

October 3, 2022

Kerry K. Bigelow, MMC
City Clerk
City of Chula Vista
276 Fourth Ave., Bldg. A
Chula Vista, CA 91910

Re: Sworn Complaint; Violation of the Chula Vista campaign finance ordinance and the Political Reform Act by John McCann et al.

Dear Ms. Bigelow,

As a resident of the City of Chula Vista, I hereby file this sworn complaint against John McCann, Republican candidate for Mayor; McCann Mayor 2022, McCann's controlled committee; William Baber, treasurer of McCann Mayor 2022; and The Special Investigation Unit ("SIU"), pursuant to section 2.52.140 of the Chula Vista Municipal Code. In short, there is compelling evidence that (1) McCann and his committee have violated the City's campaign finance ordinance by accepting, and SIU has violated the City's ordinance by making, an excessive and prohibited in-kind contribution; and (2) McCann and his committee have violated the Political Reform Act by failing to report that contribution. I hereby urge you to refer this matter to the enforcement authority for further investigation.

Factual Background

John McCann is a member of the Chula Vista City Council and is currently a candidate for Mayor. On or about September 27, 2022, according to recent reports, McCann spoke at a press conference organized by the Republican Party of San Diego County.¹ At the press conference, McCann accused his opponent, Democrat Ammar Campa-Najjar, of not being a city resident. McCann had hired The Special Investigations Unit ("SIU"), a firm specializing in private investigations, to stalk Mr. Campa-Najjar for over a month, and claimed that SIU personnel had videotaped Mr. Campa-Najjar and his girlfriend, U.S. Representative Sara Jacobs, at her apartment.

Also speaking at the press conference was Lawrence J. Hamilton, the founder of SIU. According to its website, Hamilton has a background with the Federal Bureau of Investigations and the San

¹ Sarah Berjan, With Election Day near, Chula Vista Republican mayoral candidate accuses Democrat Ammar Campa-Najjar of not being a city resident, Chula Vista Today (Sept. 27, 2022), at <https://www.chulavistatoday.com/community/with-election-day-near-chula-vista-republican-mayoral-candidate-accuses-democrat-ammar-campa-najjar-of-not-being-a-city-resident-5879223>

Diego City Attorney's Office; he is a San Diego Law Enforcement Training Instructor; and has been licensed to conduct investigations in the State of California since 1993.² His website touts that he:

is a Certified Trainer in Workers' Compensation Investigations, Accident Investigations and Evidence Photography. Mr. Hamilton is a court qualified expert in the areas of Photography, Missing Persons, and Accident Reconstruction, and is a Registered Process Server.... The Special Investigations Unit has over 25 years of experience and is a PREFERRED VENDOR with top workers' compensation insurance carriers and law firms for pre-trial case investigations.³

At the press conference, Hamilton indicated that "[o]ver the course of 32 days ... he compiled more than 70 videos and photos of Campa-Najjar living with his girlfriend Sara Jacobs at her condominium in San Diego."⁴ According to *The San Diego Union-Tribune*, "Hamilton said he or his associates kept watch every night since August both at Jacobs' home and Campa-Najjar's residence in Chula Vista."⁵

According to an on-the-record statement by McCann's wife, Myllissa McCann, the campaign paid Hamilton a mere \$1,000 for conducting this "opposition research."⁶ And, on his pre-election campaign report, filed on September 29, 2022, McCann reported a \$1,000 disbursement to "Lawrence Hamilton Special Investigative [sic] Unit" for that amount.⁷

Legal Background and Analysis

I. SIU Made, and McCann Accepted, an Illegal and Excessive In-Kind Contribution

The Chula Vista municipal code limits the sources and amount of funds that a candidate for City office may accept. A candidate may not receive more than \$360 per election from each

² The Special Investigations Unit, "About Us," at <https://thesiu.com/about/>.

³ *Id.*

⁴ Tammy Murga, Chula Vista mayoral candidate McCann hired private investigator to look into Campa-Najjar's residency, *San Diego Union-Tribune* (Sept. 27, 2022), at https://www.sandiegouniontribune.com/communities/south-county/story/2022-09-27/chula-vista-mayoral-candidate-mccann-hired-private-investigator-to-look-into-campa-najjars-residency?_amp=true

⁵ *Id.*

⁶ *Id.*

⁷ See McCann Mayor 2022 Form 460 (Sept. 29, 2022), available at <https://public.netfile.com/pub2/RequestPDF.aspx?id=204899032>.

contributor.⁸ Moreover, candidates may not accept contributions from any “organization,”⁹ defined as “a proprietorship, labor union, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, or committee, including a political action committee.”¹⁰ For purposes of these rules, a “contribution” is defined broadly as including “anything of value received by a committee from another committee, *unless full and adequate consideration is received.*”¹¹

The facts indicate that SIU likely made, and McCann and his committee accepted, an illegal and excessive in-kind contribution in the form of deeply discounted personal services. According to statements made at the San Diego Republican Party’s press conference, SIU, acting both through Hamilton and his employees, spied on Mr. Campa-Najjar, at both his home in Chula Vista and at Representative Jacob’s home in San Diego, on at least 32 separate nights, collecting over 70 videos and photographs of the couple. For these services, Hamilton, a self-described expert in the field, charged McCann a mere \$1,000. Given the time-intensive nature of his work, and Mr. Hamilton’s credentials, the fair market value of SIU’s services had to exceed \$1,000.

Moreover, Respondents cannot claim that SIU’s services were exempt “volunteer” activity. The Political Reform Act excepts from the definition of “contribution” “volunteer personal services or payments made by any individual for the individual’s own travel expenses if the payments are made voluntarily without any understanding or agreement that they will be, directly or indirectly, repaid to the individual.”¹² This exception is inapplicable for two reasons. First, the professional services were not performed by an *individual*; they were performed by a firm, SIU, and Hamilton has admitted on the public records that his employees helped him in stalking Mr. Campa-Najjar. Second, the firm did have an agreement with McCann that it would be paid for its services, albeit at a deeply discounted rate. Therefore, Hamilton was not acting as a volunteer when performing services for McCann.

Accordingly, the facts compel the conclusion that SIU – which, as a business entity, is an “organization” under the ordinance – made a prohibited contribution to McCann, and that McCann and his committee accepted such a prohibited contribution. Moreover, to the extent that the fair market value of SIU’s services exceeded \$1,360 – and they most certainly did – SIU made, and McCann accepted, an excessive in-kind contribution. To prevent further violations of

⁸ Chula Vista Muni. Code § 2.52.040(A).

⁹ *Id.* § 2.52.040(C)

¹⁰ *Id.* § 2.52.030(J)

¹¹ Cal. Gov’t Code § 82015(b)(2) (emphasis added); see Chula Vista Muni. Code § 2.52.030(G).

¹² Cal. Gov’t Code § 82015(c)(3).

the ordinance, McCann must “return” this contribution by paying SIU for the full fair market value of its services within 60 days.¹³

II. McCann Failed to Report the In-Kind Contribution from SIU in Violation of the Political Reform Act

The Political Reform Act requires that candidates and their controlled committees file periodic campaign statements disclosing, among other things, all contributions of \$100 or more received by the candidate.¹⁴ For the reasons described above, there is compelling evidence that McCann received an in-kind contribution from SIU in the form of deeply discounted investigative services. Nonetheless, McCann did not report any in-kind contribution from SIU on the preelection statement that he filed on September 29, 2022. Accordingly, McCann and his committee have likely violated the Political Reform Act by failing to fully disclose his campaign’s sources of financial support.

Conclusion

For the reasons described herein, there is compelling evidence that McCann and his committee (1) violated the City’s campaign finance ordinance by accepting an excessive and prohibited in-kind contribution from SIU, and (2) violated the Political Reform Act by failing to report that contribution. With respect to the first count, I respectfully request that the City Clerk refer this matter to the enforcement authority in accordance with Municipal Code section 2.52.140. With respect to the second count, I respectfully request that the Fair Political Practices Commission investigation McCann’s reporting violation.

I understand that, by filing a Sworn Complaint under Penalty of Perjury, I may be subject to criminal prosecution if the complaint is false.

Sincerely,

Jose F. Cerda

CC: Angela Brereton, Esq., FPPC Director of Enforcement,

¹³ Chula Vista Muni. Code § 2.52.090(A).

¹⁴ Cal. Gov’t Code § 84211(f).