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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PHIL THALHEIMER; ASSOCIATED BUILDERS & CONTRACTORS PAC SPONSORED BY ASSOCIATED BUILDERS & CONTRACTORS, INC. SAN DIEGO CHAPTER; LINCOLN CLUB OF SAN DIEGO; REPUBLICAN PARTY OF SAN DIEGO; and JOHN NIENSTEDT, SR.,

Plaintiffs,

vs.

CITY OF SAN DIEGO; City of San Diego Ethics Commissioners RICHARD M. VALDEZ, Chair, W. LEE BIDDLE, GUILLERMO (“GIL”) CABRERA, CLYDE FULLER, DOROTHY LEONARD, and LARRY S. WESTFALL, all sued in their official capacity; THE HONORABLE JERRY SANDERS, Mayor of San Diego, sued in his official capacity; JAN GOLDSMITH, City Attorney for the City of San Diego, sued in his official capacity; and ELIZABETH MALAND, City Clerk of San Diego, sued in her official capacity,

Defendants.

CASE NO: 09-CV-2862-IEG (WMe)

ORDER:

(1) GRANTING THE CITY OF SAN DIEGO’S EX PARTE MOTION FOR CLARIFICATION (Doc. No. 44); and

(2) GRANTING IN PART PLAINTIFFS’ REQUEST TO PRELIMINARILY ENJOIN ECCO § 27.2951.

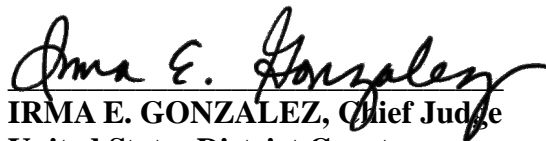
1 Defendant City of San Diego's ("The City") has filed an ex parte motion for clarification
 2 regarding the Court's February 16, 2010 Order ("the Order") granting in part and denying in part
 3 Plaintiffs' motion for preliminary injunction. Plaintiffs have filed a notice of joinder in the City's ex
 4 parte motion. Specifically, the parties request clarification of the Order with respect to contributions
 5 from non-individual entities (aside from political parties), such as corporations and labor unions, to
 6 independent expenditure committees. The Court GRANTS the motion, and clarifies its Order as
 7 follows.

8 The Order stated: "The City is preliminarily enjoined from taking any action to enforce [San
 9 Diego Municipal Election Campaign Control Ordinance ("ECCO")] Section 27.2936(b), which
 10 requires that money spent by committees to support or oppose a candidate must be attributable to
 11 contributions from individuals (not over the \$500 limit)."¹ (Order at 26:8-10.) The Court clarifies that
 12 the City is preliminarily enjoined from taking any action to enforce Section 27.2936(b), with respect to
 13 contributions from individuals *and non-individual entities* to committees that make only independent
 14 expenditures.

15 In addition, the Court GRANTS IN PART Plaintiffs' request to enjoin Section 27.2951.² The
 16 Court ORDERS that the City is preliminarily enjoined from taking any action to enforce Section
 17 27.2951, to the extent that it prohibits *committees making only independent expenditures* from
 18 accepting contributions drawn against a checking account or credit card account belonging to a *non-*
 19 *individual*.

20 **IT IS SO ORDERED.**

21 **DATED: February 19, 2010.**

22 
 23 IRMA E. GONZALEZ, Chief Judge
 24 United States District Court

25 ¹ ECCO § 27.2936(b) provides: "It is unlawful for any general purpose recipient committee to
 26 use a contribution for the purpose of supporting or opposing a candidate unless the contribution is
 27 attributable to an individual in an amount that does not exceed \$500 per candidate per election."

28 ² ECCO § 27.2951 provides: "For purposes of supporting or opposing a candidate seeking
 elective City office . . . : (a) It is unlawful for any individual to make, or any committee to accept, a
 contribution drawn against a checking account or credit card account unless such account belongs to
 one or more individuals in their individual capacity."