



San Francisco Ethics Commission

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Campaign Finance Audit Report: Marjan Philhour for Supervisor 2020 FPPC ID #: 1425942 January 1, 2020 – 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 **Marjan Philhour for Supervisor 2020: 1425942** (hereinafter "the Committee") covering the audit period January 1, 2020, 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 Marjan Philhour to the Board of Supervisors, District 1, 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 Treasurers were Marjan Philhour and Patricia Mar. The Committee was established on March 18, 2020, and terminated on December 31, 2020.

Committee Reported Activity

	<u>Total Funds Raised</u>	<u>Total Expenditures Made</u>
Private Contributions	\$193,483	
Public Funds Received	\$255,000	
	\$448,483	\$448,483

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

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.

Tricia Waineo
View Avenue Group
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San Francisco, CA 94118

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

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 documents and records provided for audit, Auditor identified two monetary contributions totaling \$650 received by the Committee, and the refund of the contributions, that were not disclosed on campaign statements (Schedule A of Form 460) filed with the Commission. See **Table 1** below. The contributions were deposited into the Committee's bank account and subsequently deducted from the bank account, as evidenced by bank statements and audit documentation.

Table 1

<u>Contributor Name</u>	<u>Transaction Date</u>	<u>Amount</u>
Abbey, D	10/22/20	\$500
Tugbenyoh, M	10/22/20	\$150
Abbey, D	10/28/20	-\$500
Tugbenyoh, M	10/28/20	-\$150

The Respondent stated that “*Democracy Engine collected credit card contributions weekly from Monday – Sunday and deposited weekly contributions the following Thursday. On Monday or Tuesday of each week, the Committee would request for refunds prior to when the batch deposits. On this week, funds were collected by Democracy Engine from Monday, October 19, 2020 through Sunday, October 24, 2020 and inexplicably deposited on Tuesday, October 27, 2020 without the Committee’s knowledge or approval. The Committee emailed Democracy Engine on Monday, October 26, 2020 requesting refunds for Abbey, D and Tugbenyoh, M, but Democracy Engine had already closed the batch, and instead included the refunds in the deposit batch received on Thursday, October 29, 2020. The Committee followed the process for requesting refunds to ensure that the contributions were not deposited into the bank account and had no control over Democracy Engine’s actions. As such, the Committee did not report the receipt and return of the contributions on the Form 460 because it had followed all protocols to return the contributions before deposit.*”

Auditor could not independently verify with supporting documentation that the events as described above should or should not have occurred. As of the time of the audit, source documentation remained unavailable. Under CA Gov. Code Sec. 84211(q), committees are required to report contributions received unless they are not cashed, negotiated, or deposited and are returned to contributors before the closing date of the applicable campaign statement. As the contributions noted above were deposited into and subsequently deducted from the Committee’s bank account, they required disclosure on campaign statements.

- Under CA Gov. Code Sec. 84211(c), committees are required to report the total amount of contributions received from persons who have given a cumulative amount of \$100 or more during a reporting period, in furtherance of full and truthful disclosure of election campaign receipts as described in CA Gov. Code Sec. 81002(a). Per review of documents and records provided for audit, Auditor determined aggregated contributions for six contributors were not accurately disclosed on campaign statements (Schedule A of Form 460) filed with the Commission. See **Table 2** below.

Table 2

<u>Contributor Name</u>	<u>Aggregate Amount - Contributions Received</u>	<u>Aggregate Amount - Contributions Reported</u>	<u>Difference</u>
GORDON, T	\$500.00	\$250.00	-\$250.00
LEVIN, W	\$300.00	\$200.00	-\$100.00
MARSH, N	\$350.00	\$300.00	-\$50.00
MENOR, B	\$140.40	\$120.20	-\$20.20
RIORDAN, M	\$500.00	\$250.00	-\$250.00
VIRANI, A	\$275.00	\$200.00	-\$75.00

The Respondent stated that *“Donors occasionally donate with a slightly different spelling of their first name or with a different address. In those instances, our database treats them as separate entities for cumulative reporting, and we must manually link their records together for the correct cumulative to be displayed on the report. The committee received contributions from 726 unique individuals, six of whom were mistakenly unlinked for cumulative reporting. This was simply an administrative oversight. None of these contributors exceeded the contribution limit.”*

Expenditures

- Under Cal. Code Regs. Tit. 2 Sec. 18421.6(b), accrued expenses (excluding loans) owed by a recipient committee shall be reported on campaign statements as of the date on which goods or services are received, except that obligations incurred for regularly recurring administrative overhead expenses shall not be reported before the payment due date. Under Cal. Code Regs. Tit. 2 Sec. 18421.6(a), accrued expenses (excluding loans) which remain outstanding shall be reported on each campaign statement until extinguished. Per review of documents and records provided for audit, Auditor determined that accrued expenses were not disclosed timely when goods or services were received. For six accrued expenses totaling \$26,156, the expenses were not disclosed until subsequent amendments to campaign statements were filed. These accrued expenses were disclosed between eight and 129 days later than required. See **Table 3** below.

Table 3 – Disclosed on Subsequent Amendments

Vendor	Amount	<u>Date Expense Incurred</u>	<u>Date Disclosure Due (1)</u>	<u>Date Disclosure Made</u>	Days Late
Muir Consulting	\$5,751	9/17/20	9/24/20	10/30/20	36
Durand Productions	\$192	8/01/20	9/24/20	1/31/21	129
Madison Street Press	\$1,170	9/30/20	10/22/20	10/30/20	8
Muir Consulting	\$15,000	9/30/20	10/22/20	1/31/21	101
Spotlight Printing	\$174	10/7/20	10/22/20	1/31/21	101
View Avenue Group	\$3,869	10/30/20	10/30/20	1/31/21	93
TOTAL	\$26,156				

(1) Pre-election statement for filing period ending 09/19/20 due on 09/24/20.

Pre-election statement for filing period ending 10/17/20 due on 10/22/20.

Pre-election statement for filing period ending 10/28/20 due on 10/30/20.

The Respondent stated that *"The committee received additional information after the initial campaign filings. Amendments were filed as soon as possible in good faith, as permitted by law, to ensure the public had the updated information."*

4. 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 documents and records provided for audit, Auditor identified one sub-vendor expenditure of \$5,751 that was not timely disclosed on Schedule G of Form 460. While the Committee properly reported the expenditure to the vendor on Schedule E of Form 460 in the appropriate reporting period, it did not also report the sub-vendor expenditure on Schedule G of Form 460 as required until a subsequent amendment to the campaign statement was filed. The expenditure was disclosed 36 days later than required. See **Table 4** below.

Table 4

<u>Vendor</u>	<u>Sub-Vendor</u>	<u>Amount</u>	<u>Date Expense Incurred</u>	<u>Date Disclosure Due (1)</u>	<u>Date Disclosure Made</u>	<u>Days Late</u>
Muir Consulting	Clearchannel	\$5,751	9/17/20	9/24/20	10/30/20	36

(1) Pre-election statement for filing period ending 09/19/20 due on 09/24/20.

The Respondent stated that *"The committee received additional information after the initial campaign filings. Amendments were filed as soon as possible in good faith, as permitted by law, to ensure the public had the updated information."*

Campaign Disclosure Statements

5. 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 three out of 16 required SFEC-152 notices were not timely filed by the required deadline. The notices were filed between one and four days later than required. See **Table 5** below.

Table 5

<u>Threshold Level</u>	<u>Date Reached</u>	<u>Date Due</u>	<u>Date Filed</u>	<u>Days Late</u>
\$10,000	3/24/20	3/25/20	3/31/20	4
\$410,000	10/02/20	10/03/20	10/05/20	2
\$440,000	10/27/20	10/28/20	10/29/20	1

The Respondent stated *"The report filed for meeting the \$410,000 threshold was filed on time, per our understanding that Threshold Reports deadlines are extended for weekends and holidays except for the 16 days prior to the election. This report was filed outside the 16-day window when deadlines are not extended for weekends and holidays."*

Regulation 1.172-1(b) states "the deadline will not be extended for campaign reports that are due during the late reporting period or the last sixty (60) days before an election." Since the \$410,000 threshold filing was due within the late reporting period, the deadline was not extended until the next business day. As such, the due date and days late identified by the Auditor for the filing is correct.

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.