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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.: 2006-16
11 BEN HUESO and BETH RENO,) **STIPULATION, DECISION, AND**
12 Respondents.) **ORDER**
13)
_____)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

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

21 2. Ben Hueso [Hueso] was a candidate for the Eighth District City Council seat in the
22 City of San Diego in the November 2005 special election and the January 2006 special run-off
23 election. The Friends of Ben Hueso committee [2005 Committee] is a campaign committee
24 registered in 2005 with the State of California (Identification No. 127883) established to support
25 Hueso's candidacy in the 2005-2006 special election cycle. Hueso was also a candidate for the
26 Eighth District City Council seat in the June 2006 primary election. The Committee to Re-Elect
27 Ben Hueso [2006 Committee] is a campaign committee registered in 2006 with the State of
28 California (Identification No. 1285407) established to support Hueso's candidacy in the June

1 2006 primary election. At all relevant times herein, the 2005 Committee and the 2006
2 Committee were controlled by Hueso within the meaning of the California Political Reform Act,
3 California Government Code section 82016.

4 3. Respondent Beth Reno [Reno], was the treasurer of record for the 2006 Committee.
5 In addition, Reno replaced the original treasurer and became the treasurer of record for the 2005
6 Committee in approximately February of 2006.

7 4. Hueso and Reno are referred to herein collectively as “Respondents.”

8 5. This Stipulation will be submitted for consideration by the Ethics Commission at its
9 next scheduled meeting, and the agreements contained herein are contingent upon the approval
10 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

11 6. This Stipulation resolves all factual and legal issues raised in this matter and arising
12 out of the audit of the Committee by the Ethics Commission without the necessity of holding an
13 administrative hearing to determine Respondents’ liability.

14 7. Respondents understand and knowingly and voluntarily waive any and all procedural
15 rights under the SDMC, including, but not limited to, a determination of probable cause, the
16 issuance and receipt of an administrative complaint, the right to appear personally in any
17 administrative hearing held in this matter, the right to confront and cross-examine witnesses
18 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
19 have the Ethics Commission or an impartial hearing officer hear this matter. Respondents agree
20 to hold the City of San Diego harmless from any and all claims or damages resulting from the
21 Commission’s investigation or this stipulated agreement, or any matter reasonably related
22 thereto. Respondents further agree that the terms of this Stipulation constitute compliance with
23 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
24 reference to each violation, and an order.

25 8. Respondents acknowledge that this Stipulation is not binding upon any other law
26 enforcement or government agency and does not preclude the Ethics Commission from referring
27 this matter to, cooperating with, or assisting any other law enforcement or government agency
28 with regard to this or any other related matter.

Contribution Limits

15. SDMC section 27.2935 limits contributions to City Council candidates to \$250 per election (this limit has subsequently been adjusted to \$270).

16. The 2005 Committee accepted contributions for the January 2006 special run-off election that did not comply with the City's \$250 per election contribution limit. Details concerning these impermissible contributions are as follows:

<u>Contributor</u>	<u>Occupation; Employer</u>	<u>Date; Amount</u>	<u>Amount Over Limit</u>
Headland, Robert	Retired	11/23/05; \$250 02/08/06; \$125	\$125
Nielsen, David	Consultant McKinley Nielsen Assoc.	12/06/05; \$250 02/09/06; \$125	\$125
Snow, Jerry	Director of Admissions Data Tech	12/19/05; \$100 01/31/06; \$250*	\$100

*Although this \$250 check was coded for the November 8, 2005, special election, the Committee had already paid all of its debts associated with the special election at the time this contribution was accepted. Consequently, the funds were spent on expenses associated with the special run-off election, and must therefore be aggregated with the previous \$100 contribution from Mr. Snow which was coded and used for the special run-off election. The 2005 Committee collected a total of \$350 in contributions for the special run-off election that exceeded the City's \$250 contribution limit. Respondent Reno was not the treasurer of the 2005 Committee at the time it accepted these contributions, but was the treasurer at the time the Committee prepared and filed campaign statements covering the period from December 25, 2005, through March 17, 2006.

17. The 2006 Committee solicited and accepted contributions that did not comply with the City's \$250 per election contribution limit. As discussed above in paragraph 12, the 2006 Committee solicited contributions following the June 2006 primary election to retire debts associated with the primary election, but improperly coded the contributions for the general election. Notwithstanding this improper coding, the contributions were solicited for, intended for, and ultimately used to pay expenses associated with the primary election. Accordingly, for purposes of the City's \$250 per election contribution limit, these contributions must be aggregated with the contributions made for the primary election. As a result of this aggregation,

1 the 2006 Committee accepted contributions from forty-three contributors that exceeded the \$250
 2 limit for the primary election. In addition, as discussed above, the 2006 Committee accepted a
 3 contribution from Wendy Ledford but incorrectly reported that the contribution was made by her
 4 spouse, Richard Ledford. Because the contribution was drawn against a bank account belonging
 5 to Wendy Ledford, it must be aggregated with other contributions made by Wendy Ledford for
 6 purposes of the City's \$250 per election contribution limit. In total, the 2006 Committee
 7 solicited and accepted contributions from forty-four contributors that violated the City's \$250 per
 8 election contribution limits. Details concerning these impermissible contributions are as follows:

<u>Contributor</u>	<u>Occupation; Employer</u>	<u>Date; Amount</u>	<u>Amount Over Limit</u>
Adams, George	Real Estate Murphy Development	03/15/06; \$250 12/14/06; \$250	\$250
Ahrens, Clyde	Real Estate Manager Ahrens Realty & Dev.	05/31/06; \$250 12/14/06; \$250	\$250
Anzar, Francisco	Business Owner Monte de Piedad	01/31/06; \$250 12/15/06; \$250	\$250
Baldwin, Alfred	Business Owner/Builder Village Group	03/30/06; \$250 12/14/06; \$250	\$250
Baldwin, Deanne	Homemaker	03/30/06; \$250 12/14/06; \$250	\$250
Chacon, Paul	Parking Mgt. Five Star Parking	05/31/06; \$250 11/20/06; \$250	\$250
Chase Jr., Dick	Consultant S.A.M. Inc.	03/17/06; \$200 12/14/06; \$125	\$75
Dawe, James	Attorney Seltzer Caplan, et. al.	05/16/06; \$250 12/14/06; \$250	\$250
Deitz, Wayne	Financing GPD Corp.	03/09/06; \$250 12/15/06; \$250	\$250
Dick, William	Business Owner/Builder Village Group	02/10/06; \$100 11/28/06; \$250	\$100
Duran, Samuel	CEO Urban Corp	01/27/06; \$250 12/14/06; \$250	\$250
Feldman, Aaron	President Sunroad Enterprises	04/14/06; \$250 12/14/06; \$250	\$250

	<u>Contributor</u>	<u>Occupation; Employer</u>	<u>Date; Amount</u>	<u>Amount Over Limit</u>
2	Feldman, Dan	Vice President Sunroad Enterprises	04/25/06; \$250 12/14/06; \$250	\$250
3				
4	Feldman, Uri	Vice President Sunroad Enterprises	04/11/06; \$250 (non-monetary) 12/14/06; \$250	\$250
5	Geisler, Richard	Attorney/Sr. Project Mgr. J. Whalen Assoc.	05/23/06; \$224 (non-monetary) 12/14/06; \$200	\$174
6				
7	Han, Susan	Consultant United Community	02/15/06; \$250 12/15/06; \$250	\$250
8	Hanna, Magdy	Consultant Magdy Hanna	03/09/06; \$250 12/15/06; \$250	\$250
9				
10	Hoffenberg, Bill	Exec. Vice President Sunroad Enterprises	04/11/06; \$250 12/14/06; \$250	\$250
11	Hunter, Ranie	Vice President Village Group	03/30/06; \$250 12/14/06; \$250	\$250
12				
13	Kruger, Janay	Consultant Kruger Development Co.	01/27/06; \$250 12/14/06; \$250	\$250
14				
15	Ledford, Wendy	Homemaker	07/31/06; \$250 12/12/06; \$250	\$250
16	Leidenberger, Bruce	President La Jolla Pac. Dev. Group	02/01/06; \$250 11/20/06; \$250	\$250
17				
18	McPhee, Michael	Principal La Jolla Pac. Dev. Group	02/02/06; \$250 11/20/06; \$250	\$250
19	Meyerowitz, Wayne	Vice President Sunroad Enterprises	04/11/06; \$250 12/14/06; \$250	\$250
20				
21	Mracek, Edward	Real Estate Willis Allen Real Estate	02/17/06; \$99 05/26/06; \$151 12/14/06; \$250	\$250
22				
23	Murphy, R. Michael	Developer Murphy Development	02/22/06; \$250 12/14/06; \$250	\$250
24	Nelson, Robert	President Bob Nelson Associates	05/31/06; \$34 (non-monetary) 05/31/06; \$250 12/14/06; \$250	\$284
25				
26	Ortiz, Rachael	Executive Director Barrio Station	01/27/06; \$250 12/03/06; \$250	\$250
27				
28	Otsuji, Dennis	Landscape Architect Ona Inc.	05/26/06; \$250 12/14/06; \$250	\$250

	<u>Contributor</u>	<u>Occupation; Employer</u>	<u>Date; Amount</u>	<u>Amount Over Limit</u>
2	Poole, David	President	05/30/06; \$250	\$250
3		Brownfield Homes	12/14/06; \$250	
4	Rivera, John	Deputy Chief of Staff	05/15/06; \$250	\$250
5		City Council District 5	12/14/06; \$250	
6	Sessa, Marco	Vice President	03/13/06; \$250	\$250
7		Sudberry Properties Inc.	12/20/06; \$250	
8	Simons, D. Barry	Business Owner	05/27/06; \$250	\$250
9		Barob Group Ltd.	12/14/06; \$250	
10	Simons, Genevive	Homemaker	05/19/06; \$250	\$250
11			12/14/06; \$250	
12	Simons, Robbi	Psychologist	05/19/06; \$250	\$250
13		Robbi D. Simons	12/14/06; \$250	
14	Simons, Stacy	Homemaker	05/19/06; \$250	\$250
15			12/14/06; \$250	
16	Story, Thomas	Vice President	02/22/06; \$125	\$250
17		Sunroad Enterprises	04/25/06; \$125	
18			12/14/06; \$250	
19	Sudberry, Thomas	Real Estate	03/13/06; \$250	\$250
20		Sudberry Properties Inc.	12/14/06; \$250	
21	Sudberry, Colton	Comm. Real Estate	03/13/06; \$250	\$250
22		Sudberry Properties Inc.	12/14/06; \$250	
23	Vann, Richard	Exec. Vice President	02/20/06; \$125	\$125
24		Sunroad Enterprises	12/14/06; \$250	
25	Vasquez, Carlos	Business Owner	05/19/06; \$250	\$250
26		Frontier Hotel	12/14/06; \$250	
27	Whitburn, Stephen	Public Affairs/Comm.	01/27/06; \$250	\$250
28		American Red Cross	12/14/06; \$250	
29	Ziegaus, Alan	Consultant	02/09/06; \$250	\$250
30		Southwest Strategies	12/14/06; \$250	
31	Ziegaus, Constance	Homemaker	02/28/06; \$250	\$250
32			12/14/06; \$250	

The 2006 Committee collected a total of \$10,508 in contributions that exceeded the City's \$250 contribution limit.

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1 in SDMC section 27.2935. In total, the 2006 Committee accepted \$10,508 in illegal campaign
2 contributions for the June 2006 primary election.

3 **Count 49 - Violation of SDMC section 27.2950**

4 27. The 2006 Committee accepted a contribution from Charles V. Pipitone Family
5 Limited Partnership, in violation of the City's prohibition on contributions from organizations to
6 City candidates as set forth in SDMC section 27.2950

7 **Count 50 - Violations of SDMC section 27.2945**

8 28. The 2005 Committee failed to include the requisite notification regarding the
9 reimbursement of contributions on a printed solicitation for campaign contributions (in the form
10 of a remittance envelope) that was distributed from August 2005 through December 2005, in
11 violation of SDMC section 27.2945.

12 **Factors in Aggravation**

13 29. As discussed above, the 2005 Committee and the 2006 Committee solicited and
14 accepted a total of forty-seven contributions that caused contributors to exceed the City's \$250
15 per election contribution limit. Contribution limits are one of the foundations of the City's
16 campaign laws, and are intended to prevent corruption and the appearance of corruption that may
17 be created by large campaign contributions. Accordingly, the acceptance of numerous
18 contributions in excess of the legal limit is one of the most serious violations of local campaign
19 laws.

20 30. Respondents signed campaign statements for the 2006 Committee indicating that
21 they had reviewed the statements and that they were "true and complete." Accordingly,
22 Respondents should have noticed that the 2006 Committee coded 201 contributions for a non-
23 existent general election.

24 **Factors in Mitigation**

25 31. Respondents fully cooperated with the Ethics Commission investigation.

26 32. As discussed above in greater detail, Respondent Hueso reasonably relied on
27 Respondent Reno as the campaign treasurer to properly configure the campaign software and
28 prepare the campaign statements. In addition, Respondent Hueso reasonably relied on a

1 professional fundraiser to solicit contributions from contributors who had not previously
2 contributed the maximum amount to the 2006 Committee.

3 33. The violations concerning improper coding of campaign contributions were reflected
4 on campaign statements filed with the City Clerk. In other words, these contributions were
5 openly disclosed. The Commission's investigation does not reveal any attempt by Respondents
6 to hide the fact that contributions were coded for the general election yet used to pay for
7 expenses associated with the primary election.

8 **Conclusion**

9 34. Respondents agree to take necessary and prudent precautions to comply with all
10 provisions of the Election Campaign Control Ordinance in the future.

11 35. Respondents have already filed amendments to the campaign statements for the 2006
12 Committee to: correct the coding of 201 contributions from "G" to "P" indicating that they were
13 made for the June 2006 primary election; correct the contribution from Richard Ledford to
14 indicate that it was from Wendy Ledford; and correct the contribution from Charles Pipitone to
15 indicate that it was from Charlse V. Pipitone Family Limited Partnership.

16 36. Respondents agree to pay a fine in the total amount of \$17,000 for violating
17 SDMC sections 27.2930, 27.2935, 27.2945, and 27.2950. This amount must be paid no later
18 than April 30, 2008, by check or money order made payable to the City Treasurer. Respondents
19 acknowledge that if the fine is not timely paid in full, the Commission may refer the collection of
20 the fine to the City Treasurer's Collection Division, which may pursue any or all available legal
21 remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding
22 balance owed.

23 DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

24 DATED: _____

BEN HUESO, Respondent

25 DATED: _____

BETH RENO, Respondent

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DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____, 2007. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of \$17,000.

DATED: _____
Guillermo Cabrera, Chair
SAN DIEGO ETHICS COMMISSION