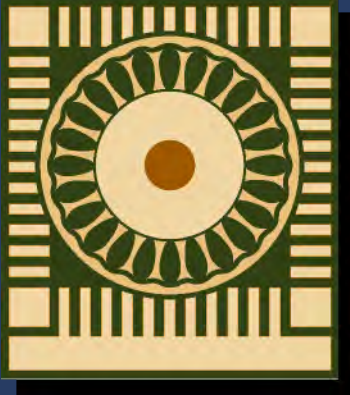


**CITY COUNCIL MEETING
TUESDAY, NOVEMBER 3, 2015**

PRESENTATIONS



CITY OF
HAYWARD
HEART OF THE BAY

Presentation:

Regulation Requiring Greater Disclosure of Contributors to City Campaigns and Measures

November 3, 2015

Presented By:

- **Michael Lawson, City Attorney**
- **Justin Nishioka, Deputy City Attorney**



History of Campaign Finance Regulation

- The Three Pillars Campaign Finance:
- Regulation of Sources
- Regulation of Amounts
- Regulation of Disclosures

The Supreme Court's limits on campaign finance laws

Year	Case	Limits	Vote
1976	Buckley v. Valeo	Overall campaign spending, candidate personal spending, and independent expenditures can't be capped.	5-3
2007	Wisconsin Right to Life v. FEC	The government can't halt outside group political advertising in the period before an election.	5-4
2008	FEC v. Davis	The government can't let opponents of self-financed candidates exceed the usual contribution limits	5-4
2010	Citizens United v. FEC	No limits on the amount of outside spending are permissible, and corporations can spend directly on campaigns	5-4
2011	Arizona Free Enterprise Club's Freedom PAC v. Bennett	Public financing systems can't use escalating matching funds	5-4
2014	McCutcheon v. FEC	A donor's overall spending on federal campaigns can't be capped	5-4

V

Relevant Case Law



Independent Political Action Committee Spending



- Super PACs raised **\$828,224,700** dollars in 2012
- Super PACs have raised **\$303,628,301** to date for the 2016 election cycle.
- Berkeley's Measure D campaign (concerning soda taxes) tallied **\$3,374,155** in spending.





The Current Regulations

- **Article 13**
- **Regulations of expenditures for Mayor and City Council**
- **\$250 Cap for those who decline voluntary expenditure limits (now \$315)**
- **Voluntary Limits= \$50K Expenditure Cap (now \$66,009) and \$1,000 (now \$1,295) Contribution Cap**
- **No Required Disclosures for Independent Committees**





Independent Committees Unregulated



Ambiguity Concerning Personal Loans to fund Campaigns

LOAN APPLICATION

Personal Information

Name (Last)	PUBLIC	(First)	JOHN	(Middle Initial)		Home Telephone	1111 - 1111
Address (Mailing Address)	12345 MAIN STREET	(City)	ANYWHERE	(State)	22	Zip	999999
E-Mail Address	JQPJQPJQP@JQPJQP					Other Telephone	22 22 2222

Services needed

UNDER REVIEW

APPLICANTS UNDER REVIEW

SUBJECT REVIEW

APPROVED





The Proposed Regulations

• **Article 13**

- **Codifies current CPI adjusted expenditure limits (\$66,009/\$1,295 and \$315)**
- **Allows Personal Bank Loans**
- **Provides regulations for Recall Elections**
- **Requires Disclosures for all Independent Committees**





Independent Committees

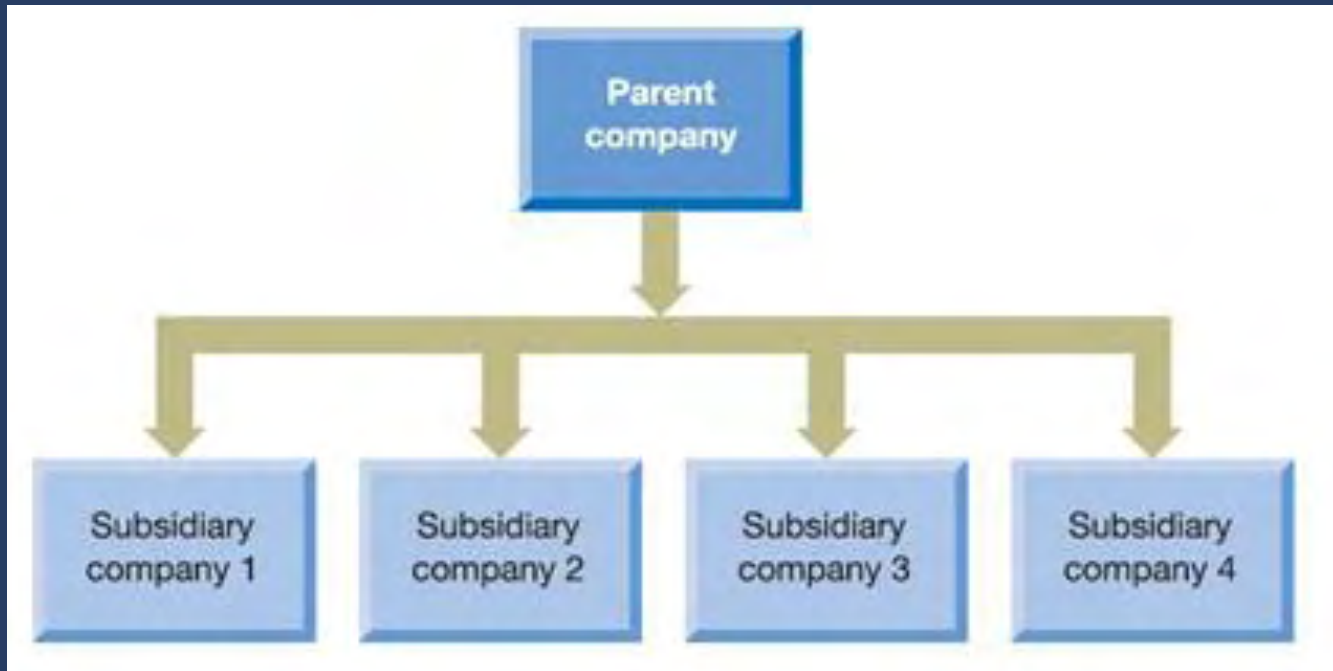
- Person or persons who spend \$250 (\$1,000) or more to influence election.
- Campaign communication not made in cooperation with a candidate.
- Must file a Committee Disclosure Statement and Declaration to disclose sources of funds (e.g. Expose the Sponsoring Entity).





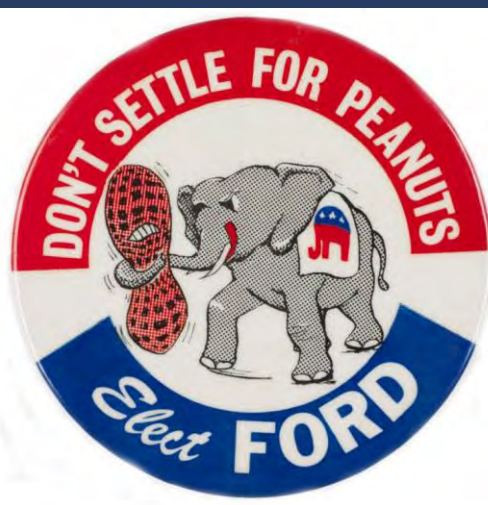
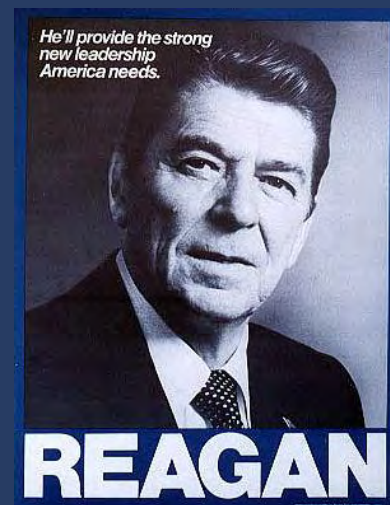
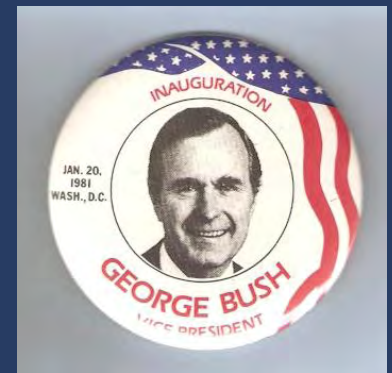
What are Sponsoring Entities?

- Unions and Non-Profit Organizations
- **Individual Financiers**
- **Parent Corporations**



Campaign Advertisements

*Independent Committees must
Disclose Donors in Campaign
Communication Materials*





Campaign Disclosures on Campaign Materials

- Independent Committees must disclose top 4 Contributors (must be more than \$1000)
- Contributor's City of Domicile
- Total Sum of Contributions
- Sponsoring Entity





Example of Compliant Disclosure



VOTE **NO** ON **PROP. H** WASTEFUL CITY SPENDING ON LUXURY HAWK SANCTUARY

Paid for by The Coalition of Concerned Ferrets, NO on Measure D Committee.

*Major Funding Provided by: Ferrets of America Committee, funded by Ferret Enterprises, Inc.,
Prairie, KS \$5000; Ferrets for All, funded by Fred the Ferret and The Ferret Club, Piedmont, CA
\$3000; Frank Ferret, Berkeley, CA \$1800; Fredrika Ferrette, Hayward, CA \$1001.*





What Requires the Disclosures?

- 1000 or more pieces of campaign literature (e.g. flyers, mailers, pamphlets, door hangers, etc.)
- Newspaper Ads
- Web Ads
- TV Ads
- Radio Ads
- Robocalls
- Mass emails
- Note- Still bound by FPPC requirement to make disclosures on campaign literature sent to over 200 recipients.



Required Updates to Contributor Lists

- Updates to campaign communications if a candidate or committee's top contributors change.
- Disclosure of most recent top contributors get priority.
- No Anonymous Donations.



Penalties

- Knowing violation is a misdemeanor.
- Fine up to \$1,000.
- Civil Action brought by District Attorney or Independent Counsel. \$1,000 per violation.



Questions

