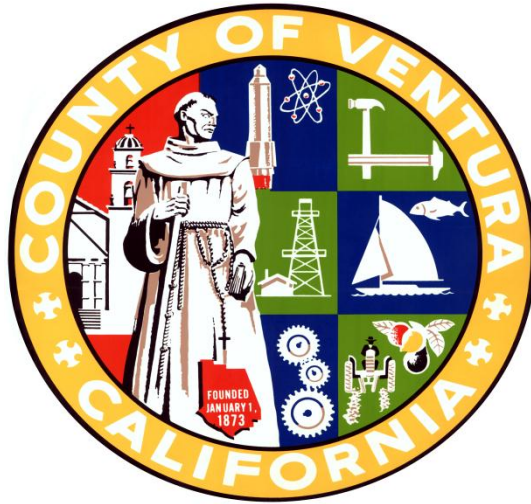


# **Ventura County Grand Jury 2013 - 2014**



## **Final Report**

### **Ventura County Campaign Finance Ordinance**

**April 8, 2014**

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## **Ventura County Campaign Finance Ordinance**

### **Summary**

In 1991, the Ventura County (County) Board of Supervisors adopted Ordinance No. 3978, the first of 11 consecutive versions of a local campaign finance reform ordinance. The ordinances are intended to reduce the influence of money on elections by enacting restrictions on campaign contributions and expenditures as well as County-specific reporting requirements on candidates for County office. These restrictions and reporting requirements are in addition to government codes created by California's Political Reform Act of 1974 and supplemental regulations established by the State of California (State) Fair Political Practices Commission (FPPC). The ordinances only apply to the County offices of Supervisor, Sheriff, District Attorney, County Clerk and Recorder, Treasurer-Tax Collector, Auditor-Controller, County Superintendent of Schools, and Assessor.

To oversee the processing of alleged violations of the County's campaign law, one of these ordinances established a Ventura County Campaign Finance Ethics Commission (Commission). The Commission consists of three commissioners appointed by the Board of Supervisors, as well as support staff to provide clerical and legal services.

As a result of a public complaint, the 2013-2014 Ventura County Grand Jury (Grand Jury) initiated an investigation into the process followed to enact these ordinances and the specific changes enacted in the last ordinance, Ventura County Campaign Finance Ordinance No. 4453 (Ordinance 4453).

The Grand Jury conducted this investigation by examining the recent ordinances; reviewing the minutes, exhibits, and videos of Board of Supervisors and Commission meetings; and interviewing individuals involved in the enactment and enforcement of the provisions of the ordinances.

The Grand Jury reached the following significant findings:

- The process used to revise the ordinance failed to proactively include stakeholders. In fact, the process ignored, without any comment, issues and concerns when available from stakeholders. As a result, Ordinance 4453 addresses "questions and concerns that arose in the last campaign cycle" from a narrow, if not singular, viewpoint. It also fails to meet the stated goal to "increase the clarity and consistency of the Ordinance"; adds confusion to an ordinance already criticized for being complex; and increases the uncertainty and potential cost of performing the ordinance enforcement process.
- The changes made in Ordinance 4453 to provide better disclosure appear to be a solution to a nonexistent problem, given an analysis of complaints from the past two campaign cycles. Most violations of the campaign finance ordinance appear to stem from not understanding the County's ordinance and its unique requirements. The analysis indicates the number of complaints in an election cycle was low and

disclosure of contributions and expenditures was provided in a timely manner via FPPC forms.

- The expressed pressing need to propose ordinance changes on May 14, 2013, then vote to enact those changes just a week later to support the upcoming election cycle, was unnecessary. With the important exception of those ordinance changes related to campaign contributions, the bulk of the proposed changes were related to the processing of complaints. The elective offices affected by Ordinance 4453 were a year away. Given the eight-month delay to align the Commission's procedures with Ordinance 4453, time was available to solicit and address, in public, stakeholder comments affecting the complaint process.

The Grand Jury recommends the following significant actions:

- In the short term, the Board of Supervisors should review Ordinance 4453 including a thorough stakeholder review. The review should address the issues raised by stakeholders, and Ordinance 4453 should be modified to delete problematic changes or make revisions to clarify the process. The resolution of the issues raised or an explanation of why the issues are not problematic should be made available to the public.
- In the long term, the Board of Supervisors should organize a full review of the ordinance to determine if the current ordinance can be simplified or if an entirely new ordinance needs to be written. This process should actively include all stakeholders and the ordinance should be drafted by an independent attorney with expertise in campaign finance laws in the State. The focus should be on simplifying the ordinance and minimizing County-unique requirements beyond those required by the FPPC.

## **Background**

In 1991, the County Board of Supervisors adopted Ordinance No. 3978, the first of 11 consecutive versions of a local campaign finance reform ordinance. The purpose of the ordinance as stated in Ordinance 4453 is "to promote public trust in governmental institutions and the electoral process, reduce the appearance of corruption, and to prevent individuals or organizations from using their financial strength to corrupt Ventura County government by creating political debts through contributions or coordinated expenditures that allow them to control or unduly influence elected officials." [Ref-01]

The ordinances are intended to reduce the influence of money on elections by enacting restrictions on campaign contributions and expenditures, as well as adding County-specific reporting requirements. These restrictions and reporting requirements are in addition to government codes created by California's Political Reform Act of 1974 and supplemental regulations established by the FPPC. The ordinances only apply to the County offices of Supervisor, Sheriff, District

Attorney, County Clerk and Recorder, Treasurer-Tax Collector, Auditor-Controller, County Superintendent of Schools, and Assessor.

To oversee the processing of alleged violations of the County's campaign law, the ordinance establishes a Ventura County Campaign Finance Ethics Commission. The Commission consists of three commissioners appointed by the Board of Supervisors, as well as support staff to provide clerical and legal services.

The ordinances have been reviewed and updated on an approximate two-year cycle. The latest version, Ordinance 4453, was adopted on May 21, 2013. Ordinance 4453 was the product of amending the previous ordinance adopted by the Board of Supervisors in May 2011, Ventura County Campaign Finance Ordinance No. 4429 (Ordinance 4429).

As a result of a public complaint, the Grand Jury initiated an investigation into the process followed to enact these ordinances and the specific changes enacted in the last ordinance, Ordinance 4453. Early in the investigation, during the discussions of Ordinance 4453 at the May 14, 2013, Board of Supervisors meeting, the Grand Jury became aware that a Supervisor suggested that the Board of Supervisors should look to the Grand Jury to act as an independent committee to review the ordinance. This reinforced the Grand Jury's commitment to continue the investigation.

## **Methodology**

The Grand Jury conducted this investigation by performing the following:

- Researching the history of the ordinances.
- Examining the recent ordinances.
- Reviewing the minutes, exhibits, and videos of Board of Supervisors meeting agenda items related to the adoption of these ordinances.
- Interviewing individuals involved in the process of enacting the ordinances.
- Interviewing individuals involved in the enforcement of the provisions of the ordinances.
- Reviewing the minutes, exhibits, and videos of recent Commission meetings.

## **Facts**

**FA-01.** The persons identified below play a role in the enactment and/or execution of the County's campaign finance ordinances. Hereafter in this report, this group will be referred to as the "stakeholders."

- The members of the Board of Supervisors—who enact the ordinances, appoint the Commissioners, and have legal oversight of the Commission.

- Each of the three Commissioners appointed by the Board of Supervisors, who consider complaints of violation of the ordinances and who approve their final disposition.
- The assigned Assistant County Counsel, who provides legal support to the Commission.
- The person designated as Staff to the Commission, who provides clerical support to the Commission. The person serving as Staff to the Commission has other concurrent responsibilities within the County Executive Office.
- The person designated as the Clerk of the Commission, who organizes and supports meetings of the Commission.
- The Initial Complaint Review Attorney for the Commission, who performs the first review of complaints and makes the recommendation to the Commission to either dismiss a complaint or to proceed to the investigation phase. The Initial Complaint Review Attorney is under contract to the County Executive Office. Under Ordinance 4453, the Initial Complaint Review Attorney is now known as the Initial Reviewer. Currently, there is only one Initial Reviewer, a practicing attorney with a personal caseload that must be handled concurrent with Commission assignments. The Commission is just one client for the Initial Reviewer.
- The Investigating Attorney for the Commission, who performs the full review of complaints and makes the recommendation to the Commission to dismiss a complaint, to negotiate a settlement, or to proceed to an evidentiary hearing. The Investigating Attorney is under contract to the County Executive Office. Currently, there is only one Investigating Attorney, a practicing attorney with a personal caseload that must be handled concurrent with Commission assignments. The Commission is just one client for the Investigating Attorney.
- Staff members from the Office of the County Clerk and Recorder, Elections Division, who receive and file campaign forms and report any alleged ordinance violations to the Commission.

**FA-02.** A proposal to repeal Ordinance 4429 in order to incorporate changes was presented on May 14, 2013, at the Board of Supervisors meeting as Item 35 on the agenda. It was a motion to "Read Ordinance in Title Only and Set the Second Hearing and Adoption of the Final Ordinance for May 21, 2013, at 11:00 a.m." Several stakeholders became aware of the proposed changes to Ordinance 4429 only when the agenda for the meeting of May 14, 2013, was posted on the County's website, three working days prior to the meeting. Most stakeholders were not asked to review or offer comments to the proposed changes prior to their appearance on the meeting agenda. [Ref-02]

**FA-03.** The supporting materials on the County's website for the May 14, 2013, Board of Supervisors meeting, Agenda Item 35, included a Campaign

Finance Reform Ordinance Board Letter authored by two Supervisors; a clean version of Ordinance 4453 with the proposed changes already incorporated; a redline version of Ordinance 4453 showing the proposed new text; a PowerPoint presentation to introduce select issues included in the proposed ordinance changes; and letters from two stakeholders identifying issues with the proposed changes and requesting a delay in the second hearing to adopt Ordinance 4453. [Ref-03]

**FA-04.** The Campaign Finance Reform Ordinance Board Letter stated that the "revisions address questions and concerns that arose in the last campaign cycle as well as a new state law, and these revisions should be adopted in advance of the next campaign cycle, which starts next month." It further stated that the "revisions will increase the clarity and consistency of the Ordinance and its application, conform the ordinance to new State laws, and moderately raise donation and spending limits." The start date for the next two-year campaign cycle would be June 1, 2013, but Ordinance 4453, if approved, would not be effective until thirty days after the date of approval.

The Campaign Finance Reform Ordinance Board Letter also summarized changes to Ordinance 4429. A partial list of the summary is shown below.

- "Section 1264: Defines 'Clerk' as the office of the County clerk. Defines 'Violator'." The previous definition for Clerk was "County Clerk or his or her designee." The term "Violator" was not defined in Ordinance 4429. The proposed definition for Violator was "any person, committee, group of people, agency, department, office or other entity that violates any provision of this ordinance."
- "Section 1265: Raises expenditure limits for participating candidates."
- "Section 1276: Requires Clerk to inform candidates of any reports showing independent expenditures and to post reports of Independent Expenditures."
- "Section 1297 (e): States that the Commission may direct the Clerk or seek a judicial order against the Clerk but may not assess monetary penalties against the Clerk."
- "Section 1298: Deletes the requirement that the Initial Complaint Reviewer be an attorney and directs Initial Complaint Reviewer to consider evidence in addition to that contained in complaints and render a recommendation within 5 days and discuss recommendation with complainant."
- "Section 1299: Identifies ideal qualifications of the Investigating Attorney and clarifies that the Investigating Attorney shall consider evidence in addition to that contained in complaint. States that proposed settlements address deterrent value and be discussed with complainant." The text added defines ideal qualifications as "a dedication to impartial and exacting enforcement of the terms of the ordinance."

In addition, the phrase “promote the timely and accurate release of appropriate campaign finance information before an election” or similar phrases were added to many sections of Ordinance 4453. For example, text was added that the Commissioners “should be committed to fully understanding the goals of the ordinance and to protecting the public’s right to have timely access to appropriate campaign information by ensuring the full and fair enforcement of this ordinance.”

[Ref-03]

**FA-05.** The PowerPoint presentation used as the basis for the discussion of Agenda Item 35 at the May 14, 2013, Board of Supervisors meeting made these points:

- “After Citizen’s United the emphasis must switch to disclosure”
- “Active disclosure is the only antidote to a flood of money”
- “Proposed Ordinance changes increase emphasis on public disclosure”
- “The need for our campaign finance ordinance is as great or greater than ever with a flood of money coming in”

During this same discussion, a Supervisor responded to suggestions that the ordinance is complex by stating that the ordinance is long but that the language is not complicated or unclear.

[Ref-03]

**FA-06.** The two stakeholder letters in the supporting materials for the May 14, 2013, Board of Supervisors meeting, Agenda Item 35, recommended that passage of parts of the ordinance be delayed. The letters included these salient points:

- A request to allow “sufficient time to obtain comments from others with first-hand knowledge of the workings of the system and getting input from all stakeholders...” Stakeholders were defined as “voters, those whose activities the Ordinance is designed to regulate (i.e. candidates, campaign and independent expenditure committee treasurers), the Initial Complaint Review and Investigating attorneys, the three Commissioners appointed to the Campaign Finance Ethics Commission (CFEC), CFEC staff, CEO staff, County Counsel...”
- A request to revise the definition of “violator” in the ordinance to “those who are the true subjects of campaign finance reform ordinances: candidates and committees.”
- A request to review Section 1297 and extend the immunity from monetary penalties “to all members of the Commission’s staff including all Initial Reviewing and Investigating Attorneys, as well as the members of the Commission themselves” since each has mandatory duties imposed by the ordinance.
- A paragraph expressing concern that reducing the “Initial Reviewer’s time to respond to a complaint to five (5) working days of receipt is



unworkable” as is the “proposal to require the Investigating Attorney to complete an investigation and resolve a complaint within 40 days.” The paragraph included the comment that “I am aware of no other local campaign finance ordinance that imposes a deadline even approaching this very short and unworkable timeline.” The paragraph raised alarm that even the sixty-day period in the prior ordinance (Ordinance 4429) would be challenging for complex complaints or for situations with noncooperative respondents. It ended by stating that “Complex cases simply cannot be resolved in this brief period.”

- A statement expressing concern that the “proposed addition to Section 1299 to require the Investigating Attorney to consult with the complainant before presenting a proposed penalty to the Commission is unworkable and increases the possibility that individuals will use the complaint process for political purposes or to bring undue influence to bear.” The proposed addition to Section 1299 states, “Before agreeing to a settlement, the Investigating Attorney shall have a discussion with the Complainant to explain the proposed settlement rationale and fairly consider the input of the Complainant.”
- A statement that the “Ventura County ordinance is one of the most complicated ordinances...” and that “the complaint repeated most often is that the County provides no mechanism for persons subject to the Ordinance to obtain advice or technical assistance regarding compliance.” It further stated that “Some local jurisdictions, as well as the FPPC, provide ways to obtain advice to help candidates and treasurers comply.”

[Ref-03]

**FA-07.** An administrative analysis was prepared for the County Executive Office focusing specifically on the proposed revisions as they affect the administration, management and the performance of responsibilities and duties of staff provided by the County Executive Office to the Campaign Finance Ethics Commission. It was not part of the supporting materials for the May 14, 2013, Board of Supervisors meeting, Agenda Item 35. The analysis was maintained by the County Executive Office as an internal memo and not provided to the Supervisors prior to the passage of Ordinance 4453. The analysis included the concerns shown below.

- A concern with the reduced timelines for investigations in conjunction with the new definition for violators. It suggested that the County Executive Office and the Commission itself might technically become “violators” of the Ordinance if they fail to execute their duties/responsibilities for processing complaints in support of the proposed timeline provisions.
- A second concern with the reduced timelines, especially with the task of the Initial Reviewer. The Initial Reviewer, under contract to the County Executive Office, must not be a county employee but must

possess knowledge and experience in campaign finance law. This concern suggested that the County Executive Office would have a difficult time finding and contracting with a person willing to conduct an independent review and render a recommendation in five working days.

**FA-08.** Changes to complaint review times enacted as part of the Ordinance are shown below.

| Office   | Ordinance 4429 (Old) |                    | Ordinance 4453 (New) |                    |
|--|----------------------|--------------------|----------------------|--------------------|
|  | Days to Resolve      | Days to Settlement | Days to Resolve      | Days to Settlement |
| <b>Initial Reviewer</b>                                    | 30 CD                | Not Applicable     | 5 WD                 | Not Applicable     |
| <b>Investigating Attorney</b>                              | 30 CD                | 60 CD*             | 40 CD                |                    |
| WD =Working Days   |                      |                    |                      |                    |
| CD = Calendar Days   |                      |                    |                      |                    |
| All times are from receipt of complaint to task completion |                      |                    |                      |                    |
| * Includes the 30 CD period                                |                      |                    |                      |                    |

**FA-09.** Elapsed days for the Initial Complaint Review Attorney to provide the Ventura County Campaign Finance Ethics Commission with a written recommendation based on the 2012 Presidential Election are shown below. All complaints were completed within the required 30 calendar days duration of Ordinance 4429 with the exception of Case P2012-10, which was three days late. Under Ordinance 4453, which allows the Initial Reviewer five working days to prepare a written opinion, all the cases would have missed the deadline.

Additionally, Ordinance 4453 includes new duties within the five working day time limit allotted for the review. The Initial Reviewer shall review "other evidence identified in the course of the investigation," and before finalizing the written opinion, the Initial Reviewer "shall discuss the case with the complainant." The required discussion with the complainant opens the door for a late input of evidence that must still be considered within the five working day window. [Ref-01]

| Presidential General Election 2012-Summary Activity |            |                   |              |
|---|------------|-------------------|--------------|
| Case #  | Date Filed | ICRA Opinion Date | Elapsed Days |
| P2012-01  | 10/15/2012 | 11/14/2012        | 30           |
| P2012-02  | 10/19/2012 | 11/14/2012        | 26           |
| P2012-03  | 10/19/2012 | 11/14/2012        | 26           |
| P2012-04  | 10/19/2012 | 11/14/2012        | 26           |
| P2012-05  | 10/19/2012 | 11/14/2012        | 26           |
| P2012-06  | 10/19/2012 | 11/14/2012        | 26           |
| P2012-07  | 10/24/2012 | 11/14/2012        | 21           |
| P2012-08  | 10/29/2012 | 11/20/2012        | 22           |
| P2012-09  | 10/29/2012 | 11/20/2012        | 22           |
| P2012-10  | 11/15/2012 | 12/18/2012        | 33           |
| P2012-11  | 11/30/2012 | 12/24/2012        | 24           |

**FA-10.** A complaint filed by a candidate for the office of Supervisor against the Ventura County Clerk was discussed at the April 19, 2013, Commission meeting under Agenda Item 13. At issue was whether the Commission had jurisdiction over the Office of the Clerk or over the Clerk as an individual. A decision was reached that the Commission had no jurisdiction over the Clerk as an individual but the question of jurisdiction over the Office of the Clerk remained unresolved.

Both in writing and as oral argument during the discussion of this agenda item, one attorney described that the following issue would arise if the Commission had jurisdiction over the Office of the Clerk. He stated that "all those charged with implementing and enforcing the Ordinance would be subject to complaints that they violated the Ordinance by allegedly failing to discharge their responsibilities under the Ordinance. If the Office of the Clerk can be hauled before the Commission for allegedly failing to perform its responsibilities under the Ordinance, then so too can the Initial Review Attorney, the Investigating Attorney, County Counsel, the Clerk of the Commission, and the Commission itself." [Ref-04]

The changes subsequently proposed three weeks after this Commission meeting clarified the jurisdiction of the Commission to include all parties implementing and enforcing the Ordinance based on the broad definition of "violation" added to the Ordinance 4453.

**FA-11.** Section 1301(f) of Ordinance 4453 states, "The Commission may propose to adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this ordinance. Any such adoption, amendment, or rescission shall be subject to the approval of the Board of Supervisors. The Commission's current Operating Policies, adopted April 17, 2009, are hereby approved." [Ref-01] The actual Operating Policies in use as of December 22, 2013, appeared as Agenda Item 12, "Approval of Ventura County Campaign Finance Ethics Commission Operating Policies Dated November 2, 2012," on the Board of Supervisors meeting schedule for February 5, 2013. This amendment was approved by the Supervisors at that meeting. [Ref-05]

As of January 20, 2014, the Operating Policies dated November 2, 2012, were posted on the Commission's website for use in processing campaign finance complaints. However, they did not reflect the changes enacted in Ordinance 4453 on May 21, 2013. Finally, eight months after Ordinance 4453 was approved, Operating Policies consistent with Ordinance 4453 appeared as Agenda Item 47, "Approval of the Ventura County Campaign Finance Ethics Commission Operating Policies Dated December 13, 2013," on the Board of Supervisors meeting schedule for January 28, 2014. It was approved by the Supervisors at that meeting. [Ref-06]

**FA-12.** The Ventura County Gubernatorial Election, scheduled for June 3, 2014, is the next date that County offices subject to the regulations of Ordinance 4453 will appear on the ballot. They are the offices of Supervisor (Districts 2 and 4), Sheriff, District Attorney, County Clerk and Recorder,

Treasurer-Tax Collector, Auditor-Controller, County Superintendent of Schools, and Assessor.

- FA-13.** One reason Ordinance 4453 was enacted was to “moderately raise donation and spending limits.” [Ref-03] The changes to the donation (contribution) and spending (expenditure) limits are shown in the tables below. Most changes are 7.53% or less. However, the expenditure changes for November general elections for Supervisor and Countywide offices are 34.41% and 20.77%, respectively. [Ref-01]

|                              | Ordinance 4429 (Old)<br>Contribution Limits |            | Ordinance 4453 (New)<br>Contribution Limits |         |            |         |
|------------------------------|---|------------|---|---------|------------|---------|
| Candidate Category           | Primary \$                                  | General \$ | Primary \$                                  | %Change | General \$ | %Change |
| Participating Candidate*     | 700   | 700        | 750   | 7.14    | 750        | 7.14    |
| Non-Participating Candidate* | 350   | 350        | 375   | 7.14    | 375        | 7.14    |
| * Defined in Glossary        |   |            |   |         |            |         |

|            | Ordinance 4429 (Old)<br>Expenditures |            | Ordinance 4453 (New)<br>Expenditure Limits |         |            |         |
|------------|--------------------------------------|------------|--|---------|------------|---------|
| Office     | Primary \$                           | General \$ | Primary \$                                 | %Change | General \$ | %Change |
| Supervisor | 186,000                              | 186,000    | 200,000                                    | 7.53    | 250,000    | 34.41   |
| Countywide | 621,000                              | 621,000    | 650,000                                    | 4.67    | 750,000    | 20.77   |

- FA-14.** In the past two election cycles, a total of 17 complaints were filed with the Commission: 11 for the 2012 Presidential Election and 6 for the 2010 Gubernatorial Primary Election. An analysis of these complaints is summarized below.

- Six of the 17 complaints (35%) were dismissed: 4 of the 11 complaints in the 2012 Presidential Election (36%) and 2 of the 6 complaints in the 2010 Gubernatorial Primary Election (33%). The remaining 11 complaints were resolved via a negotiated settlement (Stipulation).
- Twelve of the 17 complaints (71%) were filed by the Elections Division from the Office of the County Clerk and Recorder: 8 of the 11 complaints in the 2012 Presidential Election (73%) and 4 of the 6 complaints in the 2010 Gubernatorial Primary Election (67%). The remaining 5 complaints were filed by candidates or individuals/committees supporting candidates.
- In 9 of the 11 complaints (82%) that went to the investigation phase, the Investigating Attorney stated in the Stipulations that the respondents properly and timely filed FPPC forms and that they did not attempt to conceal the contributions/expenditures at issue: 6 of

the 7 complaints in the 2012 Presidential Election (86%) and 3 of the 4 complaints in the 2010 Gubernatorial Primary Election (75%).

- In 5 of the 7 complaints (71%) that went to the investigation phase for the 2012 Presidential Election, respondents stated that they were not aware of some of the County filing requirements. There were no such respondent statements reported for the 2010 Gubernatorial Primary Election.
- Total fines paid by respondents for the 11 complaints that were settled with Stipulations amounted to \$16,400: a total of \$15,300 for the 7 complaints from the 2012 Presidential Election (86%) and a total of \$1,100 for the 4 complaints in the 2010 Gubernatorial Election. The largest fine paid was a combined \$8,500 for 2 complaints settled jointly for the 2012 Presidential Election. The least action taken was a warning letter for a complaint from the 2010 Gubernatorial Primary Election.

[Ref-07]

**FA-15.** Ordinance 4453, as well as the previous ordinance, allows the Commission to impose any or all of the remedies stated below.

- Cease and desist the violation of the Ordinance.
- File any reports, statements, or other documents or information required by the Ordinance.
- Pay a monetary penalty of up to five thousand dollars (\$5,000) to the General Fund of the County, per violation.
- Pay a fine up to three times the amount or value not properly reported or improperly received or expended.

[Ref-01]

**FA-16.** The operating costs reported by the Commission for Fiscal Year (FY) 2010 through the third quarter of FY 2013 were \$192,313. These costs covered expenditures by the County Counsel's Office, the Ventura County Elections Division, the County Executive Office, and the Commission's attorneys. This financial data was reported in the January 18, 2013, Commission agenda, Agenda Item 14. [Ref-08] The Commissioners themselves serve without compensation.

**FA-17.** The January 18, 2013, Commission agenda included Agenda Item 12, "Review, Receive and File a Report from Staff Regarding Issues Raised at the November 16, 2012 Commission's Study Session." Excerpts follow.

- A Supervisor stated, "The existence of the Commission is a deterrent to campaign finance violations and a means for candidates to counteract political damage from violations committed by opposing candidates in the final days before an election." Additionally, statements were made that "the Commission could be more involved in the settlement process as well as the complainant" and "disclosure

should be done electronically and locally so that candidates do not have to rely on the Fair Political Practices Commission (FPPC) which is not effective as a deterrent to violations of campaign financing and disclosure requirements.”

- An attorney opined that “trying to resolve issues within an election cycle and consulting complainants in conjunction with any proposed settlements would politicize complaints and hinder the process because respondents would be disinclined to admit fault prior to elections and complainants may be unlikely to be satisfied by what are objectively reasonable settlements.” Further, “A rule requiring the investigating attorney to consult with the complainant before approving a settlement would be counterproductive, in his opinion.”
- A citizen “questioned the value of having the initial complaint review attorney examine evidence, since the investigating attorney will do that as well, and stressed that the value of getting the results of the initial review to the voters sooner should be paramount.”
- An attorney indicated, with respect to processing complaints, that some issues such as typographical errors on a form could be resolved quickly but that “the initial review is not limited to a review of the allegations alone, but also includes a screening process to determine why the reported action occurred and whether a complaint merits further review in order to avoid the costs of additional investigation.” Additionally, he stated that “for some allegations this process can take a full 30 days” because “the Ordinance as written requires the initial complaint review attorney to examine the evidence itself, not just the allegations in the complaint.”
- “The Commission discussed the pros and cons of the Ordinance’s granting review of the evidence to both the initial complaint review attorney and the investigating attorney, emphasized that timely resolution of complaints was the goal, and concluded that it will not make any recommendations to change that part of the Ordinance to the Board of Supervisors.”

[Ref-08]

- FA-18.** The Commission’s meeting minutes of April 19, 2013, included Agenda Item 4, “Review and Approval of Meeting Summary for February 22, 2013.” The referenced meeting summary contained Agenda Item 14 from the February 22, 2013, meeting, “Recommendation to Approve a Stipulation, Decision and Order Regarding Complaint Number P2012-11.” During discussions of the recommendation, one Commissioner “questioned fines enacted on first offense violations of this nature now that he understood the confusing and complicated nature of the County’s Ordinance.” In that same discussion, the Investigating Attorney stated that “actively soliciting complainants’ input is not productive due to candidates’ rivalry and self-serving judgments.” [Ref-04]

**FA-19.** The Commission's meeting agenda of April 19, 2013 included Agenda Item 4, "Review and Approval of Meeting Summary for February 22, 2013." The referenced meeting summary contained Agenda Item 10 from the February 22, 2013, meeting, "Recommendation to Dismiss Complaint Number P2012-02." During discussions of the recommendation, a speaker in attendance "asked the Commission to review and revise the Campaign Ethics rules as they are unclear, conflicting with the State's FPPC Rules and Reporting Practices, financially burdensome, and more complex than the State's rules." A Commissioner responded that he shared the speaker's "frustration and concerns, and suggested that the Commission recommend the Board of Supervisors to simplify the Ordinance." [Ref-04]

**FA-20.** Agenda Item 10, "Recommendation to Approve the Stipulation, and Adopt the Decision and Order Regarding Complaint Number P2012-06" from the Commission's meeting agenda of April 19, 2013, included the information shown below.

- The Investigating Attorney stated, "This case is one of several complaints from this election cycle that suggest that additional education and perhaps more technical assistance for candidates and treasurers may be necessary to promote compliance with the Ordinance."
- A letter presented as part of the resolution for the complaint from a campaign treasurer stated: "I have tried for several years to work in Ventura County and navigate my way through your ordinance. I have over 100 clients throughout the State, therefore I have many ordinances to read, understand, and comply with. BY FAR Ventura County is the most difficult to understand and comply with. It is, in my opinion, set up for failure, instead of the absolute desire to help candidates and treasurers comply. When calling ROV [Registrar of Voters] to get opinions staff, while they are wonderful and good intentioned, will say it is my interpretation and County Counsel will not respond (at least they have not in the past (2010))." The letter concluded by the treasurer expressing "no desire to work with this Ordinance in Ventura County again."

[Ref-04]

## **Findings**

**FI-01.** The process used to revise the ordinance failed to proactively include stakeholders. In fact, the process ignored, without any comment, issues and concerns when available from stakeholders. As a result, Ordinance 4453 addresses "questions and concerns that arose in the last campaign cycle" from a narrow, if not singular, view. It also fails to meet the goal to "increase the clarity and consistency of the Ordinance"; adds confusion to an ordinance already criticized for being complex; and increases the uncertainty and potential cost of enforcing the ordinance. Examples of

substantive issues identified by stakeholders that concerned the Grand Jury and were not adequately explained are listed below.

- The reduction in allowed time periods for the Initial Reviewer and Investigating Attorney to complete their tasks is unreasonable, probably unachievable, and in the words of one stakeholder “unworkable.” Given the history of multiple complaints being filed on the same day, the County would need more than a single Initial Reviewer and a single Investigating Attorney under contract to have any potential to comply with the reduced review and investigation durations. Hypothetically but plausibly, the Initial Reviewer and Investigating Attorney could work around these limits by recommending more complaints for investigation and evidentiary hearings, respectively. This would result in longer time periods to resolve a complaint and higher costs for the County.
- The addition of the definition of “violator” places those responsible for enforcing Ordinance 4453 at risk of being in violation if they fail to achieve statutory performance. In fact, some stakeholders requested the same immunity from monetary penalties to no avail. For example, if the Initial Reviewer and Investigating Attorney cannot complete their tasks in the designated time periods, then they are technically violators. Beyond that, Ordinance 4453 becomes undefined. Who must file a complaint against the Initial Reviewer and the Investigating Attorney? What process is used to handle these complaints? This issue evokes these questions and more that are unanswered in Ordinance 4453.
- The requirement that the Initial Reviewer and Investigating Attorney must confer with the complainant as part of their investigation interferes with the fair and objective performance of their duties. The complainant is not neutral with respect to the issues. This provision gives the complainant a mandated opportunity to influence the complaint process. Inadvertently, this requirement gives the County Clerk increased influence in the complaint process, since that office is the complainant of record in most of the complaints filed.
- Text inserted into Ordinance 4453 stated that the Investigating Attorney should possess “a dedication to impartial and exacting enforcement of the terms of the ordinance” and that the Commissioners “should be committed to fully understanding the goals of the ordinance and to protecting the public’s right to have timely access to appropriate campaign information by ensuring the full and fair enforcement of the provisions of this ordinance.” This wording carries an implied criticism of the Investigating Attorney and the Commissioners in the last election cycles. It remains unclear why it was necessary to include these statements in Ordinance 4453.

(FA-01, FA-02, FA-03, FA-04, FA-05, FA-06, FA-07, FA-08, FA-09, FA-10, FA-14, FA-17, FA-18, FA-19, FA-20)



- FI-02.** The expressed pressing need to propose ordinance changes on May 14, 2013, then vote to enact those changes just a week later to support the upcoming election cycle, was unnecessary. With the important exception of those ordinance changes related to campaign contributions, the bulk of the proposed changes were related to the processing of complaints. The elective offices affected by Ordinance 4453 were a year away. Time was available to solicit and address, in public, stakeholder comments affecting the complaint process given the eight month delay to align the Commission's procedures with Ordinance 4453. (FA-11, FA-12)
- FI-03.** If the intent of the ordinances is to reduce the influence of money on elections, raising expenditure limits for the general election in Ordinance 4453 from those in Ordinance 4429 by 34.41% and 20.77% for the Supervisor and Countywide offices, respectively, appears to undermine that goal. This is especially true given raises to expenditure limits for the primary election for the Supervisor and Countywide offices of 7.53% and 4.67%, respectively. (FA-04, FA-13)
- FI-04.** The changes made in Ordinance 4453 to provide better disclosure appear to be a solution to a nonexistent problem given the Stipulation results from the past two campaign cycles. Most violations of the campaign finance ordinance appear to stem from not understanding the County's ordinance and its unique requirements. The analysis of the Stipulations indicates the number of complaints in an election cycle was low and disclosure of contributions and expenditures was provided in a timely manner via FPPC forms. Fines were low to the point of being inconsequential because the infractions were inadvertent failures to comply, not intentional violations; and many attributed violations to a lack of understanding of the ordinance with no resource in place to provide advice on it. (FA-05, FA-14)

## **Recommendations**

- R-01.** The Grand Jury recommends, in the short term, that the Board of Supervisors review Ordinance 4453, including a thorough stakeholder review. The review should address the issues raised by stakeholders and modify Ordinance 4453 by deleting problematic changes and/or making revisions to clarify the process. The resolution of the issues raised or an explanation of why the issues are not problematic should be made available to the public. (FI-01, FI-02, FI-03)
- R-02.** The Grand Jury recommends that the Board of Supervisors provide a "help resource" for those seeking information on the details of the ordinances and how to comply. This help resource should represent the official and legal interpretation of the ordinances upon which the complaint proceeding will be based. It should be under the umbrella of the Commission. (FI-04)
- R-03.** The Grand Jury recommends, in the long term, that the Board of Supervisors organize a full review of the ordinance to determine if the

current ordinance can be simplified or if an entirely new ordinance needs to be written. The review of the ordinances should include the aspects below.

- The goals of the ordinance should be clearly stated by the Board of Supervisors.
- An independent attorney with expertise in campaign finance laws in the State should generate the draft ordinance.
- The focus should be on a simplified ordinance and on minimizing County-unique requirements beyond those required by the FPPC. When possible, the ordinance should make use of information filed using FPPC forms with little or no need for unique County filings.
- Measurements derived from the characteristics of complaints and the performance of the complaint process should be defined, collected, analyzed, and used as the basis for future ordinance revisions.
- All ordinance drafts should be subject to review by the stakeholders. Any issues should be documented, resolved, and made available to the public.

(FI-01, FI-02, FI-03, FI-04)

## **Responses**

### Responses required from:

Supervisor, District 1, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

Supervisor, District 2, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

Supervisor, District 3, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

Supervisor, District 4, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

Supervisor, District 5, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

Clerk and Recorder, County of Ventura (FI-01, FI-02, FI-03, FI-04) (R-01, R-02, R-03)

### Responses requested from:

Chief Executive Officer, County of Ventura (FI-01, FI-02) (R-01, R-02, R-03)

## **References**

**Ref-01.** County of Ventura. *Ordinance No. 4453 Amendments to an Ordinance of the Ventura County Board of Supervisors, Repealing and Reenacting Article 6, Chapter 2, Division 1 of the Ventura County Ordinance Code,*

Section 1261 Et Seq., Regarding Local Campaign Finance Reform  
[http://elections.countyofventura.org/campaignfinance/public\\_docs/Ordinance\\_No\\_4453.pdf](http://elections.countyofventura.org/campaignfinance/public_docs/Ordinance_No_4453.pdf) (accessed February 18, 2014)

- Ref-02.** Board of Supervisors. *Regular Meeting Agenda May 14, 2013*, County of Ventura. <http://bosagenda.countyofventura.org/sirepub/pubmtgframe.aspx?meetid=492&doctype=agenda> (accessed February 18, 2014)
- Ref-03.** Board of Supervisors. Support Documents for the *Regular Meeting Agenda May 14, 2013*, County of Ventura. [Recommendation of Supervisors Bennett and Long to Adopt Revisions to the Ventura County Campaign Finance Reform Ordinance; Read Ordinance in Title Only and Set the Second Hearing and Adoption of the Final Ordinance for May 21, 2013, at 11:00 a.m.](#) (accessed February 18, 2014)
- Ref-04.** Campaign Finance Ethics Commission. *Meeting Agenda Ventura County Campaign Finance Ethics Commission April 19, 2013*, County of Ventura. [http://ventura.granicus.com/DocumentViewer.php?file=ventura\\_6a226b40721ee855ccb98836087c4598.pdf&view=1](http://ventura.granicus.com/DocumentViewer.php?file=ventura_6a226b40721ee855ccb98836087c4598.pdf&view=1) (accessed February 18, 2014)
- Ref-05.** Board of Supervisors. *Regular Meeting Agenda February 5, 2013*, County of Ventura. [http://ventura.granicus.com/DocumentViewer.php?file=ventura\\_605b6ab6103172622a20089bffaef7448.pdf&view=1](http://ventura.granicus.com/DocumentViewer.php?file=ventura_605b6ab6103172622a20089bffaef7448.pdf&view=1) (accessed February 18, 2014)
- Ref-06.** Board of Supervisors. *Regular Meeting Agenda January 28, 2014*, County of Ventura. [http://ventura.granicus.com/DocumentViewer.php?file=ventura\\_ce65f0d6f4717c087d097047cf513086.pdf&view=1](http://ventura.granicus.com/DocumentViewer.php?file=ventura_ce65f0d6f4717c087d097047cf513086.pdf&view=1) (accessed February 18, 2014)
- Ref-07.** Campaign Finance Ethics Commission. *CFEC Notices* <http://www.ventura.org/campaign-finance-ethics-commission/campaign-finance> (accessed March 13, 2014)
- Ref-08.** Campaign Finance Ethics Commission. *Meeting Agenda Ventura County Campaign Finance Ethics Commission January 18, 2013*, County of Ventura. [http://ventura.granicus.com/DocumentViewer.php?file=ventura\\_9eac8b7c049c069542e0612c99dc2964.pdf&view=1](http://ventura.granicus.com/DocumentViewer.php?file=ventura_9eac8b7c049c069542e0612c99dc2964.pdf&view=1) (accessed February 18, 2014)

## **Glossary**

**TERM****DEFINITION**

|                             |   |
|-----------------------------|---|
| CEO                         | County Executive Office   |
| Commission                  | Ventura County Campaign Finance Ethics Commission   |
| County                      | Ventura County  |
| FPPC                        | California Fair Political Practices Commission  |
| FY                          | Fiscal Year   |
| Grand Jury                  | 2013-2014 Ventura County Grand Jury   |
| Help resource               | A resource that provides clarification on the requirements and processes imposed by the campaign finance ordinance as well as instructions on using County electronic filing applications. An example of a help resource is described in the FPPC document, "How Do I get Advice from the FPPC?" at <a href="http://www.fppc.ca.gov/pdf/advice.pdf">http://www.fppc.ca.gov/pdf/advice.pdf</a> |
| ICRA                        | Initial Complaint Review Attorney   |
| Non-Participating Candidate | A candidate who has not agreed to limit his or her expenditures pursuant to Section 1265 of Ordinance 4453  |
| Ordinance 4429              | Ventura County Campaign Finance Ordinance No. 4429 (May 2011)   |
| Ordinance 4453              | Ventura County Campaign Finance Ordinance No. 4453 (May 2013)   |
| Participating Candidate     | A candidate who has agreed to limit his or her expenditures pursuant to Section 1265 of Ordinance 4453  |
| Respondent                  | A person or organization that has allegedly violated the campaign finance ordinance   |
| Stakeholders                | The persons who play a role in the enactment and/or execution of the County's campaign finance ordinance  |
| State                       | State of California   |
| Stipulation                 | A negotiated agreement of a campaign finance complaint between the Commission and the Respondent  |