



October 31, 2018

HONORABLE MAYOR AND CITY COUNCIL  
Santa Clara, CA

**RE: Review of Santa Clara Chamber of Commerce Political Action Committee (SCCCPAC) Campaign Disclosure Filings, 2015 through 2018**

To Honorable Mayor and City Council:

The following completes review of the SCCCPCAC Campaign Disclosure Filings for 2010-2018. Attachment 1 includes the City Clerk and City Auditor review for the period 2010-2014.

Table 1 in this report confirms the **potential for minimum fines of \$43,250** due from the SCCCPCAC for (1) Late Filings and (2) Failure to File with the City of Santa Clara. This report is being forwarded to the Fair Political Practices Commission (FPPC).

**PURPOSE**

The purpose of this report is to provide the City Clerk and City Auditor's analyses and findings of the SCCCPCAC FPPC Campaign Disclosure Forms from 2015 through 2018. A copy of this report will also be forwarded to the FPPC.

**BACKGROUND**

See Attachment 1.

**DEFINITIONS**

See Attachment 1.

**SCOPE OF REVIEW**

See Attachment 1. Table 1, in this report, consolidates a summary of findings for the period 2010-2018 and includes a new column of Potential Fines.

The City Auditor reviewed the SCCCPCAC campaign disclosure forms that had been filed with the County of Santa Clara for the years beginning 2015 through the most recent filing (October 26, 2018), analyzing the following questions:

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1. Did the SCCCPC organize properly under Form 410: Statement of Organization of a committee with the County of Santa Clara, or should the SCCCPC have organized with the City of Santa Clara based on the percentage of contributions made to local candidates?
2. Has the SCCCPC been filing campaign disclosure forms appropriately with the County of Santa Clara or should the SCCCPC have been filing these disclosure forms with the City of Santa Clara?

**FACTS**

See Attachment 1. This review established the following additional facts:

1. From 2010 to 2018, SCCCPC, designating itself as a County General Purpose Organization, has been filing campaign disclosure forms with the County of Santa Clara rather than with the City of Santa Clara.
2. During the course of our review, on the morning of October 31, 2018, the SCCCPC filed a Form 496, Independent Expenditure Report, which reflected expenditures for \$11,650 for postage, bulk mailing, and graphic design for a mailer. These expenditures would need to be reflected in the final Form 460, Campaign Statement, for the campaign disclosure period by early 2019 and are not reflected in the Form 460, Campaign Statement, analysis in the Findings section of this report.

**CITY CLERK AND CITY AUDITOR FINDINGS AND POTENTIAL VIOLATIONS**

Based on FPPC Regulations, FPPC definitions for County and City General Purpose Committees, and the above set of facts, each of the SCCCPC campaign disclosure form filings were analyzed to determine whether contributions or expenditure activity meet the definition of County General Purpose Committee or City General Purpose Committee.

**FINDING 1 –**

**Year 2015** – SCCCPC reported \$8,848 in expenditures for fundraising, professional fees, bank fees, and office supplies. Additionally, SCCCPC contributed \$300 to another State General Purpose Committee in 2015. The contribution amount did not exceed the annual \$5,000 threshold that would require SCCCPC to review its reporting jurisdiction. As such, SCCCPC should still continue to report under the General Purpose Committee that it has the most contributions with, which is a City General Purpose Committee with the City of Santa Clara. There is nothing on record of the SCCCPC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

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**Potential Violation 1**

The SCCCPCAC should have adjusted its General Purpose Committee filing from a County General Purpose Committee to a City General Purpose Committee in 2015 since the majority of SCCCPCAC's election costs in 2014 were for local (City of Santa Clara) candidates. There is nothing on record of the SCCCPCAC amending its designation to a City General Purpose Committee.

**FINDING 2 –**

**Year 2016** – SCCCPCAC reported \$62,136 in expenditures and contributions for the year. Expenditures and contributions consisted of \$44,433 in fundraising, bank fees, and professional services fees. Additionally, SCCCPCAC expended \$17,703 in election contributions supporting three council candidates, a city clerk and a police chief of the City of Santa Clara and two other County of Santa Clara candidates.

**Potential Violation 2**

The SCCCPCAC contributed 95.1% (\$16,831) of its total contribution (\$17,703) to support City of Santa Clara candidates in 2016. The remaining 4.9% (\$872) was split between two candidates running for school board and school trustee within the County of Santa Clara.

The SCCCPCAC should have adjusted its General Purpose Committee filing from a County General Purpose Committee to a City General Purpose Committee since 95.1% of SCCCPCAC's election costs were for local (City of Santa Clara) candidates. There is nothing on record of the SCCCPCAC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

**FINDING 3 –**

**Year 2017** – The SCCCPCAC reported \$25,634 in expenditures on fundraising and office supplies. Additionally, SCCCPCAC did not have any election contributions or expenditures in 2017.

**Potential Violation 3**

The SCCCPCAC should have adjusted its designation from a County General Purpose Committee to a City General Purpose Committee in 2016 based on SCCCPCAC's 95.1% election contribution percentages in 2016 in the City of Santa Clara elections. There is nothing on record of the SCCCPCAC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

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**FINDING 4 –**

**Year 2018** – SCCCPAC reported \$18,198 in expenditures and contributions for the year. Expenditures and contributions consisted of \$15,033 in fundraising, bank fees, and professional services fees. Additionally, SCCCPAC expended \$3,165 in election contributions supporting one council candidate, city clerk and mayor of the City of Santa Clara **[SEE NOTE BELOW REGARDING 10/31/2018 FORM 496 FILING OF NEW EXPENDITURES IN AMOUNT OF \$11,650]** and two other County of Santa Clara candidates.

As such, SCCCPAC should still continue to report under the General Purpose Committee that it has the most contributions with, which is a City General Purpose Committee with the City of Santa Clara. There is nothing on record of the SCCCPAC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

**Potential Violation 4**

The SCCCPAC should have adjusted its General Purpose Committee filing from a County General Purpose Committee to a City General Purpose Committee since the majority of SCCCPAC's election costs dating back to 2010 (see City Clerk and City Auditor Report dated October 29, 2018, Attachment 1) were for local (City of Santa Clara) candidates and, our review revealed, the SCCCPAC never met the 70% election contribution threshold to qualify as a County General Purpose Committee. Our review did confirm that the SCCCPAC always met the 70% election contribution threshold to qualify as a City General Purpose Committee. There is nothing on record of the SCCCPAC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

***Note: During the course of our review, the SCCCPAC filed a Form 496, Independent Expenditure Report, which reflected expenditures for \$11,650 for postage, bulk mailing, and graphic design for a mailer. These expenditures would need to be reflected in the final Form 460, Campaign Statement, for the campaign disclosure period by early 2019.***

***The above activity would qualify expenditures above the 70% threshold, requiring once again that the SCCCPAC should amend its Form 410, Statement of Organization, from a County General Purpose Committee to a City General Purpose Committee.***

**SUMMARY FINDINGS**

Based on the contribution percentages from 2010 through 2018, the SCCCPAC should have designated itself as a City General Purpose Committee and thereafter should have filed all FPPC campaign disclosure forms with the City of Santa Clara's City Clerk's Office. The below findings show that the SCCCPAC should have designated itself as a City General Purpose Committee, not a County General Purpose Committee. There is

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no amended Form 410, Statement of Organization, for all the years reviewed, 2010 through 2018. It should be noted that SCCCPAC is still out of compliance with properly designating itself as a City General Purpose Committee.

The pattern of SCCCPAC's failure to file as a City General Purpose Committee has existed since 2010 and has continued through the date of the issuance of this review, with a pattern of contributing to City of Santa Clara elections for amounts higher than the 70% threshold without any record of the SCCCPAC's Treasurer due diligence to correct its jurisdiction from a County General Purpose Committee to a City General Purpose Committee.

**Table 1: Summary of SCCCPAC Contribution and Expenditures (by %) – 2010 through 2018**

<b>Year</b>	<b>% in County of Santa Clara</b>	<b>% in City of Santa Clara</b>	<b>Potential Fines</b>	<b>Comments/Notes</b>
<b>2010</b>	0	100%	<i>Pending FPPC Review against statute of limitations.</i>	SCCCPAC met the 70% contribution threshold for the City General Purpose Committee and therefore should have amended its designation from the County General Purpose Committee to a City General Purpose Committee by early 2011.
<b>2011</b>	n/a	n/a	<i>Pending FPPC Review against statute of limitations.</i>	No election. SCCCPAC reported fundraising expenditures with the County.
<b>2012</b>	17.7%	82.3%	<i>Pending FPPC Review against statute of limitations.</i>	1. There is no SCCPAC filing for the period of October 21 through December 2012 on file at the County of Santa Clara or City of Santa Clara. <b>A review for Failure to File should be completed against the statute of limitations.</b>  2. SCCCPAC met the 70% contribution threshold for the City General Purpose Committee and therefore should have amended its designation from the County General Purpose Committee to a City General Purpose Committee by early 2011. A quarterly due diligence review was required by the SCCCPAC Treasurer along with an amended Form 410.
<b>2013</b>	n/a	n/a	<i>Pending FPPC Review against statute of limitations.</i>	No election. SCCCPAC reported fundraising expenditures with the County.

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<b>2014</b>	6.8%	93.2%	<p>Fine 1: Late Filing Fee, Annual minimum \$3,650</p> <p>Fine 2: Failure to File, \$5,000</p> <p><b>Total Fines: \$8,650 minimum</b></p> <p>Note: The total fine minimum is subject to further determination against Government Code Section: 82018 (a) Except as provided in subdivisions (b), (c), and (d), “cumulative amount” means the amount of contributions received or expenditures made in the calendar year.</p>	SCCCPAC met the 70% contribution threshold for the City General Purpose Committee and therefore should have amended its designation from the County General Purpose Committee to a City General Purpose Committee by early 2011. A quarterly due diligence review was required by the SCCCPC Treasurer along with an amended Form 410.
<b>2015</b>	n/a	n/a	<p>Fine 1: Late Filing Fee, Annual minimum \$3,650</p> <p>Fine 2: Failure to File, \$5,000</p> <p><b>Total Fines: \$8,650 minimum</b></p> <p>Note: The total fine minimum is subject to further determination against Government Code Section: 82018 (a) Except as provided in subdivisions (b), (c), and (d), “cumulative amount” means the amount of contributions received or expenditures made in the calendar year.</p>	SCCCPAC’s contribution amount was under \$5,000; therefore a quarterly due diligence review was not required by the SCCCPC Treasurer.
<b>2016</b>	4.9%	95.1%	<p>Fine 1: Late Filing Fee, Annual minimum \$3,650</p> <p>Fine 2: Failure to File, \$5,000</p> <p><b>Total Fines: \$8,650 minimum</b></p> <p>Note: The total fine minimum is subject to further</p>	SCCCPAC met the 70% contribution threshold for the City General Purpose Committee and therefore should have amended its designation from the County General Purpose Committee to a City General Purpose Committee by early 2011. A quarterly due diligence review was required by the SCCCPC Treasurer along with an amended Form 410.

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			determination against Government Code Section: 82018, (a) Except as provided in subdivisions (b), (c), and (d), "cumulative amount" means the amount of contributions received or expenditures made in the calendar year.	
<b>2017</b>	n/a	n/a	<p>Fine 1: Late Filing Fee, Annual minimum \$3,650</p> <p>Fine 2: Failure to File, \$5,000</p> <p><b>Total Fines: \$8,650 minimum</b></p> <p>Note: The total fine minimum is subject to further determination against Government Code Section: 82018, (a) Except as provided in subdivisions (b), (c), and (d), "cumulative amount" means the amount of contributions received or expenditures made in the calendar year.</p>	No election. SCCCPC reported fundraising expenditures with the County.
<b>2018</b>	n/a	n/a	<p>Fine 1: Late Filing Fee, Annual minimum \$3,650</p> <p>Fine 2: Failure to File, \$5,000</p> <p><b>Total Fines: \$8,650 minimum</b></p> <p>Note: The total fine minimum is subject to further determination against Government Code Section: 82018 (a) Except as provided in subdivisions (b), (c), and (d), "cumulative amount" means the amount of contributions received or expenditures made in the calendar year.</p>	<p>During the course of our review, the SCCCPC filed a Form 496, Independent Expenditure Report, which reflected expenditures for \$11,650 for postage, bulk mailing, and graphic design for a mailer. These expenditures would need to be reflected in the final Form 460, Campaign Statement, for the campaign disclosure period by early 2019.</p> <p>The above activity would qualify expenditures above the 70% threshold, requiring once again that the SCCCPC should amend its Form 410, Statement of Organization, from a County General Purpose Committee to a City General Purpose Committee.</p>

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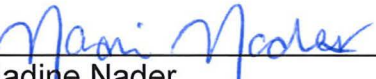
**POTENTIAL FINES AND PENALTIES**

See Attachment 1.

The burden of correctly filing all FPPC disclosure forms per FPPC requirements is not placed on the Office of the City Clerk, City Auditor, City of Santa Clara, or County of Santa Clara.

**See Table 1, Potential Fines column amount to \$43,250.** Organizations engaged in activities that require the filing of these types of FPPC forms are responsible for making correct determinations about how to file their forms and in accordance with the FPPC requirements. **In this case, the Treasurer of SCCCPAC, Mr. David Tobkin, should have completed the FPPC required due diligence to “verify its filing jurisdiction quarterly at the end of March, June, September and December.”**

Issued on October 31, 2018, in the City of Santa Clara, to the Mayor and City Council by the City Clerk and City Auditor:

  
\_\_\_\_\_  
Nadine Nader  
Appointed City Clerk  
Elections Official

  
\_\_\_\_\_  
Linh Lam  
City Auditor

**Attachment:**

1. October 29, 2018, City Clerk and City Auditor Report re SCCCPAC Campaign Disclosure Filings





**City of  
Santa Clara**  
The Center of What's Possible

City Clerk & City Auditor  
**REPORT**

October 29, 2018

HONORABLE MAYOR AND CITY COUNCIL  
Santa Clara, CA

**RE: Response to City Council Inquiry on the Santa Clara Chamber of  
Commerce Political Action Committee (SCCCPAC) Campaign Disclosure  
Filings, 2010 through 2014**

To Honorable Mayor and City Council:

The following responds to the City Council's inquiry and direction made at the October 9, 2018 City Council meeting.

**PURPOSE**

The purpose of this report is to provide the City Clerk and City Auditor's analyses and findings of the SCCCPC Fair Political Practices Commission (FPPC) Campaign Disclosure Forms from 2010 through 2014. A copy of this report will also be forwarded to the FPPC for its further review and determination of accuracy of jurisdictional filings, as well as potential fines and penalties.

**BACKGROUND**

At the October 9, 2018 City Council meeting, Vice Mayor Kathy Watanabe requested information about the accuracy of a local media article (*Santa Clara News*, Attachment 1) relative to the SCCCPC's campaign disclosure filings with the Fair Political Practices Commission (FPPC). Staff was directed to report back whether the media article was correct regarding the absence of the SCCCPC campaign disclosure filings with the City for the years 2010 through 2014.

The *Santa Clara News* article noted that although the SCCCPC was an active organization that held political fundraisers and participated in support or opposition of local candidates and measures in the City of Santa Clara, the Office of the City Clerk appeared to not have any SCCCPC campaign disclosure filings for those specific years. Shortly after the October 9 City Council inquiry, another local media outlet, *Santa Clara Weekly/Silicon Valley Voice*, published an article by Carolyn Schuk, that provided

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a response to the previous *Santa Clara News* article and City Council inquiry (Attachment 2).

Staff has reviewed both media articles, along with the SCCCPAC campaign disclosure filings on file with the County of Santa Clara.

**DEFINITIONS**

The FPPC establishes definitions for both a County General Purpose Committee and a City General Purpose Committee, (FPPC Regulations, Chapter 2, Section 18227.5 (c)(1)(2)). The FPPC also provides regulations regarding the burden of review and verification for which jurisdiction to file the General Purpose Committee disclosure forms (Chapter 2, Section 18227.5 (d)(1)). The FPPC regulation places the burden on the SCCCPAC organization to file with the appropriate agency and to perform due diligence on a frequency established by the FPPC.

The definitions are as follows:

- (1) **City General Purpose Committee.** A “city general purpose committee” is a committee that makes more than 70 percent of its contributions or expenditures to support or oppose candidates or measures voted on in only one city, or in one consolidated city and county, including contributions to city general purpose committees in the same city or the same consolidated city and county.
- (2) **County General Purpose Committee.** A “county general purpose committee” is a committee that makes more than 70 percent of its contributions or expenditures to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county, including contributions to county general purpose committees in the same county.
- (3) **Review.** A general purpose committee shall verify its filing jurisdiction quarterly at the end of March, June, September and December. An existing general purpose committee that has not made contributions and/or expenditures of \$5,000 or more to support or oppose candidates or measures in the preceding quarterly time period is not required to review or change its status.

**SCOPE OF REVIEW**

The City Auditor reviewed the SCCCPAC campaign disclosure forms that had been filed with the County of Santa Clara for the years beginning 2010 through 2014, analyzing the following questions:

1. Did the SCCCPAC organize properly under Form 410: Statement of Organization of a committee with the County of Santa Clara, or should the SCCCPAC have

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organized with the City of Santa Clara based on the percentage of contributions made to local candidates?

2. Has the SCCCPAC been filing campaign disclosure forms appropriately with the County of Santa Clara or should the SCCCPAC have been filing these disclosure forms with the City of Santa Clara?

The City Clerk provided guidance on FPPC timelines, requirements and potential violations. The City Attorney also reviewed this report.

**FACTS**

The review established the following facts:

1. SCCCPAC provided a copy of their FPPC Statement of Organization Form 410 to the City Clerk designating itself as a County General Purpose Committee Organization in April 2010.
2. On May 4, 2010, former City Clerk, Rod Diridon Jr., provided a letter to the SCCCPAC acknowledging that their local filing officer was the County Registrar of Voters and, appropriately, also noted that “in some instances you may be obligated by the Elections Code to file with the City Clerk’s Office in the City of Santa Clara” (Attachment 3).
3. From 2010 to 2014, SCCCPAC, designating itself as a County General Purpose Organization, has been filing campaign disclosure forms with the County of Santa Clara rather than with the City of Santa Clara.
4. Since October 2014 through present, SCCCPAC has filed copies of the various required FPPC campaign disclosure forms and has maintained its designation as a County General Purpose Committee Organization, including:
  - Form 410: Recipient Committee Organization Statement
  - Form 460: Recipient Committee Campaign Statement Expenditure and Contribution Report
  - Form 496: 24-Hour Independent Expenditure Report
  - Form 497: 24-Hour Contribution Report

**CITY CLERK AND CITY AUDITOR FINDINGS AND POTENTIAL VIOLATIONS**

Based on FPPC Regulations, FPPC definitions for County and City General Purpose Committees, and the above set of facts, each of the SCCCPAC campaign disclosure form filings were analyzed to determine whether contributions or expenditure activity

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meet the definition of County General Purpose Committee or City General Purpose Committee.

**FINDING 1 –**

**Year 2010** – SCCCPCAC reported \$28,224 in expenditures for the year, which consists of \$1,224 for fundraising, professional fees, and office supplies. SCCCPCAC expended \$27,000 in election contributions supporting three City of Santa Clara council candidates. The SCCCPCAC's only contribution for the 2010 Election was to support three City of Santa Clara council candidates (\$27,000) which represents 100% of SCCCPCAC's total contribution to candidates.

**Potential Violation 1**

The SCCCPCAC's only contribution for the 2010 Election was to support three City of Santa Clara council candidates (\$27,000) which represents 100% of SCCCPCAC's total contribution to candidates. At that time, the SCCPCAC's status was a County General Purpose Committee and, based on its contributions, the SCCCPCAC should have changed its reporting committee status from a County General Purpose Committee to a City General Purpose Committee with the City of Santa Clara on the Statement of Organization form (Form 410).

A 100% SCCCPCAC contribution for candidates in the City of Santa Clara does not qualify as a County General Purpose Committee. The SCCCPCAC hit the 70% threshold during the fourth quarter of the reporting period and, upon that, should have amended their filing within the FPPC requirements. The FPPC regulation (see Definitions) states "A general purpose committee shall verify its filing jurisdiction quarterly at the end of March, June, September and December." The SCCCPCAC should have amended its Form 410 – Statement of Organization.

**FINDING 2 –**

**Year 2011** – The SCCCPCAC reported \$5,770 in expenditures for fundraising, professional fees, and office supplies. Additionally, SCCCPCAC did not have any election contributions or expenditures in 2011. There is nothing on record of the SCCCPCAC amending its designation to a City General Purpose Committee or any filings thereafter with the City of Santa Clara.

**Potential Violation 2**

The SCCCPCAC should have adjusted its General Purpose Committee filing from a County General Purpose Committee to a City General Purpose Committee in 2011 since all of SCCCPCAC's 2010 election costs were for local (City of Santa Clara) candidates. There is nothing on record of the SCCCPCAC amending its designation to a City General Purpose Committee. Additionally, the SCCCPCAC did not file any campaign disclosure forms thereafter with the City of Santa Clara.

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**FINDING 3(a) –**

**Year 2012** – SCCCPC reported \$35,264 in expenditures for the year. These expenditures and contributions consist of \$15,486 for fundraising, professional fees, and office supplies and \$19,778 in election cost supporting three City of Santa Clara council candidates and four other County of Santa Clara candidates. The SCCCPC contributed 82.3% (\$16,278) of its total contribution (\$19,778) to support three City of Santa Clara council candidates in 2012. The remaining 17.7% (\$3,500) was split between four candidates running for assembly and school board within the County of Santa Clara.

**FINDING 3(b) –**

The City Auditor has confirmed that the County of Santa Clara does not have a Campaign Disclosure Form on record from the SCCCPC for the period of time, October 21 through December 31, 2012. It appears that the SCCCPC did not comply with the FPPC established filing deadlines for this period.

**Potential Violation 3(a)**

The SCCCPC contributed 82.3% (\$16,278) of its total contribution (\$19,778) to support three City of Santa Clara council candidates in 2012. The remaining 17.7% (\$3,500) was split between four candidates running for assembly and school board within the County of Santa Clara.

At the time of these expenditures and contributions, the SCCCPC remained designated as a County General Purpose Committee. SCCCPC made more than 70% of its contributions or expenditures to support candidates in the City of Santa Clara. Based on its contributions, the SCCCPC should have changed its reporting committee status from a County General Purpose Committee to a City General Purpose Committee with the City of Santa Clara on the Statement of Organization form (Form 410).

An 82.3% SCCCPC contribution for candidates in the City of Santa Clara does not qualify as a County General Purpose Committee. The SCCCPC hit the 70% threshold during the fourth quarter of the reporting period and, upon that, should have amended their filing within the FPPC requirements. The FPPC regulation (see Definitions) states “A general purpose committee shall verify its filing jurisdiction quarterly at the end of March, June, September and December.” The SCCCPC should have amended its Form 410 – Statement of Organization and filed all disclosure forms thereafter with the City of Santa Clara.

**Potential Violation 3(b)**

Campaign disclosure form filings should be made during an election year according to the timelines established by the PFFC. The SCCPC filed its first semi-annual

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statements and subsequent pre-election statements through October 20, 2012. There is no SCCPAC filing for the period of October 21 through December 2012. The City Auditor and the City Clerk's Office has confirmed that the County of Santa Clara does not have a filing on record from the SCCCPAC for this period of time. It appears that the SCCCPAC did not comply with the FPPC established filing deadlines for this period.

**FINDING 4 –**

**Year 2013** – The SCCCPAC reported \$10,360 in expenditures on fundraising and office supplies. Additionally, SCCCPAC did not have any election contributions or expenditures in 2013.

**Potential Violation 4**

The SCCCPAC should have adjusted its designation from a County General Purpose Committee to a City General Purpose Committee in 2013 since 82.3% of SCCCPAC's 2012 election costs were for local (City of Santa Clara) candidates. There is nothing on record of the SCCCPAC amending its designation to a City General Purpose Committee. Additionally, the SCCCPAC did not file any campaign disclosure forms thereafter with the City of Santa Clara.

**FINDING 5 –**

**Year 2014** – SCCCPAC reported \$55,594 in expenditures and contributions for the year. Expenditures and contributions consisted of \$30,458 in fundraising, bank fees, and professional services fees. Additionally, SCCCPAC expended \$25,136 in election contributions supporting three City of Santa Clara council candidates and three other County of Santa Clara candidates.

**Potential Violation 5**

The SCCCPAC contributed 93.2% (\$23,419) of its total contribution (\$25,136) to support three City of Santa Clara council candidates in 2014. The remaining 6.8% (\$1,717) was split between three candidates running for assembly and school board within the County of Santa Clara.

At the time of these expenditures and contributions, the SCCCPAC remained designated as a County General Purpose Committee. SCCCPAC made more than 70% of its contributions or expenditures to support candidates in the City of Santa Clara. Based on its contributions, the SCCCPAC should have changed its reporting committee status from a County General Purpose Committee to a City General Purpose Committee with the City of Santa Clara on the Statement of Organization form (Form 410) and also should have filed required campaign disclosure forms thereafter with the City of Santa Clara.

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A 93.2% SCCCPAC contribution for candidates in the City of Santa Clara does not qualify as a County General Purpose Committee. The SCCCPAC hit the 70% threshold during the fourth quarter of the reporting period and, upon that, should have amended its campaign disclosure filing within the FPPC requirements. The FPPC regulation (see Definitions) states “A general purpose committee shall verify its filing jurisdiction quarterly at the end of March, June, September and December.” There is nothing on record of the SCCCPAC amending its designation to a City General Purpose Committee. Additionally, the SCCCPAC did not file any campaign disclosure forms thereafter with the City of Santa Clara.

**SUMMARY FINDINGS**

Based on the contribution percentages from 2010 through 2014, the SCCCPAC should have designated itself as a City General Purpose Committee and thereafter should have filed all FPPC campaign disclosure forms with the City of Santa Clara’s City Clerk’s Office.

Based on the City Auditor’s review, SCCCPAC did have more than 70% of its contributions or expenditures to support or oppose candidates or measures voted on in only one city (City of Santa Clara).

**Table 1: Summary of SCCCPAC Contribution and Expenditures (by %) – 2010 through 2014**

<b>Year</b>	<b>% in County of Santa Clara</b>	<b>% in City of Santa Clara</b>	<b>Comments/Notes</b>
<b>2010</b>	0	100%	
<b>2011</b>	0	0	No election. SCCCPAC reported fundraising expenditures with the County.
<b>2012</b>	17.7%	82.3%	There is no SCCCPAC filing for the period of October 21 through December 2012 on file at the County of Santa Clara or City of Santa Clara.
<b>2013</b>	0	0	No election. SCCCPAC reported fundraising expenditures with the County.
<b>2014</b>	6.8%	93.2%	

The above findings show that the SCCCPAC should have designated itself as a City General Purpose Committee. There is no amended Form 410 for the years reviewed, 2010 through 2014. It should be noted that SCCCPAC is still out of compliance with properly designating itself as a City General Purpose Committee. Given the above findings, a separate review is warranted for the years 2015 through 2018 (present).

**NEXT STEPS**

Upon the above findings and potential violations, the City Clerk’s Office contacted the FPPC to seek guidance on how to address the appropriate campaign disclosure filing



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status for the SCCCPC. Upon discussion with a representative from the FPPC, it was requested that the City forward the matter to the Enforcement Unit for review. Based on the City Auditor's findings, and City Clerk's confirmation, the attached filings are being sent to the FPPC for further review and determination.

**POTENTIAL FINES AND PENALTIES**

The burden of correctly filing all FPPC disclosure forms per FPPC requirements is not placed on the Office of the City Clerk, City Auditor, City of Santa Clara, or County of Santa Clara. Organizations engaged in activities that require the filing of these types of FPPC forms are responsible for making correct determinations about how to file their forms and in accordance with the FPPC requirements. In this case, the Treasurer of SCCCPC, Mr. David Tobkin, should have completed the FPPC required due diligence to "verify its filing jurisdiction quarterly at the end of March, June, September and December."

The law requires that when it is determined that filings have not been correctly filed, that fines and penalties will be applied. Given these findings, there is a potential for fines and penalties due to the absence of correctly filing these forms for the years 2010 through 2014.

**Late Fines:** According to Government Code Section California Government Code 91013 (a) and (b)), a late filing penalty of up to \$10 per day may be assessed for each day the statement is late. The FPPC or a local filing officer cannot extend a filing deadline. A committee may request a waiver of late fines assessed by the local filing officer or the Secretary of State.

**Failure to File:** Filing officers must refer committees to the FPPC or another enforcement agency if a committee fails to file a campaign statement. Administrative penalties of up to \$5,000 per violation may be assessed. (See Government Code Section 83116.) Committees fined by the FPPC Enforcement Division are listed on the FPPC website.

Issued on October 29, 2018, in the City of Santa Clara, to the Mayor and City Council by the City Clerk and City Auditor:



Nadine Nader  
Appointed City Clerk  
Elections Official



Linh Lam  
City Auditor



**HONORABLE MAYOR & CITY COUNCIL**

**RE:** Report and Findings – SCCCPC Filings (2010 – 2014)

October 29, 2018

Page 9 of 9

**Attachments:**

1. *Santa Clara News* article, dated October 9, 2018
2. *Santa Clara Weekly/Silicon Valley Voice*, dated October 11, 2018
3. City Clerk's Letter, dated May 4, 2010
4. NOT ATTACHED--FPPC Campaign Disclosure Forms for SCCCPC on file with the City Clerk's Office

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≡ Menu

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OCTOBER 9, 2018

## **REPORT: Santa Clara Chamber of Commerce PAC Failed to File Campaign Reports with City for Four Years**

By Robert Haugh

Tonight, the City Council will take the next step in finding someone to manage the Convention Center. They got rid of the **Santa Clara Chamber of Commerce** after an [audit showed mismanagement and malfeasance](#).

City staff also referred the info from the audit to the **IRS** and **California Fair Political Practices Commission (FPPC)**.

The City may have more stuff to look into.

According to our research, the Chamber failed to file FPPC reports with the City for four years! Yup. From April 2010 to October 2014 there are no reports with the City Clerk. The Chamber may have filed them with other agencies and forgot to file with the City. Oops.

Here's what's publicly available on the City site:

NetFile, Inc.					
152858711	Commerce Political Action Committee (PAC)	10/31/2014	FPPC 496	Original	
152858513	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/31/2014	FPPC 496	Original	
152858455	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/31/2014	FPPC 465	Original	
152858702	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/31/2014	FPPC 465	Original	
152858740	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/31/2014	FPPC 465	Original	
152858723	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/30/2014	FPPC 496	Original	
152788270	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/24/2014	FPPC 465	Original	



152776063	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/24/2014	FPPC 465	Original
152776106	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/24/2014	FPPC 465	Original
152775312	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/23/2014	FPPC 460	Original
152775959	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/23/2014	FPPC 496	Original
152775328	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/23/2014	FPPC 496	Original
152788539	Santa Clara Chamber of Commerce Political Action Committee (PAC)	10/23/2014	FPPC 496	Original
10233138	Santa Clara Chamber of Commerce Political Action Committee (PAC)	04/21/2010	FPPC 410	Original

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The last time that this type of violation was discovered was 2016. Then, former City Clerk **Rod Diridon, Jr.** [fined BLUPAC \\$9,000 for filing their reports late](#). BLUPAC is the “dark money” group with ties to the **49ers**.

### Who's In Charge of the PAC?

**Lou Mariani** of **Mariani's Inn** is still the head of Chamber's Government Relations Committee, though we heard he was cutting ties. We heard others have dropped from the PAC, too.

Accountant **Dave Tobkin** is still the PAC's Treasurer. He's had that role since 2010. Tobkin is technically responsible for the reports. Here's what the FPPC website says:

*Campaign treasurers sign campaign disclosure reports under penalty of perjury and are liable in enforcement actions for violations of the Act. It is important to understand the basic rules and requirements associated with transparent campaign disclosure. **No individual should accept the position of a committee treasurer as a mere figurehead.** (language in bold on the website)*

According to our sources, other PAC members are:

- **Miles Barber** – **Santa Clara Weekly** Lobbyist/Publisher
- **Dave DeLozier** – **former Councilman**

- **John Mlnarik** – attorney for Dominic Caserta and **Santa Clara Rotary Club** President
- **Andy Ratermann** – SCUSD board member

According to the Chamber's FPPC report from September 2018, they have less than \$13,000 in the bank. They may need that for fines. And maybe more. If BLUPAC got fined \$9,000 for being late, how much will the Chamber get fined for not reporting for four years? We'll be following this story closely.

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## THE SILICON VALLEY VOICE

Power To Your Voice

# Santa Clara Chamber Of Commerce PAC Filed All Required Finance Reports

Carolyn Schuk

POSTED 04:08 PM, October 11, 2018

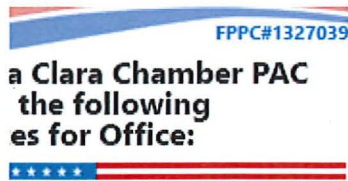


“We filed what we were told to file by the [Santa Clara] City Clerk,” said Santa Clara Chamber of Commerce PAC treasurer Dave Tobkin. The new — and false — accusation is City Hall’s latest offensive against the Chamber.

The Chamber of Commerce is a separate legal entity from the Chamber PAC, although the Council majority refers to the two groups interchangeably.

The City Council summarily pulled the Chamber’s longtime contract for operating the Santa Clara Convention Center & Victors Bureau in June, accusing the Chamber of malfeasance and launching an audit.

SPONSORED



For Mayor  
✓ **Anthony Becker**  
For City Clerk  
✓ **Peta Roberts**

For District 2  
✓ **Raj Chahal**  
For SCUSD School Board  
✓ **Jodi Muirhead**  
✓ **Andrew Ratterman**



At Tuesday night's Council meeting Santa Clara Vice Mayor Kathy Watanabe reported that she read in fired Weekly sports writer Robert Haugh's "online blog" that the Santa Clara Chamber of Commerce PAC didn't file finance reports between 2010 and 2014.

Watanabe asked, with some urgency, that the City Manager investigate this.

The City Manager won't have to look far. The Chamber PAC filed all the required campaign finance reports during those years with the Santa Clara County Registrar of Voters.

Those reports were filed with the County because the PAC endorses county, state assembly and school board candidates and measures, as well as those in the City of Santa Clara. Tobkin says that the PAC later decided to file also with the City, even though they were told by then-City Clerk Rod Diridon Jr. that they didn't have to.

State law requires that "committees formed or existing primarily to support or oppose candidates or local measures *to be voted upon in any number of jurisdictions within one county* ... shall file the original ... with the elections official of the county."

The County only started publishing the forms digitally in 2016, so if you want to see reports prior to that you have to visit the ROV's office on Berger Drive in San José. However, the record of the reports that have been filed is published online.

All this information can be found on the California Secretary of State's website, and candidates and officeholders in California are expected to know what the laws are.





# CITY OF SANTA CLARA

## CITY CLERK'S OFFICE



5/4/2010

Mr. David Tobkin  
Treasurer  
Santa Clara Chamber of Commerce PAC  
1850 Warburton Avenue  
Santa Clara, CA 95050

Dear Mr. Tobkin,

This letter is to follow-up on conversations between representatives of the Santa Clara Chamber of Commerce Political Action Committee and the City Clerk's Office. It has been confirmed for the City Clerk's Office that your committee is a county committee and not a Santa Clara city committee.

As such, your local filing officer is the County Registrar of Voters. However, it is important to note that in some instances you may be obligated by the Elections Code to file with the City Clerk's Office in the City of Santa Clara.

Please call me at 615-2220 or the FPPC at (866) 275-3772 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Diridon, Jr.".

Rod Diridon, Jr.,  
City Clerk and Auditor

Statement of Organization  
Recipient Committee

Type or print in ink

STATEMENT OF ORGANIZATION

Statement Type

☒ Initial

Not yet qualified ☐ or

☐ Amendment

List I.D. number:

# \_\_\_\_\_

04 / 15 / 10  
Date qualified as committee

\_\_\_\_\_  
Date qualified as committee  
(If applicable)

☐ Termination - See Part 5

List I.D. number:

# \_\_\_\_\_

\_\_\_\_\_  
Date of Termination

Date Stamp  
**RECEIVED**

APR 21 2010

City Clerk's Office  
City of Santa Clara

CALIFORNIA  
FORM 410

For Official Use Only

1. Committee Information

NAME OF COMMITTEE

Santa Clara Chamber of Commerce Political Action Committee (PAC)

STREET ADDRESS (NO P.O. BOX)

1850 Warburton Ave.

CITY

Santa Clara

STATE

CA

ZIP CODE

95050

AREA CODE/PHONE

408-244-8244

MAILING ADDRESS (IF DIFFERENT)

OPTIONAL: FAX / E-MAIL ADDRESS

408-244-7830 / www.santclarachamber.org

COUNTY OF DOMICILE

Santa Clara

COUNTY WHERE COMMITTEE IS ACTIVE IF DIFFERENT  
THAN COUNTY OF DOMICILE

Attach additional information on appropriately labeled continuation sheets.

2. Treasurer and Other Principal Officers

NAME OF TREASURER

David D. Tobkin

STREET ADDRESS (NO P.O. BOX)

2397 Forest Ave. Suite A

CITY

San Jose

STATE

CA

ZIP CODE

95128

AREA CODE/PHONE

408-247-7642

NAME OF ASSISTANT TREASURER, IF ANY

Donna Tobkin

STREET ADDRESS (NO P.O. BOX)

2607 Birchtree Lane

CITY

Santa Clara

STATE

CA

ZIP CODE

95051

AREA CODE/PHONE

408-984-8299

NAME OF PRINCIPAL OFFICER(S)

David D. Tobkin

STREET ADDRESS (NO P.O. BOX)

2397 Forest Ave. Suite A

CITY

San Jose

STATE

CA

ZIP CODE

95128

AREA CODE/PHONE

408-247-7642

3. Verification

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

Executed on

4/21/10  
DATE

By

David A. Tobkin  
SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

# Statement of Organization Recipient Committee

INSTRUCTIONS ON REVERSE

STATEMENT OF ORGANIZATION

CALIFORNIA  
FORM **410**

Page 2

I.D. NUMBER

Applied for

COMMITTEE NAME

Santa Clara Chamber of Commerce Political Action Committee (PAC)

## 4. Type of Committee Complete the applicable sections.

### Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "non-partisan."
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY
			<input type="checkbox"/> Non-Partisan
			<input type="checkbox"/> Non-Partisan

- List the financial institution where the campaign bank account is located (controlled "candidate election" committees only)

NAME OF FINANCIAL INSTITUTION	AREA CODE/PHONE	BANK ACCOUNT NUMBER	
ADDRESS	CITY	STATE	ZIP CODE

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

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)	CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION (INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)	CHECK ONE	
		SUPPORT	OPPOSE
		SUPPORT	OPPOSE

**Statement of Organization  
Recipient Committee**

STATEMENT OF ORGANIZATION

**CALIFORNIA FORM 410**

INSTRUCTIONS ON REVERSE

Page 3

COMMITTEE NAME

Santa Clara Chamber of Commerce Political Action Committee (PAC)

I.D. NUMBER

Applied for

**4. Type of Committee** (Continued)

**General Purpose Committee**

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:

☐ CITY Committee ☒ COUNTY Committee ☐ STATE Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Review, research and recommend support of and/or opposition to proposed ballot measures and legislation, ordinances of city, county and state bodies

**Sponsored Committee**

List additional sponsors on an attachment.

NAME OF SPONSOR

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

**Small Contributor Committee**

☐ \_\_\_\_\_  
Date qualified

**5. Termination Requirements** By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, or proponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
- This committee does not anticipate receiving contributions or making expenditures in the future;
- This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
- This committee has no surplus funds; and
- This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
  - There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.
  - Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.