

Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

ARLENE SILVA
Deputy City Attorney
Direct Line: [REDACTED]

March 4, 2014

Sent via Email to: [REDACTED]

Re: Campaign Finance Question

Dear Mr. Cortese:

This letter is in response to your email to Richard Doyle dated February 12, 2014 concerning your question regarding the City of San Jose campaign finance laws. We are responding to your request pursuant to San Jose Municipal Code (SJMC) SJMC Section 12.05.080 which states "that any person may request the City Attorney to provide written advice with respect to the person's duties under the provisions of Chapter 12.05 and Chapter 12.06." Specifically, you have asked whether a candidate who has given the maximum to their campaign, as owner of several companies, violates the SJMC campaign finance laws when these companies donate to the candidate's campaign beyond the set contribution limit?

SJMC 12.06.295 (D) provides that loans from candidates to their own campaign or campaign committee are limited to a total of \$20,000 at any one point in time. SJMC 12.06.295 (D) further provides that nothing in Chapter 12.06 Municipal Campaign and Officeholder Contributions prohibits a candidate from making unlimited contributions to his or her own campaign. However, if the candidate files an expenditure ceiling statement indicating participation in SJMC 12.06.510 Voluntary Campaign Expenditure Limits program, then deposits and expenditures will count against the voluntary expenditure limits for that election.

SJMC 12.06.210 Campaign Contribution Limitations A and B provides that the total campaign contribution made by any person to any mayoral candidate, council candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself may not exceed the set amounts provided in these sections. Pursuant to Resolution 76838 as directed by SJMC 12.06.210 C, the current contribution limits are \$500 for a councilmember campaign and \$1,100 for a Mayor campaign.

Contributions received from certain individuals, combination of individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following contributions are aggregated:

- Contributions from the personal funds of an individual and contributions made by an entity when the same individual directs or controls the entity's contributions.
- Contributions from two or more entities if a majority of the same persons directs and controls the contributions of each entity.
- Contributions made by entities that are majority owned by any person with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.


A candidate is not limited from making contributions to his or her own campaign unless the candidate is participating in the voluntary expenditure limits program. Contributions by the candidate, individuals, combination of candidate and individuals and entities must be added together to determine the total amount of contributions made in certain circumstances. In the question you have posed, the candidate's contributions to his or her campaign must be combined to the contributions made by the companies that the candidate owns as if made by a single contributor, if there is coordination, direction, or control by the candidate in the making of such contributions into his or her campaign. If the candidate is participating in the expenditure limits program, then all such contributions are subject to the candidate's limits imposed by his or her participation in the program.

If the companies are shown to be independent decision-making bodies from the candidate and the candidate neither directs nor controls the entity's contributions, then the candidate does not aggregate the contributions with his own. The contributions by these companies would be subject to the campaign contribution limitations set by SJMC 12.06.210 at \$500 for a councilmember campaign and \$1,100 for a mayoral campaign.

We hope that this addresses your question concerning the City's Campaign Ordinance. Please feel free to call if you have further questions or need clarification with regard to this letter.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 
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Deputy City Attorney

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