

1 STACEY FULHORST, Executive Director  
City of San Diego Ethics Commission  
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5 Petitioner

6  
7 **BEFORE THE CITY OF SAN DIEGO**  
8 **ETHICS COMMISSION**

9  
10 In re the Matter of: ) Case No.: 2016-22  
)  
11 SAN DIEGANS AGAINST CRIME ) **STIPULATION, DECISION, AND**  
SPONSORED BY THE SAN DIEGO ) **ORDER**  
12 COUNTY DEPUTY DISTRICT )  
ATTORNEY’S ASSOCIATION; and SCOTT )  
13 & CRONIN, LLP, )  
)  
14 Respondents. )  
)  
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16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

18 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego  
19 Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to  
20 administer, implement, and enforce local governmental ethics laws contained in the San Diego  
21 Municipal Code [SDMC] relating to, among other things, the provisions of the San Diego  
22 Municipal Election Campaign Control Ordinance [ECCO]. SDMC §§ 27.2901, *et seq.*

23 2. At all times mentioned herein, San Diegans Against Crime Sponsored by the San  
24 Diego County Deputy District Attorney’s Association [SDAC] was a county general purpose  
25 committee registered with the State of California [Identification No. 951998]. Scott & Cronin,  
26 LLP [S&C] was, at all relevant times, the campaign treasurer for SDAC. Together, SDAC and  
27 S&C are referred to herein as “Respondents.”

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1           3.    This Stipulation will be submitted for consideration by the Ethics Commission at  
2 its next scheduled meeting, and the agreements contained herein are contingent upon the  
3 approval of the Stipulation and the accompanying Decision and Order by the Ethics  
4 Commission.

5           4.    This Stipulation resolves all factual and legal issues raised in this matter by the  
6 Ethics Commission without the necessity of holding an administrative hearing to determine  
7 Respondents' liability.

8           5.    Respondents understand and knowingly and voluntarily waive any and all  
9 procedural rights under the SDMC including, but not limited to, a determination of probable  
10 cause, the issuance and receipt of an administrative complaint, the right to appear personally in  
11 any administrative hearing held in this matter, the right to confront and cross-examine  
12 witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and  
13 the right to have the Ethics Commission or an impartial hearing officer hear this matter.

14           6.    Respondents agree to hold the City of San Diego harmless from any and all  
15 claims or damages resulting from the Commission's investigation, this Stipulation, or any  
16 matter reasonably related thereto. Respondents further agree that the terms of this Stipulation  
17 constitute compliance with the provisions of SDMC section 26.0450 in that the Stipulation  
18 includes a recitation of facts, a reference to each violation, and an order.

19           7.    Respondents acknowledge that this Stipulation is not binding upon any other law  
20 enforcement or government agency and does not preclude the Ethics Commission from  
21 referring this matter to, cooperating with, or assisting any other law enforcement or  
22 government agency with regard to this or any other related matter.

23           8.    The parties agree that in the event the Ethics Commission refuses to accept this  
24 Stipulation, it shall become null and void. Respondents further agree that in the event the  
25 Ethics Commission rejects the Stipulation and a full evidentiary hearing before the Ethics  
26 Commission becomes necessary, no member of the Ethics Commission or its staff shall be  
27 disqualified because of prior consideration of this Stipulation.

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1 **Summary of Law and Facts**

2 9. ECCO defines “committee” as any person or combination of persons who, within  
3 a single calendar year, raise \$2,000 or more or make expenditures of \$1,000 or more for the  
4 purpose of supporting or opposing a City candidate or ballot measure. SDMC § 27.2903.

5 10. ECCO requires committees to file campaign statements and disclosures in the  
6 time and manner required by California Government Code section 81000, *et seq.* and the  
7 Regulations adopted by the Fair Political Practices Commission. SDMC § 27.2930. It is  
8 unlawful under ECCO to fail to comply with the disclosure requirements of ECCO and state  
9 law. SDMC § 27.2930(i).

10 11. Pursuant to Government Code sections 82036.5 and 84204, any committee that  
11 makes independent expenditures totaling \$1,000 or more to support or oppose a candidate or  
12 measure in the ninety day period preceding an election is required to file a Late Independent  
13 Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the June 7,  
14 2016 primary election, this ninety day period commenced on March 9, 2016.

15 12. On May 9, 2016, Respondents made payments totaling \$9,998 for printing,  
16 postage, and data vendor fees associated with the distribution of campaign mailers to 20,782  
17 City residents that supported Robert Hickey for San Diego City Attorney on one side, and  
18 James Mangione and Keri Katz, who were running in Superior Court Judge races, on the other  
19 side.

20 13. On May 10, 2016, Respondents filed Forms 496 with the San Diego County  
21 Registrar disclosing the independent expenditures made on May 9, 2016, to support City  
22 candidate Robert Hickey as well as the two County judicial candidates.

23 14. On June 27, 2016, forty-eight days late and several weeks after the primary  
24 election, Respondents filed a Form 496 with the City Clerk to disclose \$4,999 in independent  
25 expenditures (one half of the multi-candidate mailer) made to support Robert Hickey on May  
26 9, 2016.

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1 **Counts**

2 **Count 1 - Violation of SDMC § 27.2930**

3 15. Respondents violated SDMC section 27.2930 by failing to timely disclose the  
4 independent expenditures made on May 9, 2016, in support of a candidate for City office.  
5 Respondents were required to file a Form 496 with the City Clerk to disclose these independent  
6 expenditures by May 10, 2016, but did not do so until June 27, 2016.

7 **Factors in Mitigation**

8 16. Respondents have cooperated fully with the Ethics Commission investigation.

9 17. As noted above, Respondents filed Forms 496 with the County Registrar within  
10 twenty-four hours to disclose the independent expenditures made to support one City candidate  
11 and two County candidates. Additionally, Respondent SDAC has an extensive history of  
12 making independent expenditures to support County candidates (and timely filing  
13 corresponding campaign statements with the County Registrar) and rarely makes independent  
14 expenditures to support City candidates. These facts support Respondents' representation that  
15 the failure to timely file a Form 496 with the City Clerk was an inadvertent oversight.

16 18. Respondent SDAC reasonably relied on Respondent S&C to timely file campaign  
17 disclosure statements as required by local law. Respondent S&C has therefore taken full  
18 responsibility for the violations described herein.

19 **Conclusion**

20 19. Respondents agree to take necessary and prudent precautions to ensure  
21 compliance with all provisions of ECCO in the future.

22 20. Respondents acknowledge that the Ethics Commission may impose increased  
23 fines in connection with any future violations of the City's campaign laws.

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