

1 SHARON SPIVAK, Executive Director
City of San Diego Ethics Commission
2 451 A Street, Suite 1410
San Diego, CA 92101
3 Telephone: (619) 533-3476
4 Petitioner

5
6 **BEFORE THE CITY OF SAN DIEGO**
7 **ETHICS COMMISSION**

8 In re the Matter of:) Case No.: 2024-01
9)
10 SAN DIEGANS FOR TRANSPARENCY &) **STIPULATION, DECISION, AND**
ACCOUNTABILITY IN SUPPORT OF) **ORDER**
11 KELVIN BARRIOS FOR CITY COUNCIL)
2020, SPONSORED BY LABORERS')
12 INTERNATIONAL UNION OF NORTH)
AMERICA LOCAL 89; AND RIVER CITY)
13 BUSINESS SERVICES,)
14 Respondents.)

15 **STIPULATION**

16 **THE PARTIES STIPULATE:**

17 1. Petitioner Sharon Spivak is the Executive Director of the City of San Diego
18 Ethics Commission (the Commission). The Commission is charged with administering,
19 implementing, and enforcing local governmental ethics laws in the
20 San Diego Municipal Code (SDMC), relating to, among other things, the provisions of
21 the Election Campaign Control Ordinance (ECCO), SDMC section 27.2901, *et seq.*

22 2. At all times mentioned herein, San Diegans for Transparency & Accountability
23 in support of Kelvin Barrios for City Council 2020, sponsored by Laborers' International
24 Union of North America Local 89 (Committee), was a primarily formed committee
25 organized to support 2020 District 9 candidate Kelvin Barrios. The Committee was
26 registered with the State of California (Identification No. 1421468).

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1 3. At all times mentioned herein, River City Business Services (RCBS) was the
2 treasurer for the Committee.

3 4. The Committee and RCBS will be referred to herein as "Respondents."

4 5. This Stipulation will be submitted for the Commission's consideration at its
5 next scheduled meeting. The agreements outlined in this Stipulation are contingent
6 upon the Commission's approval of the Stipulation and the accompanying Decision and
7 Order.

8 6. This Stipulation resolves all factual and legal issues raised in this matter by
9 the Commission without needing an administrative hearing to determine the
10 Respondents' liability.

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

18 8. Respondents agree that the terms of this Stipulation constitute compliance
19 with SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
20 reference to each violation, and an order.

21 9. Respondents agree to hold the City of San Diego harmless for any claims or
22 damages resulting from the Commission's investigation of the Committee in Case No.
23 2024-01, this stipulated settlement, or any matter directly related to the Commission's
24 investigation of the Committee in Case No. 22024-01, or this stipulated settlement.

25 10. Respondents acknowledge that this Stipulation is not binding upon any other
26 law enforcement or government agency and does not preclude the Commission from
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1 referring this matter to, cooperating with, or assisting any other law enforcement or
2 government agency regarding this or any other related matter.

3 11. The parties agree that if the Commission refuses to accept this Stipulation, it
4 shall become null and void. Respondents further agree that if the Commission rejects
5 the Stipulation and a full evidentiary hearing before it becomes necessary, no member
6 of the Commission or its staff shall be disqualified because of their prior consideration of
7 this Stipulation.

8 **Summary of Law and Facts**

9 12. ECCO defines “committee” as any person or combination of persons who,
10 within a single calendar year, raises \$2,000 or more or makes expenditures of \$1,000 or
11 more to support or oppose a City candidate or ballot measure. SDMC § 27.2903.

12 13. The Committee raised more than \$2,000 and made expenditures of more
13 than \$1,000 to support Kelvin Barrios, a candidate for San Diego City Council District 9,
14 in the 2020 election cycle. The Committee meets the definition of a “committee” under
15 ECCO and is therefore required to comply with all the provisions of ECCO.

16 14. ECCO requires committees to email the Commission within three business
17 days of receiving \$10,000 (in the aggregate) or more from a single contributor. The
18 committee’s email to the Commission must include (1) the name and identification
19 number of the committee, (2) the name of the contributor, and (3), if applicable, the
20 contributor’s identification number. SDMC § 27.2975. The Commission then posts the
21 information on its website as a list of major donors, providing the public with readily
22 accessible information concerning the major sources of funding to committees formed to
23 support and oppose City candidates and measures.

24 15. Respondents failed to notify the Commission about the following
25 contributions, so the contribution information was not posted for the public on the
26 Commission’s major donor page:

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1 (A) On December 27, 2019, Laborers Pacific Southwest Regional
2 Organizing Coalition PAC contributed \$25,000 to the Committee. Respondents'
3 deadline to notify the Commission about the contribution was January 2, 2020.

4 (B) On March 3, 2020 (the primary election date), Newland Sierra, LLC
5 contributed \$10,000 to the Committee. Respondents' deadline to notify the Commission
6 about the contribution was March 6, 2020.

7 **Counts**

8 **Counts 1 and 2 – Violations of SDMC section 27.2975**

9 16. Respondents violated SDMC section 27.2975 by failing to timely notify the
10 Commission within three business days of receiving contributions made by two
11 contributors totaling \$10,000 or more each, as described above in paragraph 15.

12 **Factors in Mitigation**

13 17. Respondents fully cooperated with the Commission's investigation.

14 18. During the same election cycle, Respondents timely notified the
15 Commission of four contributions of \$10,000 or more.

16 19. The Committee reasonably relied on RCBS, the Committee's professional
17 treasurer, to promptly provide the Commission with the required information about each
18 \$10,000 or more contributor to the Committee. RCBS has taken full responsibility for the
19 violations described herein and will be responsible for paying the fine in paragraph 22
20 below.

21 **Conclusion**

22 20. Respondents agree to take necessary and prudent precautions to ensure
23 compliance with all provisions of the City's Election Campaign Control Ordinance in the
24 future.

25 21. Respondents acknowledge that the Commission may impose increased
26 fines concerning future violations of the City's Election Campaign Control laws.

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1 22. Respondents agree to pay a fine in the amount of \$1,000 for violating
2 SDMC sections 27.2975. This amount must be paid by check or money order made
3 payable to the City Treasurer by March 1, 2024. The payment will be held pending
4 Commission approval of this Stipulation and execution of the Decision and Order
5 portion set forth below.

6 [REDACTED]
7 DATED: _____
8 Sharon Spivak, Petitioner
9 SAN DIEGO ETHICS COMMISSION

10 [REDACTED]
11 DATED: _____
12 Valentine Macedo, Principal Officer
13 SAN DIEGANS FOR TRANSPARENCY &
14 ACCOUNTABILITY IN SUPPORT OF KELVIN
15 BARRIOS FOR CITY COUNCIL 2020, SPONSORED
16 BY LABORERS' INTERNATIONAL UNION OF
17 NORTH AMERICA LOCAL 89

18 [REDACTED]
19 DATED: _____
20 Denise Lewis, E.A., Political Reporting Manager
21 RIVER CITY BUSINESS SERVICES

22 **DECISION AND ORDER**

23 The Ethics Commission considered the above Stipulation at its meeting on
24 March 14, 2024. The Ethics Commission hereby approves the Stipulation and orders
25 that, per the Stipulation, the Respondents pay a fine in the amount of \$1,000.

26 [REDACTED]
27 DATED: _____
28 Caridad Sanchez, Chair
SAN DIEGO ETHICS COMMISSION