

1 STACEY FULHORST, Executive Director
2 City of San Diego Ethics Commission
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5 Telephone: (619) 533-3476
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7 Petitioner

8 **BEFORE THE CITY OF SAN DIEGO**
9 **ETHICS COMMISSION**

10 In re the Matter of:) Case No.: 2010-89
11)
12 INTERNATIONAL BROTHERHOOD OF) **STIPULATION, DECISION, AND**
13 ELECTRICAL WORKERS LOCAL 569) **ORDER**
14 COMMITTEE ON POLITICAL)
EDUCATION and KINDE DURKEE,)
Respondents.)

15 **STIPULATION**

16 **THE PARTIES STIPULATE AS FOLLOWS:**

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

22 2. At all times mentioned herein, International Brotherhood of Electrical Workers
23 Local 569 Committee on Political Education [IBEW] was a committee registered with the State
24 of California as a general purpose recipient committee (Identification No. 1332191).

25 3. At all times mentioned herein, Kinde Durkee [Durkee] was the treasurer for
26 IBEW.

27 4. IBEW and Durkee are collectively referred to herein as “Respondents.”

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1 the Fair Political Practices Commission [FPPC]. It is unlawful under ECCO to fail to comply
2 with the disclosure requirements of ECCO and state law. SDMC § 27.2930(j).

3 12. According to Government Code section 84203.5, any committee that has made
4 independent expenditures totaling \$1,000 or more in a calendar year to support or oppose a City
5 candidate or ballot measure is required to file independent expenditure reports with the City
6 Clerk in accordance with the pre-election filing schedule set forth in state law. For the
7 November 2, 2010, general election, a committee that made independent expenditures totaling
8 \$1,000 or more between October 1, 2010, and October 16, 2010, was required to file a
9 Supplemental Independent Expenditure Report [Form 465] with the City Clerk on or before
10 October 21, 2010. Cal. Gov't Code § 84200.7. In addition, any committee that made
11 independent expenditures totaling \$1,000 or more between October 17, 2010, and November 1,
12 2010 (the sixteen day period before the election) was required to file a Late Independent
13 Expenditure Report [Form 496] with the City Clerk within twenty-four hours of making the
14 expenditure. Cal. Gov't Code §§ 82036.5, 84204.

15 13. On October 6, 2010, Respondent IBEW made an independent expenditure in the
16 amount of \$5,267.20 to support Howard Wayne, a candidate for City Council District 6 in the
17 November 2, 2010, general election. On October 11, 2010, Respondent IBEW made a second
18 independent expenditure in the amount of \$349.48 to support Howard Wayne for City Council.
19 Respondents failed to file the requisite Form 465 with the City Clerk on or before October 21,
20 2010, disclosing the independent expenditures it made to support a City candidate between
21 October 1 and October 16, 2010.

22 14. On October 18, 2010, Respondent IBEW made another independent expenditure
23 in the amount of \$5,000 to support Howard Wayne for City Council. Respondents failed to
24 timely file a Form 496 with the City Clerk within twenty-four hours of making this expenditure.
25 Respondents filed the Form 496 on October 22, 2010, three days late.

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1 Counts

2 **Counts 1 and 2 - Violations of SDMC section 27.2930**

3 15. Respondents violated SDMC section 27.2930 by failing to file a Form 465 with
4 the City Clerk disclosing independent expenditures made between October 1 and October 16,
5 2010, to support a City candidate. Although the Form 465 was due on October 21, 2010,
6 Respondents have not yet filed it.

7 16. Respondents violated SDMC section 27.2930 by failing to file a Form 496 with
8 the City Clerk within twenty-four hours of making a late independent expenditure on October 18,
9 2010. Respondents filed the Form 496 on October 22, 2010, three days late.

10 Conclusion

11 17. Respondents agree to file a Form 465 with the City Clerk no later than April 8,
12 2011, reflecting the independent expenditures described above in Paragraph 13.

13 18. Respondents agree to take necessary and prudent precautions to ensure timely
14 disclosure of independent expenditures in the future, and to comply with all of the provisions of
15 the City's Election Campaign Control Ordinance.

16 19. Respondents agree to pay a fine in the amount of \$3,000 for violating SDMC
17 section 27.2930. This amount must be paid no later than April 8, 2011, by check or money order
18 made payable to the City Treasurer. The submitted payment will be held pending Commission
19 approval of this Stipulation and execution of the Decision and Order portion set forth below.

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21 DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

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23 DATED: _____

JOHNNY SIMPSON, on behalf of Respondent
INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL 569 COMMITTEE ON POLITICAL
EDUCATION

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27 DATED: _____

KINDE DURKEE, Respondent

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DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____,
2011. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
with the Stipulation, Respondents pay a fine in the amount of \$3,000.

DATED: _____

Larry Westfall, Chair
CITY OF SAN DIEGO ETHICS COMMISSION