contributions that the Committee was required to disclose on campaign statements, as explained below. Per documentation provided by the Committee, the deposit represented the sum of seven contributions **received** (emphasis added) each ranging from \$100-\$500 that were intended for the 2019 Breed campaign.

Under CA Gov. Code Sec. 82015(a), a contribution means 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.” Neither exception applies in this instance. As such, the deposit is considered a contribution.

Under Cal. Code Regs. Tit. 2 Sec. 18421.1(c), a monetary contribution “is ‘**received**’ (emphasis added) on the date that the candidate or committee, or the agent of the candidate or committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made.” Once that contribution is received, it must be reported as required by the laws described above, unless an exception applies.

The following potential exceptions to reporting contributions, if those contributions are returned, were evaluated:

- **Excessive Contributions.** Under CA Gov. Code Sec. 85319.5 and Cal. Code Regs. Tit. 2 Sec. 18531, a committee that receives a contribution that exceeds a contribution limit may return the contribution, or portion thereof, that exceeds the limit, if the amount in excess of the contribution is returned within 14 days of receiving the contribution, the committee does not deposit

the contribution, and the committee does not make use of the contribution prior to returning it. Since the contributions represented by the deposit did not exceed contribution limits, the exception does not apply in this instance.

- **Not Cashed, Negotiated, or Deposited.** Under CA Gov. Code Sec. 84211(q), a contribution "need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported." Since the contributions represented by the deposit were deposited into the Committee campaign bank account, the exception does not apply in this instance.

Because neither of the above exceptions apply, in accordance with CA Gov. Code Sec. 84200 and the [2019 election deadlines](#), the contributions deposited into the campaign bank account on November 4, 2019, should have been reported on campaign statements filed by January 31, 2020. The Committee should have reported the contributions "received" during the reporting period on its January 31, 2020, campaign statement on Schedule A. The Committee should also have reported the "return" of the contributions (for deposit to the *Re-Elect Mayor London Breed* 2019 committee) on the same statement, on Schedule E, which provides a specific code for reporting "returned contributions."

The Respondent stated *"The Committee disagrees with the Auditor's finding that funds deposited on November 4, 2019 were contributions to Vallie Brown for Supervisor 2019 subject to reporting. The deposit was the result of clerical errors by reporting staff who inadvertently deposited funds received for a different committee into the Vallie Brown for Supervisor 2019 bank account and by the bank when it accepted checks written to a different committee for deposit into the Vallie Brown for Supervisor 2019 bank account. The deposit error was discovered by the Committee and funds were transferred out of the bank account within 48 hours of deposit. As the checks deposited were clearly written to a different committee, and the donors did not intend to make contributions to Vallie Brown for Supervisor 2019, reporting the payments as contributions to Vallie Brown for Supervisor 2019 would have misrepresented the intent of the donors and mislead the public. The Committee provided the Ethics Commission all supporting documentation relevant to this finding in a timely manner. The Committee believes the supporting documentation provided sufficiently reflects that the Committee substantially complied with the Political Reform Act and San Francisco Campaign Finance Reform Ordinance and their supporting regulations."*

The Commission acknowledges the Committee’s response. As explained above, despite evidence that the deposit was credited to the wrong campaign and transferred out within 48 hours of the deposit, the deposit represented contributions **received** (emphasis added) that were deposited to and subsequently withdrawn from the Committee’s campaign bank account. The deposit and withdrawal transactions should be disclosed in campaign statements to ensure transparency of campaign bank account activity.

**Campaign Disclosure Statements**

2. 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 the below Form SFEC-161 that was not timely filed by the required deadline.

<u>Mass Mailing Description</u>	<u>Mass Mailing Drop Date</u>	<u>Required Disclosure Date</u>	<u>Date Reported</u>	<u>Days Late</u>
09 Doing More for Renters	10/25/19	10/27/19	10/28/19	1

**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.