CITY OF OAKLAND

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Public Ethics Commission

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January 14, 2010

Gary S. Winuk, Esq.
Chief of Enforcement
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

RE: Referral Of Oakland Public Ethics Commission Complaint Nos. 09-08, 09-09, 09-10 and 09-11 **(CONSOLIDATED)**

Dear Mr. Winuk:

On January 4, 2010, the Oakland Public Ethics Commission ("Commission") considered a preliminary staff report and voted to refer the above Commission complaints to your office for further investigation and proceedings under the California Political Reform Act ("PRA").

There are four issues arising from the complaints for your consideration:

1) Whether a primarily formed recipient committee, "Economic Stimulus For Oakland, A Coalition of the Hospitality Industry, Cultural Institutions, Labor and Business" ("Economic Stimulus Committee" -- I.D. No. 1317889) violated the PRA by using FPPC Form 461 for all its pre-election disclosures;

2) Whether the Chabot Space and Science Foundation, a California non-profit corporation, violated the PRA by making two contributions to the Economic Stimulus Committee in the amounts of $13,000 and $15,000, respectively, in the form of two cashier's checks;

3) Whether the Economic Stimulus Committee violated the PRA by receiving, expending and/or failing to return the two Chabot Space and Science Foundation contributions made by cashier's check; and

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4) Whether the Chabot Space and Science Foundation served as the agent or intermediary for any person in making contributions to the Economic Stimulus Committee without disclosing the identity of any person on whose behalf such contributions were made.

BACKGROUND

During a special mail-ballot election held in July, 2009, Oakland voters adopted Measure C, a ballot proposal to add a 3 percent surcharge to the City's Transient Occupancy Tax ("Hotel Tax"). Measure C expressly allocated the proceeds of the increased revenues to the Oakland Zoo (served and supported by the non-profit East Bay Zoological Society), the Oakland Museum (served and supported by the non-profit Oakland Museum Foundation), the Chabot Space and Science Center (a joint powers authority served and supported by the non-profit Chabot Space and Science Foundation), and the non-profit Oakland Convention and Visitors Bureau. Oakland voters approved Measure C by approximately 77 percent of the ballots cast.

On April 21, 2009, the Oakland City Clerk received a "Statement Of Organization" (Form 410) from a group identified as "Economic Stimulus For Oakland, A Coalition of the Hospitality Industry, Cultural Institutions, Labor and Business" The Economic Stimulus Committee registered itself as a "primarily formed recipient committee." On June 11, 2009, the Committee filed a "Major Donor And Independent Expenditure Committee Campaign Statement" (Form 461) covering the period between January 1, 2009, and June 6, 2009. On July 9, 2009, the Committee filed a second Form 461 covering the period between June 7, 2009, through July 4, 2009.

The two campaign statements demonstrate that four entities contributed $148,000 of the $150,000 the Committee received.

CONTRIBUTOR	DATE	AMOUNT
Convention Bureau	5/1/09	$60,000
Museum Foundation	5/12/09	$30,000
Chabot Foundation	5/18/09	$15,000
Chabot Foundation	7/1/09	$13,000
Zoological Society	5/12/09	$30,000
TOTAL		**$148,000**

Information Relevant To Issue No. 1:

Attached to the enclosed staff report are copies of the pre-election filings from the Economic Stimulus Committee. The Commission questions whether the use of Form 461 resulted in a mis-characterization of various campaign expenditures. The Economic Stimulus Committee amended its filings after the election using Form 460.

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There are still questions whether the Committee used the proper schedules and properly characterized its expenditures on the amended filing.

Information Relevant To Issue No. 2:

Attached are copies of two cashier's checks used by the Chabot Space and Science Foundation to make contributions of $13,000 and $15,000, respectively. In a written declaration, the Chief Financial Officer for the Chabot Space and Science Foundation said that the money used to make the contributions was held in a savings account for which there were no checks issued.

Information Relevant To Issue No. 3:

The pre-election filings referenced above indicate that the Economic Stimulus Committee did not return the contributions received from the Chabot Space and Science Foundation as advised by the FPPC in its Campaign Disclosure Manuals.

Information Relevant To Issue No. 4:

The written declaration referenced above from the Chief Financial Officer for the Chabot Space and Science Foundation states that the two contributions to the Economic Stimulus Committee "were made from the savings account that the Foundation maintains at Union Bank for all donations made to the Foundation. The sources of funds for this account include donations from individuals, corporations and foundations. ***The contributions to the Economic Stimulus Committee came from funds raised specifically for this purpose from individuals*** as well as other unrestricted funds raised by the Foundation and held within this account." (Emphasis added.) The Commission questions whether the Chabot Space and Science Foundation acted as an agent or intermediary for contributions to the Economic Stimulus Committee and, if so, whether the Foundation and/or the Committee failed to disclose the identity of the individual contributors.

Action Requested From The FPPC

The Commission requests that the FPPC initiate an inquiry concerning the above issues. A copy of the Commission staff report and relevant documents is attached. This office would also appreciate any notification of your final disposition in this matter.

ATTACHMENT 3

Please feel free to contact me if you require any further information.

Very truly yours,

Daniel D. Purnell
Executive Director
Oakland Public Ethics Commission

cc: R. Zachary Wasserman, Esq.
Alix Rosenthal, Esq.
Jill A. Knowland

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