



San Francisco Ethics Commission

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Campaign Finance Audit Report: Engardio for District 7 Supervisor 2020 FPPC ID #: 1420655 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 **Engardio for District 7 Supervisor 2020: 1420655** (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 Joel Engardio to the Board of Supervisors, District 7, for the City and County of San Francisco in the November 3, 2020, election. During the period covered by the audit, the Committee’s Treasurer was Joel Engardio and the Assistant Treasurer was Joanne Scott. The Committee was established on August 20, 2019, and terminated on December 8, 2020.

Committee Reported Activity

	<u>Total Funds Raised</u>	<u>Total Expenditures Made</u>
Private Contributions	\$188,845	
<u>Public Funds Received</u>	<u>\$255,000</u>	
	\$443,845	\$448,801

The committee activity totals were taken from disclosure statements filed with the Commission covering the period August 23, 2019, through December 8, 2020.

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.

Joel Engardio, Candidate & Treasurer
Joanne Scott, Assistant Treasurer
1559B Sloat Blvd, Suite 250
San Francisco, CA 94132

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:

Monetary Contributions

1. 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 records and documents provided for audit, and as part of analyzing campaign statement discrepancies, the Respondent (Assistant Treasurer) confirmed to the Auditor that there were seven monetary contributions totaling \$2,950 received by the Committee that were not disclosed on campaign statements (Schedule A of Form 460) filed with the Commission. See **Table 1** below. The Respondent confirmed the receipt of the contributions, and affirmed the exclusion of the contributions from campaign statement filings was inadvertent and the Committee intends to amend statements to disclose.

Table 1

<u>Name</u>	<u>Date</u>	<u>Amount</u>
Kanbar, Maurice	9/14/20	\$500.00

Chan, Leland	9/18/20	\$200.00
Isidro, Mikail	10/7/20	\$500.00
1001 - 17th St Assoc.	10/12/20	\$500.00
Fisher, Saburako	10/26/20	\$500.00
Fisher, William	10/26/20	\$500.00
Casey, Siobhan	10/27/20	\$250.00
Total		\$2,950.00

- Proposition F, a November 5, 2019, election ballot measure which became effective December 20, 2019, added limited liability companies and limited liability partnerships to the list of corporations prohibited from contributing directly to candidate committees. Under SFC&GCC Sec. 1.114(b), no corporation, limited liability company, or limited liability partnership shall make a contribution to a candidate committee. Under SFC&GCC Sec. 1.114(f), a candidate committee that receives a contribution that does not comply with contribution requirements shall forfeit the amount received to the Commission for deposit in the General Fund. Per review of records provided, the Committee accepted \$1,000 in contributions from registered corporations in violation of local prohibitions. See **Table 2** below.

Table 2

<u>Source</u>	<u>Date</u>	<u>Amount</u>
1001 - 17th St Associates, LLC	10/12/20	\$500.00
Everdell Garden Design LLC	9/22/20	\$500.00
Total		\$1,000.00

- Under Cal. Code Regs. Tit. 2 Sec. 18401(a)(1)(A), committees are required to maintain records that include "a listing reflecting the dates and daily totals of the contributions." Under Cal. Code Regs. Tit. 2 Sec. 18421.1(c), monetary contributions are considered "received" on the date the candidate or committee, or an agent of the candidate or committee (e.g., treasurer, consultant, campaign staff), obtains possession or control of the check. Per review of records submitted for check contributions received, Auditor noted that the records did not include information regarding the actual "receipt date" for check contributions. Based on a detailed review of check contributions disclosed on Schedule A of Form 460 (Campaign Statement), Auditor determined that 95.6% (111 of 116) of the itemized check contributions reviewed were reported "received" on the same date as the "check date." Audit Respondents were asked to provide an explanation for how the Committee determined the "receipt date" for check contributions. Respondent (Assistant Treasurer) stated that *"...the 'receipt' date was determined to be the date appearing on the check. This was done for clarity, because it was easily*

documentable, and because a good quantity of the checks were, in fact, made available to the committee on the same day they were written.” Auditor found no evidence in the records provided to support this claim or the accuracy of the “receipt” dates reported.

Expenditures

4. 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. Committees can elect to use a prepopulated expenditure code or, if the codes do not accurately reflect the nature of the expenditure, provide a brief explanation. Per review of records provided, six payments totaling \$3,250.00 were made to political organizations for appearances in campaign literature and slate mailers, and to sponsor a debate series. See **Table 3** below. The Committee used expenditure code “CVC” (civic contributions), which does not accurately reflect the true nature and purpose of the expenditures. As an expenditure code that reflects the purpose of the payments does not exist, the Committee should have provided a specific description for the expenditures.

Table 3

<u>Payee Name (FPPC #)</u>	<u>Date</u>	<u>Amount</u>
SF Families First Slate Mailer Organization (#1426955)	9/15/20	\$500.00
Alice B. Toklas Democratic Club (#842018)	7/15/20	\$500.00
Alice B. Toklas Democratic Club (#1239530)	9/15/20	\$1,500.00
Democratic Victory Voter Guide SMO (#1433334)	10/9/20	\$250.00
District 7 Neighbors – Deane & Company (#1432402)	9/28/20	\$250.00
Edwin M. Lee Asian Pacific Democratic Club PAC (#1342711)	9/28/20	\$250.00
	Total	\$3,250.00

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. If a payment is made to a vendor through an intermediary, the committee must disclose both the vendor receiving the payment and the intermediary used. Per review of records provided, the Committee made a \$1,470.84 payment on 10/9/20 to the Martin Pinto for District 7 Supervisor committee. The payment was made to reimburse the Martin Pinto committee for the fair market value of the Committee’s portion of a joint mailer that included the candidate, Joel Engardio, and was paid for by the Martin Pinto

committee to the vendor, Pacific Printing. The Committee reported the payment on Schedule E of Form 460. However, the disclosure did not identify the vendor that received final payment, Pacific Printing. The Committee should have reported Pacific Printing as the vendor receiving the payment, and the Martin Pinto committee as an intermediary for the payment.

6. 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. Per review of records, a \$500 payment to Alice B. Toklas Democratic Club (#842018) on 7/15/20 reported on Schedule E of Form 460 was not disclosed on Schedule D as required. While the Alice B. Toklas Democratic Club invoiced the Committee for "sponsorship" of a debate, under state law this payment constitutes a contribution to another committee.
7. Under CA Gov. Code Sec. 84303(b) and Cal. Code Regs. Tit. 2 Sec. 18431, committees are required to disclose payments of \$500 or more made by vendors to sub-vendors on the Committee's behalf (e.g., "sub-vendor payments") on Schedule G of Form 460. Per review of records provided, Auditor identified 16 payments of \$500 or more totaling \$63,719.44 made to a sub-vendor (United States Postal Service) by a vendor (Pacific Printing) on the Committee's behalf for postage. See **Table 4** below. While the Committee reported the payments to Pacific Printing on Schedule E of Form 460 in the appropriate reporting periods, it did not report the sub-vendor payments made by Pacific Printing on Schedule G of Form 460. The postage payments, and any other "sub-vendor" payments of \$500 or more, require additional disclosure on Schedule G of Form 460.

Table 4

<u>Primary Payee</u>	<u>Date</u>	<u>Sub-Vendor</u>	<u>Amount</u>
Pacific Printing	07/25/20	United States Postal Service	\$5,295.95
Pacific Printing	08/24/20	United States Postal Service	\$5,350.44
Pacific Printing	08/31/20	United States Postal Service	\$5,601.70
Pacific Printing	09/28/20	United States Postal Service	\$831.39
Pacific Printing	09/28/20	United States Postal Service	\$2,893.28
Pacific Printing	09/29/20	United States Postal Service	\$5,346.07
Pacific Printing	10/06/20	United States Postal Service	\$6,458.12
Pacific Printing	10/09/20	United States Postal Service	\$5,812.06
Pacific Printing	10/09/20	United States Postal Service	\$2,899.27

Pacific Printing	10/20/20	United States Postal Service	\$4,420.36
Pacific Printing	10/22/20	United States Postal Service	\$3,133.05
Pacific Printing	10/22/20	United States Postal Service	\$3,474.45
Pacific Printing	10/25/20	United States Postal Service	\$2,518.56
Pacific Printing	10/25/20	United States Postal Service	\$3,993.30
Pacific Printing	10/26/20	United States Postal Service	\$1,335.39
Pacific Printing	10/26/20	United States Postal Service	\$616.65
Pacific Printing	10/26/20	United States Postal Service	\$3,739.40
Total			\$63,719.44

Campaign Disclosure Statements

8. Under CA Gov. Code Sec. 82046(b), the “period covered” by a campaign statement means the period beginning the day after the closing date of the most recent campaign statement required to be filed and ending with the closing date of the statement in question. If a committee has not previously filed a campaign statement, as may be the case if a committee is formed mid-year, the period covered begins on January 1 for the first campaign statement filed. The purpose of this disclosure rule is to give confidence to the public that committees formed mid-year are disclosing all financial activity for the calendar year. Per review of campaign statements filed by the Committee, Auditor determined that the Committee was established on August 20, 2019, and the period covered by the first campaign statement (Form 460) filed began on August 23, 2019, and not January 1, 2019, as required. The disclosure period of the statement (August 23, 2019, through December 31, 2019) creates the appearance that a separate report covering the remainder of the calendar year may exist.
9. Under SFC&GCC Sec. 1.152(a)(2) and Regulation 1.152(a)-1, candidate committees are required to file Form SFEC-152: Threshold Notice with the Commission 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 campaign statements, Auditor determined that the Committee failed to report two threshold levels (\$270,000 and \$280,000) on Form SFEC-152, and an additional nine threshold levels were reported late. See **Table 5** below.

Table 5

<u>Threshold Level</u>	<u>Date Reached</u>	<u>Deadline to Report</u>	<u>Date Reported</u>	<u>Days Late</u>
\$10,000.00	9/18/19	9/19/19	9/24/20	5
\$270,000.00	6/20/20	6/22/20	Not Filed	N/A
\$280,000.00	6/25/20	6/26/20	Not Filed	N/A
\$290,000.00	7/1/20	7/2/20	7/9/20	7
\$370,000.00	8/30/20	8/31/20	9/3/20	3
\$380,000.00	9/6/20	9/7/20	9/10/20	3
\$390,000.00	9/15/20	9/16/20	9/18/20	2
\$400,000.00	9/22/20	9/23/20	9/29/20	6
\$410,000.00	9/25/20	9/26/20	10/1/20	5
\$420,000.00	10/5/20	10/6/20	10/12/20	6
\$440,000.00	10/26/20	10/27/20	10/28/20	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.