

# KAUFMAN LEGAL GROUP

A PROFESSIONAL CORPORATION

December 30, 2024

Direct: (213) 452-6550

## **VIA E-MAIL**

Federal Election Commission  
Office of Complaints Examination & Legal Administration  
Attn: Trace Keeyes, Paralegal  
1050 First Street, NE  
Washington, DC 20463  
Email: [cela@fec.gov](mailto:cela@fec.gov)

**Re: FEC MUR 8226; New San Diego**

Dear Mr. Keeyes:

We are writing as counsel to New San Diego, a City of San Diego political committee (“Respondent”), in response to the complaint filed by Amy Reichert on or about February 19, 2024 (“the “Complaint”), in MUR 8226. For the reasons stated below, the Complaint fails to provide any legal or factual basis for asserting a violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), or Federal Election Commission regulations. Therefore, the Commission should dismiss the Complaint without further action.

## **I. BACKGROUND**

New San Diego (“Committee”) was a city general purpose political committee that was created under the laws of the State of California to support candidates and initiatives in local San Diego elections. The Committee was formed in 2021 and focused solely on City of San Diego races during its existence. In 2024, New San Diego supported Jane Glasson in the 2024 City of San Diego Mayoral primary. The Committee was terminated effective June 21, 2024, following Ms. Glasson’s defeat in the March 5, 2024, City primary election.

Prior to the City primary election, New San Diego distributed a mailer in support of Glasson that is the subject of the Complaint. (The mailer is attached as an exhibit to the Complaint.) The front of the mailer is a photograph that shows the back of a woman’s head, with a red banner in the top right-hand corner that reads “Republican Voter Alert” in white text. Beneath the banner is white text on the photograph background that reads “Jane Glasson is the ONLY Republican for San Diego Mayor.” “ONLY Republican” is underlined with a red crayon effect. Beneath that text is a quote from Jessica Patterson, Chair of the California Republican Party, that says:

“Californians wake up to new examples of rampant crime wreaking havoc on their communities. Pro-criminal policies are just bad for business and leave us all less safe, and under failed Democrat rule, there will be no end in sight.”

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Pictured next to Ms. Patterson's name and title is a red, clip art elephant.

The back of the mailer has a red banner with white stars and white text that reads "Team MAGA." Beneath the red banner is a photograph of a crowd with their fists raised, which serves as the background image. On top of this background image are the names and photographs of Donald Trump, Steve Garvey, and Jane Glasson, with a quote attributable to each.

As this mailer was sent by a City Committee to registered voters in the City of San Diego to support Ms. Glasson in the San Diego mayoral election, the mailer contains a disclaimer that meets the requirements of California law. The Committee filed a Late Independent Expenditure report (Form 496) with the City of San Diego on February 13, 2024, disclosing the expenditures incurred for the mailer made to support Jane Glasson for Mayor. (A copy of the Form 496 is attached to the Complaint and included again here for reference as Exhibit "A.")

## **II. ANALYSIS**

Complainant has not cited any statute or regulation to support her claim that New San Diego engaged in an impermissible use of funds or an improper failure to include a federal disclaimer on the mailer. Instead, Complainant makes an ill-informed assertion that a city general purpose committee, circulating a mailer in support of a City of San Diego candidate, and abiding by the applicable state and local disclaimer and disclosure laws, is in violation of federal election laws.

Under federal law, an Independent Expenditure is a communication that expressly advocates the election or defeat of a clearly identified federal candidate and is made independently of any candidate or campaign. (11 CFR § 100.16). The mailer does not contain any unambiguous words of express advocacy for a federal candidate, such as "vote for," "elect," "support," "defeat," or equivalent terms. (11 CFR § 100.22). In fact, the references to the federal candidates in the mailer appear solely in the context of promoting the local candidate and putting her policy positions in the context of the Republican agenda.

Further, Glasson is the only candidate featured – and the Mayor's race is the only campaign mentioned -- on the front of the mailer. This further emphasizes the fact that the content on the back is intended to promote her election. The only reason that Trump and Garvey appear in the piece is to convince voters they should vote for Ms. Glasson.

Moreover, New San Diego was organized and operated exclusively to participate in San Diego city elections and lacked any intent or incentive to attempt to influence the federal election. Respondents registered New San Diego as a city general purpose committee which, under California law, is defined as one that makes more than 70% of its contributions or expenditures to support or oppose candidates or measures within a single city. (2 Cal. Code of Regs. Sections 18227.5). The Committee's Statement of Information (Form 410) further defines their purpose as "supporting initiatives and candidates that will make San Diego and the region better for all of us." (A copy of the Committee's Statement of Information is attached to this letter as Exhibit "B.")

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New San Diego's activities fall squarely within this definition and show a pattern of activity aimed solely at influencing the outcome of San Diego elections. The Committee filed local expenditure reports that further underscore this purpose, submitting six California Form 496 reports in the months leading up to the election, all of which show support exclusively for Glasson, and demonstrate the Committee's singular commitment to influence the Mayor's race.


The Committee's activities were both narrowly focused and time limited. Not only were all of its expenditures, as reported, directed toward supporting Ms. Glasson in the Mayor's race, but the committee also dissolved shortly after Glasson lost in the primary. Since it dissolved many months before the November General Election, this strongly evidences that the Committee's efforts were focused solely on the local Mayor's race, not on influencing the federal election. The mailer's references to federal candidates, therefore, are purely associational, and included to strengthen Glasson's messaging in an effort to influence the San Diego Mayor's race.

Finally, with respect to Complainant's allegation that the Committee used impermissible funds to pay for this mailer, even if the FEC were to conclude that the mailer contains support for federal candidates, the Supreme Court's decision in *Citizens United v. FEC*, 558 U.S. 310 (2010) and subsequent FEC regulations make clear that state and local general-purpose committees are permitted to use non-federally permissible funds for Independent Expenditures in federal races. The Committee is not a state or local party committee, and therefore, the funding restrictions applicable to such entities do not apply. Thus, even if the mailer were deemed to constitute an Independent Expenditure under federal law, the committee's use of non-federal funds would be entirely lawful.

### **III. CONCLUSION**

For the reasons described above, the Complaint does not contain any factual or legal basis for asserting a possible violation of the Act or Commission regulations by New San Diego. Therefore, we respectfully request that the Commission find no reason to believe a violation has occurred, and dismiss this Complaint in its entirety with no further action against Respondents.

Very truly yours,



Stephen J. Kaufman

Enclosures

SJK:hlf

496 Independent Expenditure Report

Amounts may be rounded to whole dollars.

NAME OF FILER New San Diego		Date of This Filing 02/13/2024		Date Stamp City of San Diego Electronic Filing Filing ID 300059820 Filing Date 02/13/2024 21:12:35		CALIFORNIA FORM 496 For Official Use Only	
AREA CODE/PHONE NUMBER		I.D. NUMBER (if applicable) 1440543		Report No. 20240209-001			
STREET ADDRESS				<input checked="" type="checkbox"/> Amendment to Report No. 20240209 (explain below)			
CITY San Diego		STATE CA		ZIP CODE 92116		No. of Pages 1	

1. List Only One Candidate or Ballot Measure

NAME OF CANDIDATE SUPPORTED OR OPPOSED Jane L Glasson				NAME OF BALLOT MEASURE SUPPORTED OR OPPOSED			
OFFICE SOUGHT OR HELD Mayor		DISTRICT NO.		BALLOT NO./LETTER		JURISDICTION	
		SUPPORT		X		SUPPORT	
		OPPOSE				OPPOSE	

2. Independent Expenditures Made Attach additional information on appropriately labeled continuation sheets.

DATE	DESCRIPTION OF EXPENDITURE	AMOUNT
02/08/2024	direct mailer, including the cost of polling & research, YTD: \$94,580.84	94,580.84

Reason for Amendment update amount



# Statement of Organization Recipient Committee

Statement Type

☒ Initial☐ Not yet qualified  
or  
☐ Date qualification threshold met☐ Amendment

Date qualification threshold met

Date of termination

☐ Termination - See Part 5

Date Stamp

RECEIVED  
FPPC OFFICE

21 AUG -9 PM 1:27

SAN DIEGO, CALIF.

CALIFORNIA  
FORM 410

For Official Use Only

## 2. Treasurer and Other Principal Officers

## 1. Committee Information

I.D. Number

(if applicable)

Pending

NAME OF COMMITTEE

New San Diego

NAME OF TREASURER

Stephanie D Sánchez

STREET ADDRESS (NO P.O. BOX)

STREET ADDRESS (NO P.O. BOX)

CITY

San Diego

STATE

CA

ZIP CODE

92116

AREA CODE/PHONE

CITY

CA

ZIP CODE

92116

AREA CODE/PHONE

FULL MAILING ADDRESS (IF DIFFERENT)

STREET ADDRESS (NO P.O. BOX)

E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)

JURISDICTION WHERE COMMITTEE IS ACTIVE

COUNTY OF DOMICILE

San Diego

San Diego

NAME OF PRINCIPAL OFFICER(S)

Gil Cabrera

STREET ADDRESS (NO P.O. BOX)

San Diego

STATE

CA

ZIP CODE

92101

AREA CODE/PHONE

Attach additional information on appropriately labeled continuation sheets.

## 3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on

08/04/2021

By

SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

FPPC Form 410 (August/2018)

FPPC Advice: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) (866/275-3772)[www.fppc.ca.gov](http://www.fppc.ca.gov)

Exhibit B

Statement of Organization  
Recipient Committee

INSTRUCTIONS ON REVERSE

CALIFORNIA  
FORM 410

COMMITTEE NAME New San Diego	Page 2
	I.D. NUMBER Pending

- All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION Union Bank	AREA CODE/PHONE [REDACTED]	BANK ACCOUNT NUMBER pending - will amend form 410 once get acct no
ADDRESS [REDACTED]	CITY San Diego	STATE CA
		ZIP CODE 92117

4. Type of Committee. Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable.
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY CHECK ONE		(list political party below)
			Nonpartisan	Partisan	
			Nonpartisan	Partisan	(list political party below)
			Nonpartisan	Partisan	(list political party below)

Primarily Formed Committee

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)  
IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.

CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION  
(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)

CHECK ONE	
SUPPORT	OPPOSE
SUPPORT	OPPOSE



Statement of Organization  
Recipient Committee

INSTRUCTIONS ON REVERSE

CALIFORNIA  
FORM 410

COMMITTEE NAME

New San Diego

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I.D. NUMBER

Pending

4. Type of Committee (Continued)

General Purpose Committee

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:  
☒ CITY Committee ☐ COUNTY Committee ☐ STATE Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Supporting initiatives and candidates that will make San Diego and the region better for all of us.

Sponsored Committee

List additional sponsors on an attachment.

NAME OF SPONSOR

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

AREA CODE/PHONE

Small Contributor Committee

5. Termination Requirements

Date qualified

By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, orponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
  - This committee does not anticipate receiving contributions or making expenditures in the future;
  - This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
  - This committee has no surplus funds; and
  - This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
- There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.

- Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.