



THE CITY OF SAN DIEGO

January 11, 2013

Mr. Brian Pollard
Brian "Barry" Pollard for City Council 2010
5141 Castana Street
San Diego, CA 92114

Re: Brian "Barry" Pollard for City Council 2010 (ID # 1330949)

Dear Mr. Pollard:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was delivered to the Ethics Commission at its regularly-scheduled meeting held on January 10, 2013.

Sincerely,

[REDACTED]

Rosalba Gomez
Ethics Commission Auditor

Enclosure



Ethics Commission

1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448



THE CITY OF SAN DIEGO

FINAL AUDIT REPORT

January 9, 2013

Mr. Brian Pollard
Brian "Barry" Pollard for City Council 2010
5141 Castana Street
San Diego, CA 92114

Treasurer: Brian Pollard
5141 Castana Street
San Diego, CA 92114

SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Brian "Barry" Pollard for City Council 2010*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Brian "Barry" Pollard for City Council 2010, Identification Number 1330949 ("the Committee") for the period from September 30, 2009, through June 30, 2011. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 26, 2011. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego's Election Campaign Control Ordinance (San Diego Municipal Code Chapter 2, Article 7, Division 29).

During the period covered by the audit, the Committee received total contributions of \$15,859.48 and made total expenditures of \$15,859.48. **The audit revealed thirty-four material findings:**

- **The committee made two cash expenditures over \$100 in violation of San Diego Municipal Code section 27.2919.**
- **The committee failed to maintain two categories of campaign records in violation of San Diego Municipal Code section 27.2925.**
- **The committee failed to disclose fourteen campaign contributions and nine expenditures in violation of San Diego Municipal Code section 27.2930.**



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- **The committee accepted and deposited five cash contributions in violation of San Diego Municipal Code section 27.2941.**
- **The committee accepted and deposited two contributions from persons other than individuals in violation of San Diego Municipal Code section 27.2950.**

II. Committee Information

On January 29, 2010, the Committee filed a Statement of Organization [Form 410] with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to support the election of Brian Pollard for Council District 4 in the June 8, 2010, primary election. On June 29, 2011, the Committee filed a Recipient Committee Campaign Statement [Form 460] indicating it terminated its activities effective June 29, 2011. The Committee failed to file an amended Form 410 reflecting its termination. The Committee's treasurer is Brian Pollard.

III. Audit Authority

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

IV. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with applicable filing deadlines;
3. Compliance with restrictions on contributions, loans, and expenditures;
4. Accuracy of total reported receipts, disbursements, and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

V. Summary of Applicable Law

Section 27.2919 - Petty Cash Fund

A petty cash fund may be established for each controlled committee bank account under the following conditions:

- (a) No more than \$100 may be held in the petty cash fund at any one time.
- (b) No expenditure that totals \$100 or more may be made from the petty cash fund.

- (c) Expenditures from a petty cash fund are deemed to be expenditures from the campaign bank account.

Section 27.2925 - Accounting

- (a) In addition to any other requirement of this division, every candidate or committee that accepts contributions for a City election shall maintain records in accordance with the requirements of title 2, section 18401 of the California Code of Regulations.
- (b) The records required by section 27.2925(a) and shall be kept by the candidate or committee treasurer for a period of four years following the date that the campaign statement to which they relate is filed.
- (c) Each candidate and committee shall deliver, on demand, to any public officer having authority to enforce this division, a written authorization permitting the officer to have access to all records pertaining to the campaign contribution checking account.
- (d) Each candidate and committee shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the candidate or committee.

California Code of Regulations Section 18401– Required Recordkeeping

- (a) Maintenance of Documents

A candidate, treasurer, and elected officer has a duty to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements and comply with the provisions of Chapter 4 (commencing with Section 84100) of the Act. This duty includes the maintenance of detailed information and original source documentation, as follows:

- (1) For a contribution received or other receipts of less than \$25, or an expenditure made of less than \$25:
 - (A) The accounts and records shall contain a continuous computation of campaign account balances, and include a listing reflecting the dates and daily totals of the contributions, other receipts, or expenditures on the dates of the contributions, other receipts, or expenditures.
 - (B) The original source documentation shall consist of all bank statements, check registers, check stubs, bank or passbooks, and any other records reflecting a continuous computation of campaign account balances in any savings or checking account, money market account, certificate of deposit, credit card account, or any other campaign account, in any bank or other financial institution.

(2) For a contribution received of \$25 or more, but less than \$100, and for other receipts of \$25 or more:

- (A) The accounts and records shall contain all information required in subdivision (a)(1)(A), and include the date of each contribution or other receipt, the amount, and the full name and street of the contributor or the source of the other receipt. In the case of a contribution, the accounts and records shall also contain the cumulative amount received from the contributor and specify whether the contribution is monetary or nonmonetary. In the case of a nonmonetary contribution, the fair market value shall also be recorded, along with a description of the goods or services received. If a contribution is received through an intermediary or agent, as defined in Regulation 18432.5, the accounts and records shall also contain the full name and street, occupation, and employer (or, if self-employed, the name of the principal place of business) of the intermediary or agent and of the true source of the contribution.
- (B) The original source documentation shall consist of all items required in subdivision (a)(1)(B), and copies of contributor checks, cashier's checks, money orders, wire transfers, deposits or duplicate deposit slips, and any other documents, reflecting all items deposited, and all deposits made, to any campaign account, in any bank or other financial institution. Original source documentation shall include contributor cards, letters of transmittal, and notices received from contributors. In the case of a nonmonetary contribution, if the contributor has not provided the value of the nonmonetary contribution, the original source documentation shall also include a memorandum or other record describing the method used to determine the value of the goods or services contributed. In the case of contributions made through wire transfer, credit card transaction, debit account transaction, or similar electronic payment option (including those via the Internet), the original source documentation shall also include all credit card receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and other documentation of credit card transactions, including credit card confirmation numbers and itemized transaction reports, as well as any other information collected when debiting the contributor's account. In the case of contributions made through electronic transactions via the Internet, original source documentation shall also include a records of the transaction created and transmitted by the cardholder including the name of the cardholder, the cardholder's address and the card number.

(3) For a contribution received of \$100 or more:

- (A) The accounts and records shall contain all information required in subdivisions (a)(1)(A) and (a)(2)(A), and include the occupation and employer (or, if self-employed, the name of the principal place of business) of the contributor. Section 85700 requires the return, not later than 60 days from receipt, of a contribution of \$100 or more for which the candidate or committee does not have on file the name, address, occupation and employer of the contributor. Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and employer information.

- (B) The original source documentation shall consist of all items required in subdivisions (a)(1)(B) and (a)(2)(B), and all communications caused to be sent by the candidate, treasurer, elected officer, or committee to secure this information.
- (4) For an expenditure of \$25 or more, or a series of payments for a single product or service totaling \$25 or more:
 - (A) The accounts and records shall contain the date the expenditure was made (or, for an accrued expense, the date the goods or services were received), the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made. If the person or vendor providing the good or services is different from the payee, the accounts and records shall also contain the same detailed information for that person or vendor. For an expenditure that is a contribution to another candidate or committee, or an independent expenditure, the records shall also contain the cumulative amount of the contributions to, or independent expenditures to support or oppose, each candidate, committee, or ballot measure.
 - (B) The original source documentation shall consist of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and disbursements made from any checking or savings account, or any other campaign accounts, in any bank or other financial institution. In lieu of cancelled checks, the original source documentation may consist of copies of cancelled checks that contain a legible image of the front and back of the cancelled check, provided the copy was obtained from the financial institution.

....

Section 27.2930 - Base Level of Campaign Statements and Disclosures

Each candidate and committee shall file campaign statements in the time and manner required by California Government Code sections 81000 et seq. and title 2 of the California Code of Regulations with the following additional requirements:

Government Code section 84211 – Contents of Campaign Statements

Each campaign statement required by this article shall contain all of the following:

....

- (c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.
- (d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

....

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.
- (4) The name of his or her employer, or if self-employed, the name of the business.

....

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) The amount of each expenditure
- (4) A brief description of the consideration for which each expenditure was made.

....

Section 27.2941 – Cash Contributions

(a) No contributions of \$100 or more shall be made or received in cash.

....

Section 27.2950 – Prohibitions and Limits on Contributions From Organizations

(a) It is unlawful for a candidate or controlled committee, or any treasurer thereof, or any other person acting on behalf of any candidate or controlled committee, to solicit or accept a contribution from any person other than an individual for the purpose of supporting or opposing a candidate for elective City office.

....

VI. Material Findings

A. Section 27.2919 – Petty Cash

Committees are allowed to hold no more than \$100 in cash at any one time and cannot make cash expenditures of \$100 or more. The audit revealed that the Committee issued and cashed two checks from the campaign checking account totaling \$1,960, and reportedly used this cash to make two expenditures in excess of \$100:

Payee	Check No.	Memo Note	Amount
Cash	2085	Stamps	\$ 1,400.00
Cash	2088	Stamps	\$ 560.00
			\$ 1,960.00

The cancelled checks for check nos. 2085 and 2088 reflect Mr. Pollard’s signature as the endorser for the cash withdrawals.

At the post audit conference held on January 8, 2013, Mr. Pollard could not specifically recall the reason he issued the subject checks to cash, but speculated that the U.S. Post Office might have declined to accept a check drawn off his campaign bank account. With respect to check no. 2088, Mr. Pollard pointed out that he used the cash to purchase a cashier’s check payable to the U.S. Post Office in the amount of \$560.00 (a copy of this cashier’s check was included with the records produced during the audit).

B. Section 27.29.25 – Failure to Maintain Records

Committees are required to establish and maintain a system of recordkeeping sufficient to ensure that their contributions and expenditures are recorded promptly and accurately in compliance with the recordkeeping and disclosure requirements of local law. The audit revealed that the Committee failed to retain all of the contributor records, vendor invoices, and receipts necessary for the auditor to verify that the campaign statements were properly filed and the information contained in them was accurately disclosed. In particular, the Committee failed to retain detailed information and original source documentation for the following two categories:

1. The Committee failed to maintain copies of records reflecting contributions made by twenty-one contributors totaling \$2,570.00. Therefore, the Auditor was unable to verify that the contributors were the true source of the funds. A summary of the twenty-one contributions is as follows:

	Contributor	Check Copy	Amount
1	Adena Angeles	Unavailable	\$ 50.00
2	Connie Apodaca	Unavailable	\$ 210.00
3	Roosevelt Carter	Unavailable	\$ 50.00

	Contributor	Check Copy	Amount
4	Julia P. Cooper	Unavailable	\$ 25.00
5	Aurelio Jackson	Unavailable	\$ 50.00
6	C. Kahalifa King	Unavailable	\$ 20.00
7	Joel Mack	Unavailable	\$ 500.00
8	Stephen Marsh	Unavailable	\$ 500.00
9	Chairmain McGhee	Unavailable	\$ 25.00
10	Peggy E. Means	Unavailable	\$ 50.00
11	Erenadina Palomino	Unavailable	\$ 40.00
12	William S. Penick	Unavailable	\$ 100.00
13	Alyce Pipkin-Allen	Unavailable	\$ 30.00
14	Alyce Pipkin-Allen	Unavailable	\$ 50.00
15	Gussie Smith	Unavailable	\$ 100.00
16	Tony Smith	Unavailable	\$ 25.00
17	Taj Stewart	Unavailable	\$ 20.00
18	Elliot Stone	Unavailable	\$ 100.00
19	David Strauss	Unavailable	\$ 500.00
20	Charles Swafford	Unavailable	\$ 100.00
21	Gloria Tyler-Mallery	Unavailable	<u>\$ 25.00</u>
			\$ 2,570.00

2. The Committee issued checks drawn from the campaign checking account for nine expenditures totaling \$2,044.25 but did not retain originals or photocopies of any invoices, receipts, or other supporting documentation for the goods or services received. Because the Committee failed to retain the supporting records related to these expenditures, the Auditor was unable to verify the nature of the expenditures and whether the expenditures were for an allowable purpose. A summary of the nine expenditures is as follows:

	Vendor	Date	Amount
1	ZSL Scholarship Fund, Inc.	1/8/10	\$ 50.00
2	Palavra Tree	2/6/10	\$ 60.00
3	Fonseca Design Shop	3/26/10	\$ 213.53
4	Willie Wilkes	4/18/10	\$ 40.00
5	Cash (U.S. Postal Service)	5/21/10	\$ 1,400.00
6	Lincoln High School	5/23/10	\$ 25.00
7	San Diego Plastics	5/28/10	\$ 38.41
8	Office Depot	5/25/10	\$ 172.74
9	Target	6/4/10	<u>\$ 44.57</u>
			\$ 2,044.25

As indicated above, the Committee issued a check payable to "cash" in the amount of \$1,400.

According to its campaign statements, the cash was used to purchase postage from the U.S. Postal Service; however, the Committee did not maintain a receipt for this expenditure. As a result, the Auditor was unable to verify that the cash was in fact used for this allowable purpose. It should be noted, however, that the additional records provided by the Committee indicate that it paid a vendor to prepare two different postcard campaign mailers in quantities of 5,000 each. This fact supports the Committee's representation that the cash was used to purchase postage.

At the post audit conference held on January 8, 2013, Mr. Pollard acknowledged that he failed to maintain the necessary documentation and indicated that it was the result of disorganization.

C. Section 27.2930 – Failure to Disclose Campaign Contributions and Expenditures

1. The Committee failed to disclose the receipt of fourteen contributions totaling \$2,180.00. In particular, the Committee accepted and deposited the following contributions but did not identify them on its campaign statements:

	Contributor	Check Date	Reporting Period	Amount
1	Connie Apodaca	Unknown	Unknown	\$ 210.00
2	John B. Boesky	12/20/09	1/1/09 - 12/31/09	\$ 500.00
3	Rosalind Winstead	1/29/10	1/1/10 - 3/17/10	\$ 150.00
4	Denis H. Morgan	3/16/10	3/18/10 - 5/22/10	\$ 200.00
5	Jewell D. Hooper	3/29/10	3/18/10 - 5/22/10	\$ 50.00
6	Milton M. Johnson	5/24/10	5/23/10 - 6/3/10	\$ 100.00
7	Curtis Moring Jr.	6/5/10	6/4/10 - 6/30/10	\$ 250.00
8	Rosalind Winstead	9/25/10	7/1/10 - 12/31/10	\$ 75.00
9	Cathlean C. Ramsey-Harvey	9/28/10	7/1/10 - 12/31/10	\$ 25.00
10	Jewell D. Hooper	11/1/10	7/1/10 - 12/31/10	\$ 150.00
11	Weldon E. Cook Sr.	11/1/10	7/1/10 - 12/31/10	\$ 50.00
12	Marco Li Mandri	11/10/10	7/1/10 - 12/31/10	\$ 200.00
13	Monica Montgomery	cash	unknown	\$ 120.00
14	Marne Foster	cash	unknown	\$ 100.00
				\$ 2,180.00

In addition, the Committee failed to report seven contributions totaling \$340.00 in the "unitemized" total required for cumulative contributions from individuals of \$99 and less.

2. The Committee failed to disclose nine expenditures on its campaign statements totaling \$2,029.10:

	Vendor	Reporting Period	Amount
1	Office Depot	5/23/10 - 6/3/10	\$ 172.74
2	Monitor Newspaper	6/4/10 - 6/30/10	\$ 65.00
3	KURS Radio Station	6/4/10 - 6/30/10	\$ 68.00

	Vendor	Reporting Period	Amount
4	City Treasurer	6/4/10 - 6/30/10	\$ 400.00
5	Bank of America	6/4/10 - 6/30/10	\$ 156.00
6	City Treasurer	1/1/11 - 6/30/11	\$ 402.36
7	San Diego Ethics Commission	1/1/11 - 6/30/11	\$ 50.00
8	City Treasurer	1/1/11 - 6/30/11	\$ 100.00
9	San Diego Ethics Commission	1/1/11 - 6/30/11	\$ 615.00
			\$ 2,029.10

In addition, the Committee failed to report seventeen expenditures totaling \$294.59 in the "unitemized" total required for cumulative expenditures of \$99 and less.

At the post audit conference held on January 8, 2013, Mr. Pollard submitted that the disclosure omissions were not intentional, and reiterated that his campaign was fairly disorganized.

D. Section 27.2941 - Accepted and Deposited Cash Contributions over \$99

The Committee accepted and deposited five cash contributions over the \$99 limit:

	Contributor	Contribution Type	Amount
1	Marne Foster	Cash	\$ 100.00
2	Salimisha Logan	Cash	\$ 100.00
3	Monica Montgomery	Cash	\$ 120.00
4	Racquel Morrison	Cash	\$ 100.00
5	LaReza V. Smith	Money Order	\$ 230.00
			\$ 650.00

E. Section 27.2950 – Accepted and Deposited Organization Contributions

The Committee accepted two contributions from persons other than an individual. The audit revealed that the Committee received and deposited two contributions drawn from business checking accounts:

Contributor	Organization	Amount
Joe Johnson	Joe Johnson Mobile Lock	\$ 50.00
Dr. Quincy Hilliard	Hilliard Music Enterprises	\$ 100.00
		\$ 150.00

VII. Conclusion

The audit revealed thirty-four material findings:

- The committee made two cash expenditures over \$100 in violation of San Diego Municipal Code section 27.2919.

- **The committee failed to maintain two categories of campaign records in violation of San Diego Municipal Code section 27.2925.**
- **The committee failed to disclose fourteen campaign contributions and nine expenditures in violation of San Diego Municipal Code section 27.2930.**
- **The committee accepted and deposited five cash contributions in violation of San Diego Municipal Code section 27.2941.**
- **The committee accepted and deposited two contributions from persons other than individuals in violation of San Diego Municipal Code section 27.2950.**

[REDACTED]

Rosalba Gomez
Ethics Commission Auditor

Date

[REDACTED]

Lauri Davis
Ethics Commission Senior Investigator

Date