CHARLES B. WALKER
Executive Director
City of San Diego Ethics Commission
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(619) 533-3476

Complainant

BEFORE THE CITY OF SAN DIEGO

ETHICS COMMISSION

In the Matter of Clear Channel Outdoor, Inc. Respondent.	Case No. C02-01 **STIPULATION, DECISION AND ORDER**

THE PARTIES STIPULATE AS FOLLOWS:

1. Complainant Charles B. Walker is the Executive Director of the City of San Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer, implement, and enforce local governmental ethics laws contained in the San Diego Municipal Code [SDMC] relating to, among other things, campaign finance as set forth in the City's Campaign Control Ordinance [ECCO].

2. Respondent Clear Channel Outdoor, Inc. [Respondent] is an organization registered with the State of California as a Major Donor/Independent Expenditure Committee (Filer Identification No. 487067).

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

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

Respondent's liability.

5. Respondent understands and knowingly and voluntarily waives any and all procedural rights under the SDMC, including, but not limited to, a determination of probable cause, the issuance and receipt of an administrative complaint, the right to appear personally in any administrative hearing held in this matter, the right to confront and cross-examine witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this matter.

6. The parties agree that this Stipulation is binding upon the Ethics Commission, but is not binding upon Respondent in proceedings before any other law enforcement or government agency. Respondent wishes to resolve this matter and avoid the expense of further proceedings. This stipulation does not preclude the Ethics Commission from cooperating with or assisting any other law enforcement or government agency with regard to this or any other related matter. In the event that the Ethics Commission receives a future complaint alleging a violation of the provisions of ECCO that are the subject of this Stipulation, the Ethics Commission shall review the complaint to determine whether Respondents have complied with the terms of this Stipulation. If such a review results in a determination that Respondents have fully complied with the terms of this Stipulation, the complaint shall promptly be dismissed. If the review results in a determination that the Respondents have not complied with the terms of this Stipulation, the Ethics Commission may elect to either initiate a new enforcement action and/or seek an order from a court of law enforcing the terms of this Stipulation.

7. The parties agree that it is their intent in entering into this stipulation to comply with the law currently contained in the Political Reform Act [PRA] and ECCO in a manner that meets the respective goals and objectives of the parties. If there are any changes in these laws or interpretations of these laws by the FPPC or any court of competent jurisdiction that has a material impact upon the implementation of this Stipulation, each party shall participate in a good faith renegotiation of this Stipulation and shall not unreasonably withhold approval of any requested modifications to the Stipulation made by either party when it can be demonstrated that the requested modification is necessitated or warranted by changes in the law or interpretations

of existing law. Specifically, it is acknowledged by Complainant that the Respondent reserves the right and may in the future seek an administrative or judicial determination (unrelated to this matter) that its use of its own billboards in a manner similar to the facts giving rise to this complaint do not constitute independent expenditures within the meaning of the PRA.

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

SUMMARY OF FACTS

9. Respondent is the owner of a billboard adjacent to Highway 94 at Euclid Avenue in the City of San Diego. From approximately January 18, 2002, through March 7, 2002, Respondent sponsored a billboard advertisement [Billboard 1] at this location in support of Charles Lewis for City Council. Billboard 1 had a market value of $7,500.

10. On April 25, 2002, Respondent filed a Late Independent Expenditure Report (commonly known as a Form 496) with the Office of the City Clerk. This Report indicates that Billboard 1 was in place from January 15, 2002, through March 6, 2002, and that the amount of the expenditure for Billboard 1 was $7,500.

11. On June 6, 2002, Respondent filed a Supplemental Independent Expenditure Report (commonly known as a Form 465) for the period from January 1, 2002, through January 19, 2002, with the City Clerk. This Report reiterates that Billboard 1 was in place from January 15, 2002, through March 6, 2002, and that the value of the expenditure for Billboard 1 was $7,500.

12. On July 31, 2002, Respondent filed another Form 465 for the period from January 1, 2002, through June 30, 2002, with the City Clerk. In contrast to earlier statements, this Form 465 indicates that the independent expenditure for Billboard 1 was made on January 18, 2002, and that the value of Billboard 1 was $5,000.

13. From approximately October 6, 2002, through November 5, 2002, Respondent sponsored another billboard advertisement [Billboard 2] adjacent to Highway 94 and Euclid Avenue in San

Diego, California, in support of Charles Lewis for City Council.

14. To date, Respondent has not filed any campaign statements reflecting Billboard 2.

SUMMARY OF LAW

15. ECCO requires candidates and committees to file campaign statements in the time and manner required by California Government Code section 81000 et seq. (SDMC section 27.2931).

16. The California Government Code provides as follows with respect to the filing of Supplemental Independent Expenditure Reports:

> § 84203.5. Supplemental Independent Expenditure Reports
>
> (a) In addition to any campaign statements required by this article, if a candidate or committee has made independent expenditures totaling one thousand dollars ($1,000) or more in a calendar year to support or oppose a candidate, a measure or qualification of a measure, it shall file independent expenditure reports at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements under this article, as if it were formed or existing primarily to support or oppose the candidate or measure or qualification of the measure. No independent expenditure report need be filed to cover a period for which there has been no activity to report.

17. California Government Code section 84200.8 provides that campaign statements for a March primary shall be filed forty days before the election for the period ending forty-five days before the election, and twelve days before the election for the period ending seventeen days before the election. In addition, California Government Code section 84200.7 provides that campaign statements for the November election period shall be filed on October 5 for the period ending September 30, and twelve days before the election for the period ending seventeen days before the election.

COUNT 1
Violation of SDMC Section 27.2931
[Billboard 1]

18. Respondent did not timely file a Form 465 in connection with Billboard 1. The $7,500 expense for Billboard 1 was incurred on January 18, 2002, the first day the billboard appeared. Respondent was required to file a Form 465 on January 24, 2002, for the period ending January 19, 2002 (forty-five days before the election). Respondent did not file a Form 465 until June 6, 2002.

19. The campaign statements filed by Respondent and described above in paragraphs 10, 11, and 12, include inaccurate and contradictory information. The Form 496 filed on April 25, 2002, and the Form 465 filed on June 6, 2002, erroneously state that Billboard 1 appeared from January 15, 2002, through March 6, 2002. Billboard 1 was actually on display from January 18, 2002, through March 7, 2002. In addition, the Form 465 filed on July 31, 2002 (for the period from January 1, 2002, through June 30, 2002) erroneously indicates that the value of Billboard 1 was $5,000, when it actually had a value of $7,500. Renita Smith, a consultant to the Respondent, and not a treasurer for Respondent, signed both Form 465s on the Respondent's behalf as if she were the treasurer.

COUNT 2
Violation of SDMC Section 27.2931
[Billboard 2]

20. Respondent has not filed a Form 465 in connection with the Billboard 2 advertisement. Billboard 2 had a market value of $5,000. This expense was incurred on October 6, 2002, the first day it appeared. Respondent was required to report this expenditure on a Form 465 filed by October 24, 2002, for the period ending October 19, 2002. To date, the Respondent has not filed a Form 465 for this expenditure.

STIPULATIONS AND ORDER

AGREEMENT

21. With respect to the campaign statements reporting the independent expenditure for Billboard 1, described above in paragraphs 10, 11, and 12. Respondent agrees to file all appropriate amendments to remedy the inaccuracies and inconsistencies concerning the date Billboard 1 was displayed, the value of the display, and the signature of the responsible officer.

22. With respect to Billboard 2, described above in paragraph 13, Respondent agrees to file a Form 465 with the Office of the City Clerk no later than January 31, 2003.

23. Respondent agrees to take necessary and prudent precautions to ensure timely filing of campaign statements in the future.

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FACTORS IN AGGRAVATION

24. Respondent was advised by Ethics Commission staff in March and April of 2002 of Respondent's failure to file a campaign statement reflecting Billboard 1. Despite this advice, Respondent again failed to file a campaign statement reflecting Billboard 2.

CONCLUSION

25. Respondent agrees to pay the amount of $5,000 no later than January 31, 2003.

26. This Stipulation shall not become effective until Respondent has provided to the Ethics Commission a check or money order in the amount of $5,000, made payable to the City Treasurer.

DATED:_____ _____
CHARLES B. WALKER, Executive Director
EXECUTIVE DIRECTOR ETHICS COMMISSION
Complainant

DATED:_____ _____
EDWARD DATO, Public Affairs Officer
CLEAR CHANNEL OUTDOOR, INC., Respondent

DECISION AND ORDER

The Ethics Commission has considered the above Stipulation at its meeting on January 9, 2003. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay the amount of $5,000.

DATED:_____ _____
DOROTHY LEONARD, Chair
SAN DIEGO ETHICS COMMISSION