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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.: 2016-41  
11 )  
12 SAN DIEGANS FOR FULL VOTER ) **STIPULATION, DECISION, AND**  
PARTICIPATION, YES ON K AND L, ) **ORDER**  
13 SPONSORED BY COMMUNITY AND )  
VOTER RIGHTS ORGANIZATIONS, and )  
14 SCOTT & CRONIN, LLP, )  
Respondents. )  
15 )  
16 )

17 **STIPULATION**

18 **THE PARTIES STIPULATE AS FOLLOWS:**

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

24 2. At all times mentioned herein, San Diegans for Full Voter Participation, Yes on K  
25 and L, Sponsored by Community and Voter Rights Organizations [Committee] was a City  
26 committee primarily formed to support two ballot measures in the November 2016 general  
27 election. The Committee was registered with the State of California (Identification No.  
28 1389015). Scott & Cronin, LLP [Treasurer] was, at all relevant times, the Committee's

1 campaign treasurer. The Committee and Treasurer are referred to herein as “Respondents.”

2 3. This Stipulation will be submitted for consideration by the Ethics Commission at its  
3 next scheduled meeting, and the agreements contained herein are contingent upon the approval  
4 of the Stipulation and the accompanying Decision and Order by the Ethics 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 witnesses  
12 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to  
13 have the Ethics Commission or an impartial hearing officer hear this matter. Respondents agree  
14 that the terms of this Stipulation constitute compliance with the provisions of SDMC section  
15 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an  
16 order.

17 6. Respondents agree to hold the City of San Diego harmless from any and all claims  
18 or damages resulting from the Commission’s investigation, this stipulated agreement, or any  
19 matter reasonably related thereto.

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

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

1 **Summary of Law and Facts**

2 9. Because the Committee was formed for the purpose of supporting two City of San  
3 Diego ballot measures, Respondents were required to comply with the provisions in ECCO.

4 10. Under ECCO, when a committee pays for an advertisement supporting a City  
5 measure it must include a disclosure statement on the advertisement identifying the top two  
6 donors from which it has received contributions of \$10,000 or more. A donor's contribution is  
7 deemed "received" when any agent of the committee obtains possession or control of the  
8 payment. FPPC Regulation 18421.1(c). The disclosure statement must reflect information that is  
9 accurate as of the date the committee places the order to purchase the advertisement. SDMC §  
10 27.2975.

11 11. On September 22, 2016, the Committee ordered 2,500 campaign signs and 500 yard  
12 signs prepared by the Committee's consultant, Tom Shephard & Associates, Inc. [Consultant],  
13 that included a disclosure statement identifying Lawrence Hess as the only major donor of  
14 \$10,000 or more. The campaign and yard signs were subsequently distributed. These signs did  
15 not identify the San Diego County Building Trades Council Family Housing Corporation dba  
16 National City Park Apartments [Building Trades] as the second major donor despite the fact that:  
17 the Committee had received a \$75,000 contribution from Building Trades on September 19,  
18 2016, making it one of the top two donors of \$10,000 or more; the Treasurer had electronically  
19 filed a campaign statement on September 19, 2016, disclosing this contribution; and the  
20 Treasurer had alerted the Consultant that there was another top contributor before the signs were  
21 ordered.

22 12. On October 4, 2016, the Committee ordered 249,000 campaign mailers that  
23 included a disclosure statement identifying Lawrence Hess and Protect Neighborhood Services  
24 Now as its top two donors of \$10,000 or more, and subsequently distributed these mailers. The  
25 mailers did not include the full committee name of the second major donor, which is Protect  
26 Neighborhood Services Now, Sponsored by Municipal Employees Association, because the  
27 Consultant relied on information contained within the Committee's campaign statements  
28 electronically filed by the Treasurer which did not include the full committee name.



1 18. Respondents violated SDMC section 27.2975 by failing to include the full name of  
2 Protect Neighborhood Services Now, Sponsored by Municipal Employees Association, as one of  
3 its top two major donors on a television advertisement.

4 19. Respondents violated SDMC section 27.2975 by failing to include the full name of  
5 Protect Neighborhood Services Now, Sponsored by Municipal Employees Association as one of  
6 its top two major donors on 15,000 door hangers.

7 20. Respondent Committee violated SDMC section 27.2975 by failing to identify  
8 UFCW as one of its top two major donors on a robo-call disseminated to 23,000 households.

9 **Factors in Mitigation**

10 21. The Committee's principal officers reasonably relied on the Consultant and  
11 Treasurer to ensure that the disclosure statements included in campaign advertisements  
12 accurately identified the top two donors of \$10,000 or more. The Consultant and Treasurer  
13 cooperated during the course of the Commission's investigation and have taken responsibility for  
14 the violations described herein.

15 **Factors in Aggravation**

16 22. There was no reasonable excuse for the failure to correctly identify the top two  
17 major donors on the advertisements discussed above in paragraphs 11 and 15 because  
18 contributions from the major donors had been received, deposited, and disclosed on  
19 electronically-filed campaign statements before the orders for the subject advertisements were  
20 placed and because the Consultant is an experienced campaign professional who is familiar with  
21 City and state campaign disclaimer rules.

22 23. The violations described herein deprived the voters of important information  
23 regarding the significant contributions made by Building Trades, Municipal Employees  
24 Association, and UFCW to fund Respondents' activities in support of two ballot measures in the  
25 November 2016 general election.

26 **Conclusion**

27 24. Respondents agree to take necessary and prudent precautions to ensure compliance  
28 with all provisions of ECCO in the future.



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**DECISION AND ORDER**

The Ethics Commission considered the above Stipulation at its meeting on August 11, 2017. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of \$16,000.

DATED: \_\_\_\_\_ [REDACTED]  
Deborah Cochran, Chair  
SAN DIEGO ETHICS COMMISSION