

1 SHARON SPIVAK, Executive Director
City of San Diego Ethics Commission
2 451 A Street, Suite 780
San Diego, CA 92101
3 Telephone: (619) 533-3476

4
5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2020-36
11)
JOE LEVENTHAL,) **STIPULATION, DECISION, AND**
12) **ORDER**
Respondent.)
13)

14
15 **STIPULATION**

16 **THE PARTIES STIPULATE:**

17 1. Petitioner Sharon Spivak is the Executive Director of the City of San Diego Ethics
18 Commission (Ethics Commission). The Ethics Commission is charged with a duty to administer,
19 implement, and enforce local governmental ethics laws in the San Diego Municipal Code
20 (SDMC), including the City of San Diego’s Election Campaign Control Ordinance (ECCO).

21 2. During the times referenced in this Stipulation, Respondent Joe Leventhal
22 (Respondent) was a candidate for election to the office of City Councilmember for District 5 in
23 the March 2020 primary election and, thereafter, the November 2020 general election.

24 3. The Leventhal for Council 2020 committee (the Committee), Identification No.
25 1421046, was a campaign committee registered with the State of California and established to
26 support Respondent’s candidacy for the District 5 Council seat. At all relevant times in this
27 Stipulation, Respondent controlled the Committee, within the definition of candidate-controlled
28 committees in the California Political Reform Act, California Government Code section 82016.

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

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

7 6. Respondent understands and knowingly and voluntarily waives any and all
8 procedural rights under the SDMC including, but not limited to, a determination of probable
9 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
10 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
11 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
12 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
13 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
14 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
15 order.

16 7. Respondent agrees to hold the City of San Diego (City) and the Ethics Commission
17 harmless from any and all claims or damages resulting from the Commission’s investigation, this
18 stipulated agreement, or any matter reasonably related thereto.

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

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

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1 **Summary of Law and Facts**

2 10. The Committee was formed for the purpose of supporting a candidate in a City
3 election, and thus falls under the provisions of ECCO. Respondent controlled the Committee and
4 is required to comply with the provisions of ECCO.

5 11. ECCO prohibits City candidates from directly or indirectly soliciting campaign
6 contributions from persons they know to be City employees. SDMC §27.2946. In order to avoid
7 violations of this law, candidates are advised to review and change their email lists to remove all
8 email addresses that end with a domain name associated with the City or any of its agencies (*e.g.*,
9 sandiego.gov email addresses).

10 12. Between December 2019 and November 2020, the Committee sent 37 emails to 18
11 City employees at their City work email addresses. All of the emails included a link to the
12 Committee's online donation page, most with direct requests for contributions.

13 **Counts**

14 **Count 1 - Violation of SDMC Section 27.2946**

15 13. Respondent violated SDMC section 27.2946 when the Committee sent 37 emails to
16 18 City employees at their City work email addresses. All of the emails included a link to the
17 Committee's online donation page, most with direct requests for contributions.

18 **Factors in Mitigation**

19 14. Respondent fully cooperated with the Ethics Commission's investigation.

20 15. Respondent reasonably relied on a consultant to send fundraising emails in a
21 manner so as not to violate local laws.

22 **Conclusion**

23 16. Respondent agrees to take necessary and prudent precautions to ensure compliance
24 with all provisions of the Election Campaign Control Ordinance in the future.

25 17. Respondent acknowledges that the Ethics Commission may impose increased fines
26 in connection with any future violations of the City's Election Campaign Control Ordinance.

27 18. Respondent agrees to pay a fine in the amount of \$250. This amount must be paid
28 no later than April 8, 2021, by check or money order payable to the City Treasurer. The

1 submitted payment will be held pending Ethics Commission approval of this Stipulation and
2 execution of the Decision and Order portion set forth below.

3
4 [REDACTED]
5 DATED: _____ Sharon Spivak, Petitioner
6 SAN DIEGO ETHICS COMMISSION

7 [REDACTED]
8 DATED: _____ Joe Leventhal, Respondent
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11 **DECISION AND ORDER**

12 The Ethics Commission considered the above Stipulation at its meeting on April 15,
13 2021. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
14 with the Stipulation, Respondent pay a fine in the amount of \$250.
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16 [REDACTED]
17 DATED: _____ Sid Voorakkara, Chair
18 SAN DIEGO ETHICS COMMISSION
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