

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
2 1010 Second Avenue, Suite 1530
San Diego, CA 92101
3 Telephone: (619) 533-3476
4 Facsimile: (619) 533-3448

5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2011-61
11)
12 UNITE HERE SAN DIEGO: A SPONSORED) **STIPULATION, DECISION, AND**
COMMITTEE OF UNITE HERE) **ORDER**
13 INTERNATIONAL AND UNITE HERE)
LOCAL 30,)
14 Respondent.)
15)

16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

18 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
19 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
20 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
21 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control
22 Ordinance [ECCO], SDMC section 27.2901, *et seq.*

23 2. At all times mentioned herein, Unite Here San Diego: a Sponsored Committee of
24 Unite Here International and Unite Here Local 30 [Unite Here] was a City general purpose
25 committee sponsored by Unite Here Local 30 and registered with the State of California
26 (Identification No. 1322418). Unite Here is referred to herein as “Respondent.”

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

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 to hold the City of San Diego harmless from any and all claims or damages resulting from the
14 Commission's investigation, this stipulated agreement, or any matter reasonably related thereto.
15 Respondent further agrees that the terms of this Stipulation constitute compliance with the
16 provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
17 reference to each violation, and an order.

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

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

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1 **Summary of Law and Facts**

2 9. ECCO defines “committee” as any person or combination of persons who raise
3 \$1,000 or more for the purpose of supporting or opposing a candidate or ballot measure, or make
4 independent expenditures of \$1,000 or more, within a single calendar year. SDMC § 27.2903.

5 10. ECCO requires committees to file campaign statements in the time and manner
6 required by California Government Code section 81000, *et seq.* and the regulations adopted by
7 the Fair Political Practices Commission. It is unlawful under ECCO to fail to comply with the
8 disclosure requirements of ECCO and state law. SDMC § 27.2930(j).

9 11. According to Government Code sections 82036.5 and 84204, any committee that
10 makes independent expenditures totaling \$1,000 or more to support or oppose a candidate or
11 measure in the sixteen day period preceding an election is required to file a Late Independent
12 Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the November
13 2, 2010, general election, this sixteen day period commenced on October 17, 2010.

14 12. On October 25, 2010, Respondent made independent expenditures in support of
15 Felipe Hueso, a candidate for City Council District 8, in the form of six payments to BNA
16 Communications totaling \$4,775.83.

17 13. On October 27, 2010 (one day late), Respondent filed a Form 496 with the City
18 Clerk and disclosed two independent expenditures made on October 25, 2010, totaling
19 \$2,774.73. Respondent failed to disclose the four additional expenditures it made on October 25,
20 2010, totaling \$2,001.10 to support Felipe Hueso.

21 **Counts**

22 **Count 1 - Violation of SDMC section 27.2930**

23 14. Respondent violated SDMC section 27.2930 by failing to timely disclose all of the
24 independent expenditures it made on October 25, 2011, in support of a City candidate. In
25 particular, Respondent filed a Form 496 on October 27, 2011, and disclosed expenditures
26 totaling \$2,774.73 when in fact Respondent made independent expenditures totaling \$4,775.83
27 on October 25, 2011.

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1 **Factors in Aggravation**

2 15. The timely disclosure of campaign contributions and expenditures is the foundation
3 of the City’s campaign laws. In particular, the pre-election filing requirement for independent
4 expenditures made in the weeks leading up to an election is extremely important because it
5 ensures that the public receives time-sensitive information regarding the sources and amounts of
6 expenditures made to support and oppose local candidates before they cast their votes.

7 **Factors in Mitigation**

8 16. On January 31, 2011, Respondent filed a Supplemental Independent Expenditure
9 Report with the City Clerk covering the period from July 1, 2010, through December 31, 2010,
10 and disclosed all of the independent expenditures it made on October 25, 2010, to support Felipe
11 Hueso. By filing this campaign statement, Respondent essentially acknowledged its previous
12 failure to disclose four of the six expenditures it made to support a City candidate. In addition,
13 because Respondent included the requisite “paid for by” disclosure on its campaign literature, the
14 recipients were aware that Respondent had expended funds to support Felipe Hueso’s candidacy.

15 17. Respondent has cooperated fully with the Ethics Commission investigation.

16 **Conclusion**

17 18. Respondent agrees to take necessary and prudent precautions to ensure compliance
18 with all provisions of ECCO in the future.

19 19. Respondent acknowledges that the Ethics Commission may impose increased fines
20 in connection with any future violations of the City’s campaign laws.

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1 20. Respondent agrees to pay a fine in the amount of \$500 for violating SDMC section
2 27.2930. This amount must be paid no later than September 30, 2011, by check or money order
3 payable to the City Treasurer. The submitted payment will be held pending Commission
4 approval of this Stipulation and execution of the Decision and Order portion set forth below.

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6 DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

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9 DATED: _____

UNITE HERE SAN DIEGO: A SPONSORED
COMMITTEE OF UNITE HERE INTERNATIONAL
AND UNITE HERE LOCAL 30, Respondent
By: Dan Rottenstreich, Political Director

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13 **DECISION AND ORDER**

14 The Ethics Commission considered the above Stipulation at its meeting on _____,
15 2011. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
16 with the Stipulation, Respondent pay a fine in the amount of \$500.
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18 DATED: _____

CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION