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VENTURA COUNTY  
GRAND JURY

### Response to Grand Jury Report Form

Report Title: Ventura County Campaign Finance Ordinance

Report Date: April 8, 2014

Response by: Linda Parks Title: Supervisor, District 2

#### FINDINGS

- I (we) agree with the findings numbered: \_\_\_\_\_
- I (we) disagree wholly or partially with the findings numbered: F1, F2, F3, F4  
*(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)*

#### RECOMMENDATIONS

- Recommendations numbered \_\_\_\_\_ have been implemented.  
*(Attach a summary describing the implemented actions.)*
- Recommendations numbered \_\_\_\_\_ have not yet been implemented, but will be implemented in the future.  
*(Attach a timeframe for the implementation.)*
- Recommendations numbered \_\_\_\_\_ require further analysis.  
*(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)*
- Recommendations numbered R-01, R-02, R-03 will not be implemented because they are not warranted or are not reasonable.  
*(Attach an explanation.)*

Date: 6/5/14 Signed: Linda Parks

Number of pages attached 8



**BOARD OF SUPERVISORS  
COUNTY OF VENTURA**

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June 4, 2014

The Honorable Brian J. Back  
Presiding Judge, Superior Court of California  
County of Ventura  
800 S. Victoria Avenue  
Ventura, CA 93009

Re: Response to Grand Jury Report - "Ventura County Campaign Finance Ordinance"

Honorable Judge Back,

I've been asked to respond to the Ventura County Grand Jury's 2014 report "Ventura County Campaign Finance Ordinance" findings FI-01, FI-02, FI-03, FI-04, and recommendations R-01, R-02, R-03. Please find attached the check sheet and explanations as requested.

Overall, at a time when unprecedented amounts of money are being funneled into political action committees (PACs) that dominate campaigns and fail to disclose donors, it is disquieting that the Ventura County Grand Jury report recommends efforts that would result in minimizing the effectiveness of our County's campaign finance ordinance.

Sincerely,

Linda Parks  
Ventura County Supervisor, District 2

**FI-01<sup>1</sup>:** The findings put forward in the Grand Jury report are generally not weighed against the overarching goals of transparency, fair elections, and effectiveness in carrying out the intent of the Ordinance. In particular finding FI-01 discounts the public hearing process, the reasons for amendments, and the need for timely notice.

The Board of Supervisors agreed from the outset to view the Campaign Finance Ordinance as a “living document.” Amendments to the Ordinance are considered by the Board of Supervisors in public hearings approximately every two years. During these hearings stakeholder input including testimony and letters are considered.

While the Grand Jury report defines stakeholders as “the persons who play a role in the enactment and/or execution of the County’s campaign finance ordinance” the

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<sup>1</sup> 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) 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)”

report loses sight of the very important fact that the true stakeholders are the voters.

The Grand Jury report criticizes the latest changes to the Ordinance stating they were limited to “concerns that arose in the last campaign cycle.” The report does not consider that in almost every election since contribution limits were enacted there have been efforts by some to skirt the law to gain an unfair advantage. The Ventura County Campaign Finance Ordinance has been refined through amendments based on experiences gained in County elections. For example, circumstances in the 2012 election inspired changes to the Ordinance in 2013 to ensure that campaign financial statements of PACs are posted in a timely manner on the County’s website (Sections 1279c and 1276). These changes were adopted by a super-majority of the Board of Supervisors and reflected the majority’s view, not a singular view.

Despite the Grand Jury finding to the contrary, the 2013 amendments actually did “increase the clarity and consistency of the Ordinance” including the clarifying sentence added to Section 1262 that “The purpose of this ordinance is also to promote the timely and accurate release of appropriate campaign finance information before an election so that the public has knowledge of this information before voting.”

**FI-02<sup>2</sup>:** This finding, if followed, would have resulted in members of the Board of Supervisors revising the Campaign Finance Ordinance at the same time they were candidates governed by the Ordinance. As such, this finding is inappropriate and would create a conflict of interest.

The finding states, “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...The elective offices affected by Ordinance 4453 were a year away. Time was available to solicit and address, in public, stakeholder comments....”

Revisions to the Campaign Finance Ordinance are purposely done at times when members of the Board of Supervisors are not campaigning. For example, a member of the Board of Supervisors who was up for re-election in the June 3, 2014 election

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<sup>2</sup> 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)”

began fundraising June 3, 2013 (when fundraising is legally allowed per Section 1280). Having the changes to the Ordinance approved by May 21, 2013 avoided a potential conflict of interest for this Board member.

It is appropriate that the Board of Supervisors not engage in efforts to revise the campaign law when its members are candidates governed by it. This precaution is not “unnecessary” as the Grand Jury report finds, but necessary to avoid conflicts of interest.

**FI-03<sup>3</sup>:** This finding, regarding increasing the financial limits, does not consider the need to reduce the impact of big money on non-benefiting candidates.

Candidates can be outspent 2 to 1, 5 to 1 and even 10 to 1 by well-funded special interests. In 2010 one PAC spent over \$500,000 in a supervisor district election. The purpose of recent changes to the Ordinance that 1) reduced the threshold when a candidate is released from voluntary spending limits, 2) increased the money a candidate can raise per contributor, and 3) increased how much a candidate can spend, are intended to give all candidates the same advantages and opportunities to communicate with voters. The amounts are comparable with other jurisdictions and do not compromise the effectiveness of the Ordinance. While the Grand Jury report finding is critical of the increased thresholds saying it undermines the goal of reducing the influence of money on elections, the basis of the change is to ensure that big money doesn't win the day.

**FI-04<sup>4</sup>:** This finding that “better disclosure” in the recent amendment to the Ordinance appears to be a “solution to a nonexistent problem” does not grasp that the improved disclosure requirements furthers the goal of allowing voters to know where campaign contributions are coming from before they vote.

The recent amendment (Ordinance 4453) to the Campaign Finance law includes the requirement to post the campaign financial statements of PACs on the County

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<sup>3</sup> 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)”

<sup>4</sup> 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)”

Elections Division's website and to do so in a timely manner (Sections 1276, 1279, 1302e). Electronic disclosure is particularly effective because it is quick, easy and allows for broad dissemination of information.

The recent amendment also included a revision to Section 1290 that increases disclosure of contributors on the actual mailers and advertisements paid for by Independent Expenditure Committees.

These new requirements provide better disclosure to help voters follow the money of PACs.

Recent changes in the Ordinance that emphasized timely notice will also help even the playing field in future elections. For example, it was found in the 2012 election cycle that candidates who voluntarily limit their expenditures are distinctly disadvantaged without timely notice that the expenditure limits are lifted for them. Spending limits are lifted for those candidates when significant amounts of money are suddenly being spent by PACs or non-participating candidates. If participating candidates (those who voluntarily limit their spending) aren't notified that the expenditure limits have been lifted for them, they risk losing the election by unwittingly holding to the spending limit. Providing timely information solves a real problem experienced by candidates faced with last minute spending decisions.

Finding FI-04 that added disclosures were "a solution to a nonexistent problem" is an example of the lack of understanding of the need for transparency.

**R-01**<sup>5</sup>: This recommendation that the Board of Supervisors initiate, in the short-term, a review including a thorough stakeholder review of the Ordinance is unnecessary since there are sufficient opportunities for review within the existing process.

The Campaign Finance Ordinance is presented for public input during public hearings more often than most ordinances in the county. As such, there are ample opportunities to offer input for revising the Ordinance. In addition, input on changes can also be made at the Ethics Commission that also provides recommendations on revisions to the Ordinance to the Board of Supervisors.

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<sup>5</sup> 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) "

The portion of this Grand Jury recommendation calling for short-term action does not consider the current election cycle that extends another eight months. As mentioned in the above response to FI-02, members of the Board of Supervisors are currently candidates and able to raise money under the requirements dictated by the Ordinance and should not look to revise the Ordinance during their election cycle.

**R-02<sup>6</sup>:** This recommendation for the Board of Supervisors to provide a "help resource" could be accommodated without a Board action by having those whose questions can't be answered by the Elections Division referred to the Ethics Commission's staff attorney.

**R-03<sup>7</sup>:** In summary, if the County were to follow this Grand Jury recommendation that the Campaign Finance Ordinance be "simplified" and focus on "minimizing County-unique requirements beyond those required by the FPPC" (Fair Political Practices Commission):

- 1) We would have no campaign contribution limits.
- 2) We would have no incentives against unlimited spending.
- 3) We would have no timely on-line filing requirements that help voters follow the money during elections.
- 4) We would return to having ineffective regulations to deter those campaigns that refuse to disclose their funders and expenditures during elections.
- 5) Voters would have less ability to follow the money and learn who is funding campaigns.

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<sup>6</sup> 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)"

<sup>7</sup> 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)"

All five of these reforms go beyond those required by the FPPC laws. Minimizing non-FPPC requirements would eviscerate the County Ordinance which supplements the FPPC requirements.

Specifically, the FPPC does not limit the amount of campaign contributions that an individual or organization can give to a county candidate. There are State contribution limits for State candidates and Federal contribution limits for Federal candidates, but it is up to individual cities and counties to choose whether to institute contribution limits.

Limits on contributions help reduce the influence special interests can have on elected officials, and therefore on government. The 2003 amendment establishing contribution limits has been effective. No longer can contributors give \$10,000's or even \$100,000's to a candidate who will do their bidding. At a time when millionaires and even billionaires are willing to "spend what it takes" to ensure their candidate wins, it is even more important that we hold to our effective law and not throw it out and write a new one, as the Grand Jury report recommends.

In an attempt to control spending, the 2003 law also has another requirement that goes beyond what the FPPC requires, a measure aimed at reducing how much money a candidate can spend. Respecting the fact that courts have voided laws that limit campaign spending, the 2003 amendment offers an incentive to candidates who *voluntarily* limit their expenditures. The incentive gives candidates who agree to voluntarily limit their expenditures the benefit of a higher cap on how much they can receive per contributor.

Another County requirement that goes beyond what the FPPC requires is an increased fine for late filing. This increased penalty (up to \$5,000 per violation and/or a fine of up to three times the amount or value not properly reported or improperly received or expended) is a deterrent to late filing. The need for it was evident in the 2002 county supervisor election when a PAC ran a series of attack ads and never disclosed how much they spent or where they got their money-- until well after the election was over. This PAC chose to deliberately file their committee formation papers and financial reports late, knowing the FPPC only fined committees \$10 a day for late reporting. It was worth \$300 for this PAC to spend over \$61,000 and not report it until 30 days after the election.

The FPPC law with its \$10 a day fine was not a deterrent. Additionally, the recent amendment (Ordinance 4453, Section 1300) emphasizes the more serious nature of these violations when they occur in the last eight weeks of an election. These effective deterrents against those who willfully fail to disclose were added to the Ordinance to bring needed transparency. Yet the Grand Jury report discourages

“County-unique requirements beyond those required by the FPPC” and instead encourages a “simplified ordinance.”

The County’s Finance Campaign Ordinance could be simpler. We could not have a contribution limit, or tie contributions to a voluntary spending cap, or require timely electronic reporting. We could have no enforcement body for the law, or any greater penalties than the FPPC fine of \$10 a day when campaigns spend \$60,000 attacking candidates then hide their identity until after the election.

Following the money is one thing the public still has a right to do. It helps discern the truth in campaigns. Attempts by campaigns to buy elections and hide their funding sources are nothing new. Ventura County’s campaign law that deters these actions continues to evolve to address continual attempts to do end runs around the law.

One of the reasons campaign laws are complex is that it takes a concerted effort to eliminate loopholes sought by candidates and PACs and also to ensure the law remains constitutional.

Ventura County’s law is consistent with other campaign reform laws, including the Los Angeles County Campaign Finance Ordinance. Unless the Grand Jury has suggestions on other ways to require transparency and limit big money’s undue influence in elections, recommending the law be simplified or thrown out and a new one written is unreasonable and not warranted. Following the recommendations in the Grand Jury report would undermine the goals of transparency and fairness in County elections.