

MEDIA ADVISORY

Complaints Filed Against Santa Clara City Officials, Council Candidate, Local Organization and Police Union for Campaign Finance Reporting Violations

- WHO:** John L. Mlnarik
- WHAT:** Santa Clara resident and local attorney, John L Mlnarik filed with the California Fair Political Practices Commission (FPPC) administrative complaints against Santa Clara City Councilmembers Debi Davis, Teresa O’Neill, and Kathy Watanabe, candidate for City Council, Tino Silva, as well as the nonprofit organization Stand Up for Santa Clara and the Santa Clara Police Officers’ Association (SCPOA). [SEE ATTACHED COPIES OF COMPLAINTS]
- WHEN:** Friday, October 14, 2016
- WHERE:** Santa Clara, California
- WHY:** To call attention to the alleged widespread and pervasive failure or refusal by local Santa Clara public officials, council candidate and certain organizations to report political campaign contributions and expenses as required by local and state law.

RE: COMPLAINT AGAINST DEBI DAVIS

I. Political Reform Act – Failure to Disclose Campaign Expenditures

The recipient committee of every candidate running for state and local office in the State of California is required to timely file a Form 460 in order to report expenditures and contributions.¹ Per California Government Code §84211, the Form 460 must contain information “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.”² This information must include the name and other identifying information of the recipient, the amount of the expenditure made, and a description of the consideration for which each expenditure was made.³ Form 460 disclosures are made under penalty of perjury⁴, and failure to disclose the relevant information may result in administrative fines and other penalties.

II. Facts

Santa Clara City Councilmember Debi Davis is running for reelection for Council Seat #3. The cycle’s first pre-election Form 460, due September 29, covered the reporting period from July 1, 2016 through September 24, 2016.⁵

The Form 460 report Davis submitted on September 29, 2016 follows. The itemized expenditures are:

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
China Stix Santa Clara, CA 95050	FND		Food for the fundraising event	840.00
City of Santa Clara Santa Clara, CA 95050	FIL		Ballot Fees	970.00
Google Mt. View, CA 94043	WEB		Web hosting cost	50.00

¹ FPPC; <http://www.fppc.ca.gov/forms.html>

² Cal. Gov’t Code §84211(k)

³ *Id.*

⁴ Sample Form 460: “I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules 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.”

⁵ City of Santa Clara “Preliminary Candidate Guide,” <http://santaclaraca.gov/home/showdocument?id=18864>

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Google Mt. View, CA 94043	WEB		Web hosting site	200.00
Google Mt. View, CA 94043	WEB		Web Hosting Site	350.00
Pacific Printing San Jose, CA 95110	LIT		Env Remittance mailers	163.13
Pacific Printing San Jose, CA 95110	CMP		Door Hangers for walking piece	1,146.68
James Rowan San Pablo, CA 94806	CNS		Political consulting	200.00

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
SignRocket.com St. Paul Park, MN 55071	CMP		Yard Signs	1,620.00

Notably, the Form 460 fails to include expenditures Councilmember Davis should have paid for essential campaign outlays. These include: (A) failure to report the purchase of precinct data; (B) failure to report payment for website design and construction; and (C) failure to report the counsel and services of a campaign consultant.

A. Failure to report the purchase of precinct data

Davis failed to report any expenditures associated with the purchase of data for precinct walking and phone banking. However, Davis urges visitors on her website to sign up to “walk neighborhoods and knock on voters’ doors” and “call voters.”⁶

Candidates can purchase voter data from the Santa Clara Registrar of Voters. Commonly-purchased electronic data files include a list of registered voters for \$82.00, a list of registered voters with up to 5 elections’ history for \$92.00, and vote by mail ballot updates that cost \$82.00 for an initial report and \$41.00 per update.⁷

Additionally, precinct maps can be purchased in prices ranging from \$6.00 per page for black and white copies to a \$102.00 set-up fee for custom digital maps of each district.⁸

⁶ <http://www.reelectdebidavis.com/volunteer>.

⁷ Santa Clara County Registrar of Voters, Voter Data File Requests, <https://www.sccgov.org/sites/rov/Resources/Pages/DataRequests.aspx>.

⁸ Santa Clara County Registrar of Voters, Voter Data File Requests, Fee Schedule, <https://www.sccgov.org/sites/rov/Resources/Documents/VoterDataFileRequests/Fee%20Schedule.pdf>.

A candidate for City Council who is coordinating phone banks and precinct walks would easily exceed the \$100 Form 490 reporting threshold by purchasing voter data. Yet, there is no expenditure reported for the purchase of voter data.

B. Failure to report payment for web services – website design, construction and maintenance or email services

Although Davis’ pre-election Form 460 reported payments to Google for web hosting services, her website, www.reelectdebidavis.com, was created by NationBuilder.⁹ Davis failed to report any payments to NationBuilder for the design, construction and maintenance of her website.

NationBuilder is a software platform that bills on a *monthly basis* for services including an integrated voter, donor and volunteer management system, email blasts and text messaging.¹⁰ Packages start at \$29.00 per month and the package that includes text messaging capabilities is priced at \$199.00 per month.¹¹

Davis’ website includes the ability to create an account and join Davis’ network, and asks supporters to provide their mobile phone number and opt in to text message updates.

Your public profile will be at <http://www.reelectdebidavis.com/username>

Address (Street, City, State, Postal code)

Mobile phone (optional)

Send me text message updates

Supporters join the network after they receive an automated email sent by NationBuilder.

Additionally, Davis posted articles to her website on August 16, August 1 and July 24.¹² One could infer from this regular use that Davis is paying NationBuilder for monthly maintenance.

The pre-election reporting period covers three months. If Davis purchased the least expensive NationBuilder package the cost would be \$87.00 total for basic website functionality during the reporting period covered by the pre-election Form 460. However, Davis appears to be using the package that includes a text message component, which is priced at \$199.00 per month. This expenditure would then total \$597.00 for the pre-election Form 460 period, exceeding the \$100 threshold that triggers reporting.

⁹ <http://www.reelectdebidavis.com>, bottom left.

¹⁰ <http://nationbuilder.com/pricing>. Note that a package that includes text messaging starts at \$199/month.

¹¹ *Id.*

¹² <http://www.reelectdebidavis.com/news>.

C. Failure to report the counsel and services of a campaign consultant

Davis failed to report "Campaign Consultant" ("CNS") on her Form 460.

Jude Barry

Jude Barry is a professional campaign consultant. His company website is www.getcatapult.com where he lists his expertise including "political consulting."

Barry is also employed by the Related Companies as a registered lobbyist in the City of Santa Clara and it is well known that he is acting as the political advisor and operative for the Related companies (PDF of Jude Barry registration attached).

The Related Companies is a multi-billion dollar real estate development company that earlier this year had a massive development project approved by the Santa Clara City Council. The project is the "largest private development project in Silicon Valley's history."¹³

Davis has informed numerous members of the public that Jude Barry is providing professional campaign advice to her and her campaign. Yet there is no report of Davis paying for Barry's services on Davis' Form 460. If Barry is not being paid for his consulting services, an in-kind contribution from Related Companies would be required as Barry is being paid to act as a political operative in Santa Clara.

The vote to approve the Related Companies development project being advocated for was taken on June 28, 2016, two days before the pre-election reporting period began.

3/29/16 3:30 p.m.	Meeting regarding Related project on Santa Clara Golf Course land	Steve Eimer, VP Related; Ken Himmel, Preseident, Related; Jude Barry, Catapult Strategies, Inc; Mayor Lisa Gillmor
-------------------	---	--

Source: Debi Davis 2016 Calendar; <http://santaclaraca.gov/home/showdocument?id=18643>.

¹³ "Santa Clara approves Related Co.'s \$6.5B megaproject for former city landfill," Silicon Valley Business Journal, 6/29/16, <http://www.bizjournals.com/sanjose/news/2016/06/29/santa-clara-approves-related-co-s-6-5b-megaproject.html>.



City of Santa Clara

The Center of What's Possible

RECEIVED

JUN 01 2016

City Clerk's Office
For Official Use Only

LOBBYIST REGISTRATION FORM

Page 1 of 4

Type of Report:

Initial Registration

SCMC § 2.155.030 and 2.155.040
SEE INSTRUCTIONS

See Fee Schedule at City Clerk Webpage

SECTION I

REGISTRATION

Are you a: Contract Lobbyist Business or Organization Lobbyist Expenditure Lobbyist

Name of Lobbyist:

Jude Barry

Telephone Number:

[REDACTED]

Business Address: (Number and Street) (City) (State) (Zip Code)

[REDACTED]

Fax Number:

()

Mailing Address: (If different than above)

CA 95008

E-mail:

[REDACTED]

Specify how the Contract Lobbyist, Business or Operation Lobbyist, or the Expenditure Lobbyist is organized:

Sole Proprietorship Partnership Non-Profit Corporation For-Profit Corporation Other: _____

If the Lobbyist is a sole proprietor or partnership of fewer than five (5) persons, state the name(s) of the sole proprietor or persons with an ownership interest in the business: _____

If the Lobbyist is a corporation (for-profit or non-profit), state the name(s) of Officers and Agent for Service of Process and their respective contact information (if different from above): _____

Jude Barry, CEO
(address above)

This page may be duplicated. If more space is needed, check this box and attach added pages

SECTION I:

REPORT FOR EACH CATEGORY OF LOBBYIST

Contract Lobbyist

Name of each person working for the Contract Lobbyist that is engaged in lobbying activity:

Jude Barry

CLIENT INFORMATION

Client Name, Address, and Telephone Number

The Related Companies

Effective Date of Representation

2014

Specify the nature and purpose of the Client's business.

Mixed use land development

THE LEGISLATIVE OR ADMINISTRATIVE ACTION(S) THE CONTRACT LOBBYIST SEEKS TO INFLUENCE.

Describe the legislative or administrative action(s) the Contract Lobbyist was retained to influence and the outcome sought.

Government relations, community relations, media relations

CLIENTS CURRENTLY RETAINED BY CONTRACT LOBBYIST BUT NOT ACTIVELY LOBBYING ON CLIENT'S BEHALF

Client Name, Address, and Telephone Number

Google Fiber

Effective Date

2014

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

Client Name, Address, and Telephone Number

Effective Date

This page may be duplicated. If more space is needed, check this box and attach added pages

SECTION II:

Business or Organization Lobbyist

Name of each owner, compensated officer, or compensated employee engaged in lobbying activity on behalf of the Business or Organization Lobbyist:

THE NATURE OF THE BUSINESS, ORGANIZATION OR ASSOCIATION.

Describe the nature and purpose of the business, organization or association.

THE LEGISLATIVE OR ADMINISTRATIVE ACTION(S) THE BUSINESS OR ORGANIZATION LOBBYIST SEEKS TO INFLUENCE.

Describe the legislative or administrative action(s) the Business or Organization Lobbyist was retained to influence and the outcome sought.

Expenditure Lobbyist

Name of each person working for the Expenditure Lobbyist that is engaged in lobbying activity (if applicable):

THE LEGISLATIVE OR ADMINISTRATIVE ACTION(S) THE EXPENDITURE LOBBYIST SEEKS TO INFLUENCE.

Describe the legislative or administrative action(s) the Expenditure Lobbyist was retained to influence and the outcome sought.

Amount of Payment or Expenditure: \$ _____

SECTION III

ATTACHMENTS

I have reviewed the forms and I have nothing to report.

Attached to this Report is/are the following forms (check all that apply):

Form A - Lobbyist Notice of Termination

Form B - Payment for Consultant and Other Services

FEES DUE

Lobbyist Initial Registration Fee* (January 1 - June 30)

\$ 523.00

Prorated Registration Fee** (July 1 - December 31)

\$

Total Payment Due With Report

\$ 523.00

NOTE: See City Clerk webpage for current fee schedule. Late fees will apply to any lobbying activity not reported after the 15 days of qualifying as a lobbyist

*Initial registration fee is due within 15 days after qualifying as a lobbyist

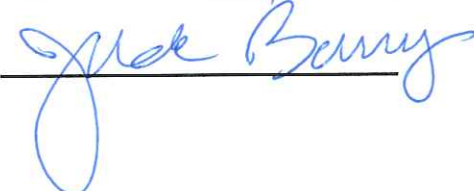
**Prorated fee applies for persons registering for the first time after June 30 of a given year

VERIFICATION

I certify that I have been authorized by the Lobbyist identified above to make this verification. I have reviewed the requirements of the provisions of the Santa Clara Municipal Code (Chapter 2.155). I certify under penalty of perjury under the laws of the State of California that I have reviewed this Lobbyist Report and to the best of my knowledge the information contained herein is true and complete.

Print Name: Jude Barry

Title: CEO

Signature: 

Executed on: June 1, 2016
(month, day, year)

RE: COMPLAINT AGAINST TINO SILVA

I. Political Reform Act – Failure to Disclose Campaign Expenditures

The recipient committee of every candidate running for state and local office in the State of California is required to timely file a Form 460 in order to report expenditures and contributions.¹ Per California Government Code §84211, the Form 460 must contain information “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.”² This information must include the name and other identifying information of the recipient, the amount of the expenditure made, and a description of the consideration for which each expenditure was made.³ Form 460 disclosures are made under penalty of perjury⁴, and failure to disclose the relevant information may result in administrative fines and other penalties.

II. Facts

Santa Clara City Council candidate Tino Silva is running for election for Council Seat #4. The cycle’s first pre-election Form 460, due September 29, covered the reporting period from July 1, 2016 through September 24, 2016.⁵

The Form 460 report Silva submitted on September 29, 2016 is below. The itemized expenditures are:

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Sketch-Artist, LLC San Jose, CA 95110	LIT			1,500.00
Minuteman Press Santa Clara, CA 95051	LIT		250 Letterhead250 #10 EnvelopesPaid w/ Check #1004	212.36
Mariani's Santa Clara, CA 95051	FND		Food for Fundraising KickoffPaid w/ Check #1005	350.00

¹ FPPC; <http://www.fppc.ca.gov/forms.html>

² Cal. Gov’t Code §84211(k)

³ *Id.*

⁴ Sample Form 460: “I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules 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.”

⁵ City of Santa Clara “Preliminary Candidate Guide,” <http://santaclaraca.gov/home/showdocument?id=18864>

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Pacific Printing San Jose, CA 95110	LIT		935.46
Pacific Printing San Jose, CA 95110	LIT		4,689.84
Sketch-Artist, LLC San Jose, CA 95110	CMP		1,500.00
Pacific Printing San Jose, CA 95110	CMP		981.00

Notably, the Form 460 fails to include expenditures Silva appears to have paid for essential campaign outlays. These include: (A) failure to report the design and production of campaign signs; (B) failure to report the purchase of voter data; (C) failure to report payment for website design, construction and maintenance; and (D) failure to report the counsel and services of a campaign consultant.

A. Failure to report the design and production of campaign signs

Candidate Silva has displayed campaign signs in his pursuit of Santa Clara City Council Four, Seat #4 but has not reported an expenditure for their design or production on his pre-election Form 460.



Silva lists three expenditures to Pacific Printing (\$935.46, 4699.84, and 981.00) – Pacific Printing did not print Silva’s lawn signs. Silva lists an expenditure to Minuteman Press of \$212.36 for letterhead and envelopes. Silva also lists two expenditures to Sketch-Artist, LLC each for \$1500 for a total of \$3000. Sketch-Artist LLC is a San Jose based business with the owner listed as Gilbert Zamora. Gilbert Zamora’s LinkedIn profile states the following for his business:

[Forensic Artist](#)

[Sketch-Artist, LLC](#)

January 2000 – Present (16 years 10 months)Silicon Valley

Forensic Artist and Advanced Trainer in the Compositure Methodology of forensic art. Providing forensic art services to law enforcement agencies around the world.

A search of the internet lists <http://zamorasketch.com/> as Zamora's website, with no information on purchasing or ordering campaign signs.

Curiously, Gil Zamora was the foreman of the Santa Clara Civil Grand Jury which investigated allegations against the City of Santa Clara and Measure J compliance regarding reimbursement of city expenses. Zamora signed the Civil Grand Jury report about this investigation on June 15th, 2016. Zamora was then paid by Silva a total of \$3000 to be involved in City of Santa Clara elections where the issue of city expenses related to Levi Stadium continues to be an issue, especially for candidate Silva.

B. Failure to report the purchase of voter data

Silva also failed to report any expenditures associated with the purchase of data for precinct walking and phone banking. However, Silva urges visitors to his website to "Volunteer for our Campaign Today" and provides options to "walk neighborhoods and knock on voters' doors" and "call voters."⁶

Candidates can purchase voter data from the Santa Clara Registrar of Voters. Commonly-purchased electronic data files include a list of registered voters for \$82.00, a list of registered voters with up to 5 elections' history for \$92.00, and vote by mail ballot updates that cost \$82.00 for an initial report and \$41.00 per update.⁷

Additionally, precinct maps can be purchased in prices ranging from \$6.00 per page for black and white copies to a \$102.00 set-up fee for custom digital maps of each district.⁸

A candidate for City Council who is coordinating phone banks and precinct walks would easily exceed the \$100 Form 490 reporting threshold by purchasing voter data.

C. Failure to report payment for web services – website design, construction and maintenance or email services

Silva also failed to report any "Information Technology Costs – Internet, Email" (WEB) or any expenses relating to the design, construction and maintenance of his campaign website, www.tinosilva.org.

The homepage of his website states that it was created by NationBuilder⁹, a software platform that bills on a *monthly basis* for services including an integrated voter, donor and volunteer

⁶ Tino Silva for Santa Clara City Council website, <http://www.tinosilva.org/volunteer>.

⁷ Santa Clara County Registrar of Voters, Voter Data File Requests, <https://www.sccgov.org/sites/rov/Resources/Pages/DataRequests.aspx>.

⁸ Santa Clara County Registrar of Voters, Voter Data File Requests, Fee Schedule, <https://www.sccgov.org/sites/rov/Resources/Documents/VoterDataFileRequests/Fee%20Schedule.pdf>.

⁹ <http://www.tinosilva.org>; bottom left.

management system, email blasts and text messaging.¹⁰ Packages start at \$29.00 per month and the package that includes text messaging capabilities is priced at \$199.00 per month.¹¹

Silva’s website includes the ability to create an account and join Silva’s network, and asks supporters to provide their mobile phone number and opt in to text message updates.¹²

Your public profile will be at <http://www.tinosilva.org/username>

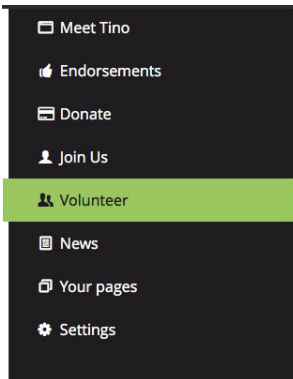
Address (Street, City, State, Postal code)

Mobile phone (optional)

Send me text message updates

Supporters join the network after they receive an automated email sent by NationBuilder.

Once a supporter creates an account and joins Silva’s network, they are presented with a dashboard of options relating to becoming involved with the campaign – functions supported by NationBuilder.



Once a supporter creates an account and joins Silva’s network, they are presented with a dashboard of options relating to becoming involved with the campaign – functions supported by NationBuilder.

The pre-election reporting period covers three months. If Silva purchased the least expensive NationBuilder package the cost would be \$87.00 total for basic website functionality during the reporting period covered by the pre-election Form 460. However, Silva appears to be using the package that includes a text message component and an advanced dashboard, which is priced at \$199.00 per month. This expenditure would then total \$597.00 for the pre-election Form 460 period, exceeding the \$100 threshold that triggers reporting.

D. Failure to report the counsel and services of a campaign consultant

Silva failed to report “Campaign Consultant” (“CNS”) on his Form 460. However, Silva has stated publically that Jude Berry is his campaign consultant.

Jude Barry

¹⁰ <http://nationbuilder.com/pricing>.

¹¹ *Id.*

¹² <https://tinosilva.nationbuilder.com/users/accounts/new>

Jude Barry is a professional campaign consultant. His company website is www.getcatapult.com where he lists his expertise including "political consulting." Jude Barry is also employed by the Related Companies as a registered lobbyist in the City of Santa Clara. (Jude Barry lobbyist registration included).

Barry is also being paid and acting as the political advisor to the Related Companies, as evidenced by the attached email regarding the Santa Clara Chamber of Commerce PAC. (Jude Barry Chamber email included)

The Related Companies is a multi-billion dollar real estate development company that earlier this year had a massive development project approved by the Santa Clara City Council. The project is the "largest private development project in Silicon Valley's history."¹³ Candidate Silva spoke in favor of this project at the city council meeting on June 28, 2016.

Candidate Silva has informed numerous members of the public that Jude Barry is acting as Silva's political consultant, providing professional services to his campaign. But Silva did not report any campaign consultant expenditures on his recent Form 460.

If Jude Barry is not receiving a fee for these services, then the value of his professional services should be reported as an in-kind donation from Barry's sole Santa Clara employer, the Related Companies.

¹³ "Santa Clara approves Related Co.'s \$6.5B megaproject for former city landfill," Silicon Valley Business Journal, 6/29/16, <http://www.bizjournals.com/sanjose/news/2016/06/29/santa-clara-approves-related-co-s-6-5b-megaproject.html>.

RE: COMPLAINT AGAINST KATHY WATANABE

I. Political Reform Act – Failure to Disclose Campaign Expenditures

The recipient committee of every candidate running for state and local office in the State of California is required to timely file a Form 460 in order to report expenditures and contributions.¹ Per California Government Code §84211, the Form 460 must contain information “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.”² This information must include the name and other identifying information of the recipient, the amount of the expenditure made, and a description of the consideration for which each expenditure was made.³ Form 460 disclosures are made under penalty of perjury⁴, and failure to disclose the relevant information may result in administrative fines and other penalties.

II. Facts

Santa Clara City Councilmember Kathy Watanabe is running for election for Council Seat #6. She was appointed to the Council in March 2016. The cycle’s first pre-election Form 460, due September 29, covered the reporting period from July 1, 2016 through September 24, 2016.⁵

Form 460 report Watanabe submitted on September 29, 2016 is below. The itemized expenditures are:

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
City of Santa Clara [REDACTED] Santa Clara, CA 95050	FIL	Payment of ballot statement	\$970.00
Pacific Printing [REDACTED] San Jose, CA 95110	CMP	Door Hangers	\$2062.31
Nation Builder [REDACTED] Los Angeles, CA	WEB	Campaign website	\$ 87.00

¹ FPPC; <http://www.fppc.ca.gov/forms.html>

² Cal. Gov’t Code §84211(k)

³ *Id.*

⁴ Sample Form 460: “I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules 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.”

⁵ City of Santa Clara “Preliminary Candidate Guide,” <http://santaclaraca.gov/home/showdocument?id=18864>

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Brenda Manley [REDACTED] Santa Clara, CA 95051	FND	Food purchases for fundraising event	\$500.00
Office Max [REDACTED] Santa Clara, CA	OFC	Envelopes	\$30.98
The UPS Store [REDACTED] Santa Clara, CA 95051	CMP	Campaign literature	\$326.25
Sign Rocket [REDACTED] St. Paul, MN	CMP	Campaign signs	\$1620.00
Google AdWords [REDACTED] Mountain View, CA 94043	WEB	Advertisement	\$600.00
Facebook Ads (www.facebook.com)	WEB	Advertisement	\$140.19
Office Max Stamps [REDACTED] Santa Clara, CA	OFC	Stamps	\$47.00

Notably, the Form 460 fails to include (A) failure to report the purchase of precinct data and (B) failure to report the counsel and services of a campaign consultant.

A. Failure to report the purchase of precinct data

Watanabe failed to report any expenditures associated with the purchase of data for precinct walking or phone banking. However, her website includes sign-up options for volunteers to “walk neighborhoods and knock on voters’ doors” and “call voters.”⁶

Candidates can purchase voter data from the Santa Clara Registrar of Voters. Commonly-purchased electronic data files include a list of registered voters for \$82.00, a list of registered voters with up to 5 elections’ history for \$92.00, and vote by mail ballot updates that cost \$82.00 for an initial report and \$41.00 per update.⁷

Additionally, precinct maps can be purchased in prices ranging from \$6.00 per page for black and white copies to a \$102.00 set-up fee for custom digital maps of each district.⁸

A candidate for City Council who is coordinating phone banks and precinct walks would easily exceed the \$100 Form 490 reporting threshold by purchasing voter data.

⁶ Kathy Watanabe for Santa Clara City Council website, <http://www.kathywatanabe.com/volunteer>.

⁷ Santa Clara County Registrar of Voters, Voter Data File Requests, <https://www.sccgov.org/sites/rov/Resources/Pages/DataRequests.aspx>.

⁸ Santa Clara County Registrar of Voters, Voter Data File Requests, Fee Schedule, <https://www.sccgov.org/sites/rov/Resources/Documents/VoterDataFileRequests/Fee%20Schedule.pdf>.

B. Failure to report the counsel and services of a campaign consultant

Watanabe also failed to report an expenditure for “Campaign Consultant” (“CNS”) on her Form 460.

Jude Barry

Davis failed to report “Campaign Consultant” (“CNS”) on her Form 460.

Jude Barry

Jude Barry is a professional campaign consultant. His company website is www.getcatapult.com where he lists his expertise including "political consulting."

Barry is also employed by the Related Companies as a registered lobbyist in the City of Santa Clara. (PDF of Jude Barry registration included) Additionally, he is acting as the political advisor and operative for the Related companies, as evidenced by the attached email regarding the Santa Clara Chamber of Commerce PAC (Jude Barry Email included).

The Related Companies is a multi-billion dollar real estate development company that earlier this year had a massive development project approved by the Santa Clara City Council. The project is the “largest private development project in Silicon Valley’s history.”⁹

Watanabe has informed numerous members of the public that Jude Barry is providing professional campaign advice to her and her campaign. Yet there is no report of Watanabe paying for Barry’s services on Watanabe’s Form 460. If Barry is not being paid for his consulting services, an in-kind contribution from Related Companies would be required as Barry is being paid to act as a political operative in Santa Clara.

The vote to approve the Related Companies development project being advocated for was taken on June 28, 2016, two days before the pre-election reporting period began.

3/29/2016 5:00 p.m.	Meeting with Related	Teresa O'Neill, Steve Eimer, Bill Witte, Ken Himmel and Jude Barry
---------------------	----------------------	--

Source: Kathy Watanabe 2016 Calendar; <http://www.santaclaraca.gov/home/showdocument?id=18653>.

⁹ “Santa Clara approves Related Co.’s \$6.5B megaproject for former city landfill,” Silicon Valley Business Journal, 6/29/16, <http://www.bizjournals.com/sanjose/news/2016/06/29/santa-clara-approves-related-co-s-6-5b-megaproject.html>.

RE: COMPLAINT AGAINST STAND UP FOR SANTA CLARA

I. Introduction

Stand Up for Santa Clara, a coalition of Santa Clara residents actively advocating on behalf of several candidates for Santa Clara City Council, is not registered nor reported as any type of campaign spending committee although it is functioning like one. The organization is expressly communicating to Santa Clara voters through its website, social media and public events, yet it has not filed any of the campaign finance disclosure forms required of an Independent Expenditure Committee. Because Stand Up for Santa Clara has not filed any of the necessary campaign reports, it is unlawfully functioning as an Independent Expenditure Committee in its attempt to influence the outcome of the Santa Clara City Council elections.

Stand Up for Santa Clara is also in violation of the Political Reform Act for failing to adhere to Independent Expenditure Committee firewall requirements. Such expenditures must be made without consultation, cooperation or coordination with the affected candidate. However, Stand Up for Santa Clara co-founder Tino Silva is one of the City Council candidates the organization is advocating on behalf of. Additionally, political consultant Jude Barry is working with Stand Up for Santa Clara in its capacity as an Independent Expenditure Committee and is advising Santa Clara City Council candidates Silva, Debi Davis, Teresa O'Neill and Kathy Watanabe.

II. Committee Formation, Expenditures and Reporting in California under the Political Reform Act

The campaign rules of the California Political Reform Act (“PRA” or “The Act”)¹ apply to candidate campaign committees, general purpose committees, political party committees, slate mailer organizations, major donor committees, and persons or entities making independent expenditures on candidates or ballot measures.²

Multipurpose Organizations

Organizations classified as “Multipurpose Organizations” under the PRA “typically receive donations or other payments (e.g., membership dues) for purposes other than making political expenditures in California.”³ However, Multipurpose Organizations may still use funds to make political expenditures to support or oppose candidates or ballot measures.

For purposes of the Act, Multipurpose Organizations include nonprofit organizations with tax exempt status under 501(c)(3) to 501(c)(10) of the Internal Revenue Code and civic organizations. It does not include business entities.⁴

¹ Cal. Gov't Code §6250-6270.5.

² Fair Political Practices Commission (“FPPC”), Campaign Rules, Who is Subject to the Act? <http://www.fppc.ca.gov/learn/campaign-rules.html>.

³ FPPC, multipurpose organizations reporting political spending, <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Documents/Multipurpose%20Organizations.pdf>.

⁴ *Id.*

To become classified as a Multipurpose Organization the group must file a Form 410 (Statement of Organization) to register as a recipient committee with the California Secretary of State. Local committees must also file with their City Clerk. Multipurpose Organizations then must file Form 460 campaign statements to report all contributions and expenditures.⁵

Independent Expenditure Committees

An “independent expenditure” is payment made for a communication that “expressly advocates for the election or defeat” of a candidate or ballot measure.⁶ Individuals or entities that make “independent expenditures of \$1,000 or more per year on California candidates and ballot measures” and do so without “consultation, cooperation or coordination with the affected candidate or committee” qualify as Independent Expenditure (“IE”) Committees under the PRA and are subject to its disclosure rules.⁷

These campaign finance and disclosure rules apply to both state and local elections. Additionally, all committees in support or opposed to local candidates are required to file campaign disclosure reports with the Santa Clara City Clerk at specified intervals.⁸

1. Campaign finance disclosure report requirements

An Independent Expenditure Committee must file disclosure reports regarding the payment of communications urging voters to support or oppose a particular candidate. The required filings are: Form 462 (Verification of Independent Expenditures), Form 496 (24-Hour Independent Expenditure Report), and Form 460 (pre-election and semi-annual campaign statements). The Form 462 must be filed within 10 days after the first IE and the Form 496 must be filed within 24 hours of the expenditure.⁹

2. “Firewall” requirements – Prohibition against consultation, cooperation or coordination with the affected candidate or committee

Pursuant to FPPC regulation 18225.7, the definition of “coordination” for purposes of independent expenditures includes:

- The practice of sharing political consultants between the candidate and the outside group;
- When the outside group is established or run by the candidate’s former staffers;
- When the outside group is established or mainly funded by the candidate’s family members; and
- When the candidate participates in fundraising for the outside group.

⁵ *Id.*

⁶ FPPC, Information for Independent Expenditure Committees, 2014, <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2015/January/03.4%20Manual%206%20December%202014%20DRAFT.pdf>.

⁷ FPPC, Campaign Rules, Who Qualifies as a Committee? <http://www.fppc.ca.gov/learn/campaign-rules.html>.

⁸ City of Santa Clara, Campaign Disclosure Forms and Filings, <http://santaclaraca.gov/government/departments/city-clerk-city-auditor/campaign-disclosure-forms-and-filings>.

⁹ *Id.*

The FPPC presumes that these activities demonstrate coordination between the IE Committee and candidate and the burden is on the IE Committee to prove contrary. An IE Committee must also submit a verification form “identifying an individual who is responsible for ensuring that the committee’s independent expenditures were not coordinated with the listed candidate.”¹⁰

The FPPC has the authority to assess monetary penalties for IE Committee campaign finance and reporting violations.

III. Facts

Stand Up for Santa Clara bills itself as a “coalition of concerned citizens working to protect the democratic process in Santa Clara,”¹¹ and is expressly advocating for Santa Clara City Council members Debi Davis, Teresa O’Neill and Kathy Watanabe as part of their current reelection campaigns, as well as Stand Up for Santa Clara co-founder and City Council candidate Tino Silva.

| Vote November 8th & Protect the Santa Clara City Council

The San Francisco 49ers and other special interest groups are unhappy with the exit of former Mayor Jamie Matthews and City Manager Julio Fuentes. The 49ers lost their majority voting power in the Santa Clara City Council.

Current Mayor Lisa Gillmor, and City Council Members [Debi Davis](#), [Teresa O’Neill](#) and Kathy Watanabe choose to put the interests of Santa Clara citizens before special interest groups. They have created a culture of open and transparent government in our city.

The 49ers and their allies are unhappy and want to displace the women on the council with their own candidates who will vote for special interest needs over our community. They also want to place their candidate in Santa Clara City Council Seat #4 which is being departed by Council Member Jerry Marselli. Stand Up for Santa Clara co-founder [Tino Silva](#) is running for Seat #4 and we support his candidacy.

We will continue to identify 49er backed city council candidates to inform the citizens of Santa Clara and protect our city.

Source: *Stand Up For Santa Clara* homepage, <http://www.standupforsantaclara.com>.

However, a search of Secretary of State records shows that Stand Up for Santa Clara did not submit a Form 410 (Statement of Organization), a requirement for becoming classified as a Multipurpose Organization for campaign expenditure purposes. Additionally, Stand Up for Santa Clara has no similar Forms on file with the Santa Clara City Clerk.

A search of International Revenue Service tax-exempt organizations returned no results relating to Stand Up for Santa Clara. A search of the Attorney General’s Office charity research database also returned no results.

In fact, Stand Up for Santa Clara labels itself an “LLC” on its homepage, although a business search of Secretary of State records does not return any results for Stand Up for Santa Clara as a limited liability corporation or partnership.

¹⁰ FPPC, Independent Expenditure Reporting, [http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual 4/Manual 4 Ch 11 IE Reporting.pdf](http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual%204/Manual%204%20Ch%2011%20IE%20Reporting.pdf).

¹¹ Stand Up for Santa Clara website, <http://www.standupforsantaclara.com>.

© 2015 Stand Up for Santa Clara, LLC. All rights reserved.

Source: *Stand Up For Santa Clara* homepage, <http://www.standupforsantaclara.com>.

Stand Up for Santa Clara’s advocacy communications on behalf of Santa Clara City Council candidates

Stand Up for Santa Clara’s advocacy communication expenditures include a website, www.standupforsantaclara.com, created by NationBuilder. NationBuilder is a software platform that bills on a monthly basis for services including an integrated voter, donor and volunteer management system, email blasts and text messaging.¹² Packages start at \$29.00 per month and the package that includes text messaging capabilities is priced at \$199.00 per month.¹³

Stand Up for Santa Clara’s website includes the ability to create an account and join their grassroots advocacy network, and asks supporters to provide their mobile phone number and opt in to text message updates.

Email

Mobile phone

Send me email updates

Send me text message updates

Phone

Address (Street, City, State, Postal code)

I want to volunteer

Don't publish this on the website

SIGNUP

Join Stand Up for Santa Clara

A search of Internet archives reports that Stand Up for Santa Clara has had a website in place since at least April 2015.¹⁴ If Stand Up for Santa Clara purchased the least expensive NationBuilder package the cost would be \$290.00 total for basic website functionality since January 2016. However, the organization appears to be using the package that includes a text message component, which is priced at \$199.00 per month. This expenditure would then total \$1,990.00 since January 2016, exceeding the \$1,000 threshold that triggers reporting.

Additionally, Stand Up for Santa Clara hosted a press conference at the City Hall on October 4 and expended resources on coordinating the event and producing materials for it.¹⁵ Speakers at the press conference encouraged Santa Clara residents to “vote smart” and called out by name

¹² <http://nationbuilder.com/pricing>. Note that a package that includes text messaging starts at \$199/month.

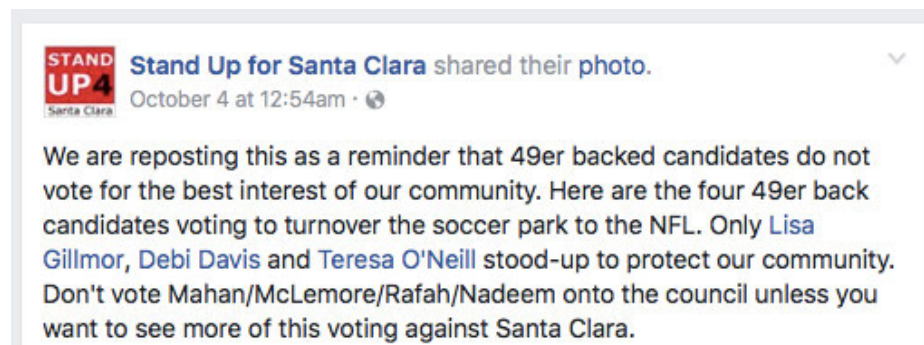
¹³ *Id.*

¹⁴ Wayback Machine records search for Stand Up for Santa Clara.

¹⁵ “Money Laundering in Santa Clara Politics” YouTube video, <https://youtu.be/ImATHxGA9IA>.

two City Council candidates who had previously stated they would accept contributions from the 49ers.¹⁶ The sentiment of the press conference painted the 49ers in a negative light. Another speaker stated that “right now we have the best city council we could ever have, and if something is not broken, why are you trying to fix it?”¹⁷

Stand Up for Santa Clara has also expressly advocated through Facebook in an attempt to influence Santa Clara elections, including that of the City Council. An example of posts from October, 2016:



¹⁶ Begins at approximately minute 3:30.

¹⁷ Begins at approximately minute 5:00.



Stand Up for Santa Clara

October 4 at 6:27pm · 🌐

A smear campaign started by a pro-49er organization trying to discredit Mayor Lisa Gillmor , Kathleen Watanabe for City Council 2016, Tino Silva for Santa Clara City Council 2016 and Debi Davis for Santa Clara City Council . All have fought to protect the rights of Santa Clara residents. Blupacus.org or Citizens for Economic Council or some PAC bought the Santa Clara voter file and now using your address, email, home phone and cell phone number to spam you and try and convince you to vote for Mahan/McLemore/Rafah/Nadeem. They are using (1) robo calls (2) fake political phone survey, text messages, Google ads and direct mail. Please tell your family and neighbors about this smear campaign.



Stand Up for Santa Clara

October 4 at 2:06pm · 🌐

PLEASE SHARE with your family and neighbors as the 49ers are trying to throw the upcoming election.

We will make a short video to explain the uncovering of the dirty money trail but in the meantime here is the information we uncovered.

Blupacus.org is a 501c4 Political Action Committee set-up by Douglas Chan in 2015. Their website endorses Patricia Mahan, John McLemore, Ahmad Rafah, Dr. Mohammed Nadeem, Police Chief Mike Sellers and Rod Diridron Jr. (removed last week). They also discredit Mayor Lisa Gillmor, City Council Members Debi Davis & Kathy Watanabe, and candidate Tino Silva. Blupacus.org said some nasty dirty lies about Tino and a soccer coach which are complete lies, and we will show the proof later. They are also attacking Mayor Gillmor for the independent financial audit even through she is not even running for re-election.

Stand Up for Santa Clara's failure to report expenditures or contributions for its advocacy communications

Though expressly advocating for candidates in the Santa Clara City Council elections, Stand Up for Santa Clara has not filed any Independent Expenditure campaign finance reports. In acting as an IE Committee, the organization must abide by state finance disclosure laws and report all contributions, including in-kind contributions, and expenditures. Stand Up for Santa Clara has not reported expenditures associated with their website or coordinating the October 4 press conference, nor any in-kind contributions from parties who may be assisting them with these activities.

Tino Silva and Stand Up for Santa Clara's breach of the FPPC's "firewall" requirements

1. Tino Silva, Stand Up for Santa Clara co-founder and Candidate for Santa Clara City Council Seat #4.

Tino Silva is listed on the Stand Up for Santa Clara website as a co-founder of the organization.

| About Us

Stand Up for Santa Clara was started in March of 2015 by Tino Silva, Steve Robertson and Vickie Field.

The FPPC has stated that one of the presumptions for breach of the IE Committee firewall requirement is a situation when the outside group is established or run by the candidate's former staffers.

Stand Up for Santa Clara goes a step further in breaching IE Committee firewall requirements. Here, Stand Up for Santa Clara was established by the candidate himself. The burden is now on Stand Up for Santa Clara to prove that the organization is not consulting, cooperating or coordinating with Silva.

2. Jude Barry and Stand Up for Santa Clara's breach of the FPPC's "firewall" requirements

Jude Barry is a professional campaign consultant. His company website is www.getcatapult.com where he lists his expertise including "political consulting." It is publically known that Jude Barry is acting as the political consultant for Stand Up for Santa Clara, as well as for Santa Clara City Council candidates Tino Silva, Debi Davis, Kathy Watanabe and Teresa O'Neill.

The FPPC has stated that one of the presumptions for breach of the IE Committee firewall requirement is the practice of sharing political consultants between the candidate and the outside group. The burden is now on Stand Up for Santa Clara to prove that the organization's intermediaries are not consulting, cooperating or coordinating with any of the candidates for Santa Clara City Council.

Appendix

Screenshots from the Stand Up for Santa Clara website



Our goal is to be managed by an honest, transparent, and trustworthy city government, not an NFL franchise.

-

| Fighting for Open, Honest and Transparent Government

Stand Up for Santa Clara is a coalition of concerned citizens working to protect the democratic process in Santa Clara and prevent the San Francisco 49ers and special interest groups from taking over our community.



Watch our press conference video to understand how we believe the San Francisco 49ers are secretly laundering money to Influence Santa Clara Political Races

Pictured in attendance with Stand Up for Santa Clara at their press conference are Santa Clara Councilmembers Debi Davis and Kathy Watanabe.

Vote November 8th & Protect the Santa Clara City Council

The San Francisco 49ers and other special interest groups are unhappy with the exit of former Mayor Jamie Matthews and City Manager Julio Fuentes. The 49ers lost their majority voting power in the Santa Clara City Council.

Current Mayor Lisa Gillmor, and City Council Members [Debi Davis](#), [Teresa O'Neill](#) and Kathy Watanabe choose to put the interests of Santa Clara citizens before special interest groups. They have created a culture of open and transparent government in our city.

The 49ers and their allies are unhappy and want to displace the women on the council with their own candidates who will vote for special interest needs over our community. They also want to place their candidate in Santa Clara City Council Seat #4 which is being departed by Council Member Jerry Marselli. Stand Up for Santa Clara co-founder [Tino Silva](#) is running for Seat #4 and we support his candidacy.

We will continue to identify 49er backed city council candidates to inform the citizens of Santa Clara and protect our city.

[#kidsvs49ers](#) [stand up for santa clara](#) [Santa Clara City Council](#)

© 2015 Stand Up for Santa Clara, LLC. All rights reserved.

Sign in with [Facebook](#), [Twitter](#) or [email](#). Created with [NationBuilder](#)

2016 Election

The 2016 election in Santa Clara is extremely critical as the majority (four of seven) city council seats are up for election.

The San Francisco 49ers are once again trying to place pro-49ers candidates onto the city council.

Each Santa Clara voter has a choice to elect a candidate who will stand up for our community, or a candidate that is influenced and supported by the 49ers and other special interest groups.

- [Find out how the San Francisco 49ers are involved in Laundering Money into Santa Clara Politics](#)
- [View all the 2016 Santa Clara candidates running for city council, chief of police and city clerk](#)
- [Vote YES for Measure R and Protect Santa Clara Parks and Open Space](#)
- [Watch the 2016 Candidate Forum hosted by the Old Quad Neighborhood](#)
- [Former Mayor Patricia Mahan violated Santa Clara's Lobbyist Rules; City Attorney](#)

RE: COMPLAINT AGAINST SANTA CLARA POLICE OFFICERS' ASSOCIATION

I. Committee Formation, Expenditures and Reporting in California under the Political Reform Act

The campaign rules of the California Political Reform Act (“PRA” or “The Act”)¹ apply to candidate campaign committees, general purpose committees, political party committees, slate mailer organizations, major donor committees, and persons or entities making independent expenditures on candidates or ballot measures.²

Multipurpose Organizations

Organizations classified as “Multipurpose Organizations” under the PRA “typically receive donations or other payments (e.g., membership dues) for purposes other than making political expenditures in California.”³ However, Multipurpose Organizations may still use funds to make political expenditures to support or oppose candidates or ballot measures. Certain multipurpose organizations that make political expenditures in California must register as recipient committees.⁴

For purposes of the Act, Multipurpose Organizations include nonprofit organizations with tax exempt status under 501(c)(3) to 501(c)(10) of the Internal Revenue Code and professional and trade associations.⁵

To become classified as a Multipurpose Organization the group must file a Form 410 (Statement of Organization) to register as a recipient committee with the California Secretary of State. Local committees must also file with their City Clerk. Multipurpose Organizations then must file Form 460 campaign statements to report all contributions and expenditures.⁶

II. Facts

The Santa Clara Police Officers’ Association (SCPOA) was “established in 1974 to represent both the sworn and civilian members of the Santa Clara Police Department.”⁷ A check of records with the California Secretary of State’s office revealed that the Association has a Form 410 on

¹ Cal. Gov’t Code §6250-6270.5.

² Fair Political Practices Commission (“FPPC”), Campaign Rules, Who is Subject to the Act? <http://www.fppc.ca.gov/learn/campaign-rules.html>.

³ FPPC, multipurpose organizations reporting political spending, <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Documents/Multipurpose%20Organizations.pdf>.

⁴ Form 460 – Supplemental instructions for multipurpose organizations including nonprofits, <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Forms/Form-460-Supplemental-Instructions.pdf>.

⁵ *Id.*

⁶ *Id.*

⁷ Santa Clara Police Officers’ Association website, “About the SCPOA,” <http://www.santaclarapoa.com/about/about-the-scpoa>.

file.⁸ The Association's "Contributor ID" number is 1266738.⁹ The Contributor ID is the official committee number of the recipient committee.¹⁰

As a Multipurpose Organization registered as a recipient committee, SCPOA is required to timely file the Form 460 to report all campaign contributions and expenditures. The Form 460 must be filed with the Secretary of State and the Santa Clara County Registrar.

A search of Secretary of State records showed that the Santa Clara Police Officers' Association last reported campaign contributions in 2014.¹¹ However, SCPOA has filed Form 460s with the Santa Clara County Registrar's Office for the filing periods of July 1-September 24, 2016; January 1-June 30, 2016; July 1-December 31, 2015; and January 1-June 30, 2015.

The Form 460s on file with Santa Clara County show the following payments:

7/1-9/24/16

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Mr. Dominic Caserta Jr. Santa Clara, CA 95052	IND		Caserta for Supervisor	1,000.00
* Payments that are contributions or independent expenditures must also be summarized on Schedule D.				SUBTOTAL \$ 1,000.00

1/1-6/30/16

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Mr. Rod Diridon Jr. Santa Clara, CA 95050	IND		Rod Diridon for Santa Clara ClerkFPPC-1385636	550.00
Mr. Patrick Nikolai Santa Clara, CA 95050	IND		Nikolai for Chief	550.00
Mr. Jeff Rosen San Jose, CA 95120	FND		RE-Elect Jeff Rosen BBQ	250.00
* Payments that are contributions or independent expenditures must also be summarized on Schedule D.				SUBTOTAL \$ 1,350.00

⁸ Verbal confirmation with the Political Reform Division, 10/11/16.

⁹ California Secretary of State, search of www.cal-access.ss.ca.gov using 1266738.

¹⁰ California Secretary of State, FAQs, <http://powersearch.sos.ca.gov/frequently-asked-questions/>.

¹¹ California Secretary of State, search of www.cal-access.ss.ca.gov 1266738.

7/1-12/31/15

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Secretary of State Sacramento, CA 95814		2015 Year and late fine	200.00
Secretary of State Sacramento, CA 95814		2016 annual fee	50.00
Ms. Bianca Pirayou San Jose, CA 95120	PRO	Services	433.50
* Payments that are contributions or independent expenditures must also be summarized on Schedule D.			SUBTOTAL \$ 683.50

1/1-6/30/15

Expenditures Made

6. Payments Made	Schedule E, Line 4	\$	0.00	\$	0.00
7. Loans Made	Schedule H, Line 3		0.00		0.00
8. SUBTOTAL CASH PAYMENTS	Add Lines 6 + 7	\$	0.00	\$	0.00
9. Accrued Expenses (Unpaid Bills)	Schedule F, Line 3		0.00		0.00
10. Nonmonetary Adjustment	Schedule C, Line 3		0.00		0.00
11. TOTAL EXPENDITURES MADE	Add Lines 8 + 9 + 10	\$	0.00	\$	0.00

Notably absent from the filings are any payments made for an opinion poll reported by the San Jose Mercury News on June 18, 2016. The poll, which was conducted by New Equity Productions, P.O. Box 11899, Newport Beach CA 92658,¹² surveyed voters about the upcoming election of Santa Clara’s next police chief, for which Mike Sellers and Pat Nikolai are vying. Sellers currently serves as chief and Nikolai has long been affiliated with SCPOA and led the association for 14 years.

A poll done recently for the POA, which has endorsed Nikolai, shows that Sellers has a favorable-unfavorable rating of 31 to 9 percent, with a huge percentage undecided.

Source: San Jose Mercury News, Sellers vs. Nikolai for Santa Clara police chief, 6/18/16, <http://www.mercurynews.com/2016/06/18/sellers-vs-nikolai-for-santa-clara-police-chief/>

SCPOA’s failure to report this payment on their Form 460 is a violation of campaign finance rules, as is their failure to file Form 460s with the Secretary of State for 2015 and 2016.

¹² The CEO of New Equity Productions is Andrew Howitt. The telephone number is (949) 270-6525 and e-mail address is info@nepmail.com

RE: COMPLAINT AGAINST TERESA O’NEILL

I. Political Reform Act – Failure to Disclose Campaign Expenditures

The recipient committee of every candidate running for state and local office in the State of California is required to timely file a Form 460 in order to report expenditures and contributions.¹ Per California Government Code §84211, the Form 460 must contain information “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.”² This information must include the name and other identifying information of the recipient, the amount of the expenditure made, and a description of the consideration for which each expenditure was made.³ Form 460 disclosures are made under penalty of perjury⁴, and failure to disclose the relevant information may result in administrative fines and other penalties.

II. Facts

Santa Clara City Councilmember Teresa O’Neill is running for reelection for Council Seat #7. The cycle’s first pre-election Form 460, due September 29, covered the reporting period from July 1, 2016 through September 24, 2016.⁵

Form 460 report O’Neill submitted on September 29, 2016 follows. The itemized expenditures are:

City of Santa Clara Santa Clara, CA 95050	FIL	ballot statement fee	970.00
Signs on the Cheap Austin, TX 78758	CMP	lawn signs	529.58
Larry Sacks Photography Santa Clara, CA 95050	PRO	photography services	195.00
FedEx Office Santa Clara, CA 95050	LIT	printing campaign flyers	54.16
FedEx Office Santa Clara, CA 95050	LIT	printing campaign flyers	54.16

¹ FPPC; <http://www.fppc.ca.gov/forms.html>

² Cal. Gov’t Code §84211(k)

³ *Id.*

⁴ Sample Form 460: “I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules 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.”

⁵ City of Santa Clara “Preliminary Candidate Guide,” <http://santaclaraca.gov/home/showdocument?id=18864>

Notably, the Form 460 fails to include expenditures Councilmember O'Neill appears to have paid for essential campaign outlays. These include: (A) failure to report the purchase of precinct data and (B) failure to report the counsel and services of a campaign consultant.

A. Failure to report the purchase of precinct data

O'Neill's Form 460 reported \$529.58 for campaign lawn signs and \$108.32 for campaign flyers. From this information, one could conclude that O'Neill is knocking on doors in District Seven and distributing signs and flyers to supporters. However, she has not purchased voter data to assist in her precinct walking efforts.

Candidates can purchase voter data from the Santa Clara Registrar of Voters. Commonly-purchased electronic data files include a list of registered voters for \$82.00, a list of registered voters with up to 5 elections' history for \$92.00, and vote by mail ballot updates that cost \$82.00 for an initial report and \$41.00 per update.⁶

Additionally, precinct maps can be purchased in prices ranging from \$6.00 per page for black and white copies to a \$102.00 set-up fee for custom digital maps of each district.⁷

A candidate for City Council who is coordinating phone banks and precinct walks would easily exceed the \$100 Form 490 reporting threshold by purchasing voter data.

B. Failure to report the counsel and services of a campaign consultant

O'Neill failed to report "Campaign Consultant" ("CNS") on her Form 460.

Jude Barry

O'Neill failed to report "Campaign Consultant" ("CNS") on her Form 460.

Jude Barry

Jude Barry is a professional campaign consultant. His company website is www.getcatapult.com where he lists his expertise including "political consulting."

Barry is also employed by the Related Companies as a registered lobbyist in the City of Santa Clara. (PDF of Jude Barry registration included) Additionally, he is acting as the political advisor and operative for the Related companies, as evidenced by the attached email regarding the Santa Clara Chamber of Commerce PAC (Jude Barry Email included).

⁶ Santa Clara County Registrar of Voters, Voter Data File Requests, <https://www.sccgov.org/sites/rov/Resources/Pages/DataRequests.aspx>.

⁷ Santa Clara County Registrar of Voters, Voter Data File Requests, Fee Schedule, <https://www.sccgov.org/sites/rov/Resources/Documents/VoterDataFileRequests/Fee%20Schedule.pdf>.

The Related Companies is a multi-billion dollar real estate development company that earlier this year had a massive development project approved by the Santa Clara City Council. The project is the “largest private development project in Silicon Valley’s history.”⁸

O’Neill has informed numerous members of the public that Jude Barry is providing professional campaign advice to her and her campaign. Yet there is no report of O’Neill paying for Barry’s services on O’Neill’s Form 460. If Barry is not being paid for his consulting services, an in-kind contribution from Related Companies would be required as Barry is being paid to act as a political operative in Santa Clara.

The vote to approve the Related Companies development project being advocated for was taken on June 28, 2016, two days before the pre-election reporting period began.

3/29/2016 5:00 p.m.	Meeting with Related	Kathy Watanabe, Steve Eimer, Bill Witte, Ken Himmel and Jude Barry
---------------------	----------------------	--

Source: O’Neill’s calendar - <http://www.santaclaraca.gov/home/showdocument?id=18651>

⁸ “Santa Clara approves Related Co.’s \$6.5B megaproject for former city landfill,” Silicon Valley Business Journal, 6/29/16, <http://www.bizjournals.com/sanjose/news/2016/06/29/santa-clara-approves-related-co-s-6-5b-megaproject.html>.