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Petitioner

BEFORE THE CITY OF SAN DIEGO

ETHICS COMMISSION

In re the Matter of:	)	Case No.: 2007-38
	)	
RON ROBERTS and F. LAURENCE SCOTT, JR.,	)	**STIPULATION, DECISION, AND ORDER**
	)	
	)	
Respondent.	)	

STIPULATION

THE PARTIES STIPULATE AS FOLLOWS:

1. Petitioner Stacey Fulhorst 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, the provisions of the City's Election Campaign Control Ordinance [ECCO].

2. Ron Roberts [Roberts] was a candidate for Mayor of the City of San Diego in the March 2000 primary election and the November 2000 general election. The Ron Roberts for Mayor Committee [2000 Committee] is a campaign committee registered with the State of California (Identification No. 983539) established to support Roberts' candidacy in the 2000 election cycle. Roberts was also a candidate for Mayor in the City of San Diego in the March 2004 primary election and the November 2004 general election. The San Diegans for Ron Roberts Committee [2004 Committee] is a campaign committee registered with the State of California (Identification No. 1260553) established to support Roberts' candidacy in the 2004

election cycle. At all relevant times herein, the 2000 Committee and the 2004 Committee were controlled by Roberts within the meaning of the California Political Reform Act, California Government Code section 82016.

3. At all times mentioned herein, Respondent F. Laurence Scott, Jr., [Scott], principal of the accounting firm Scott & Cronin, was the treasurer of record for both the 2000 Committee and the 2004 Committee.

4. Roberts and Scott are referred to herein collectively as "Respondents."

5. This 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.

6. 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 Respondents' liability.

7. Respondents understand and knowingly and voluntarily waive 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. Respondents agree to hold the City of San Diego harmless from any and all claims or damages resulting from the Commission's investigation or this stipulated agreement, or any matter reasonably related thereto. Respondents further agree that the terms of this Stipulation constitute compliance with the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an order.

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

9. The parties agree that in the event the Ethics Commission refuses to accept this Stipulation, it shall become null and void. Respondents further agree that in the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing before the 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 Law and Facts

10. ECCO was amended and renumbered in early 2005. Accordingly, this Stipulation refers to the applicable provisions of the SDMC by the section number and language in force and effect at the time of the actions that are the subject of this Stipulation.

11. Because the 2000 Committee and the 2004 Committees were formed for the purpose of supporting a candidate in a City of San Diego election, Respondents are required to comply with the provisions of ECCO.

12. The 2004 Committee was selected for audit by the Ethics Commission at a random drawing conducted on April 25, 2005. An audit was performed for the period from November 10, 2003, through December 31, 2006. When a committee controlled by a candidate is selected for audit, the Ethics Commission's audit procedures require that every other City committee controlled by the candidate during the audit period also be audited. Accordingly, the Commission's audit included the activities of the 2000 Committee for the period from November 10, 2003, through March 14, 2005, the date the 2000 Committee was terminated.

13. ECCO requires contributions made to a candidate committee to be deposited into that committee's bank account within twenty business days (this time limit was subsequently extended to thirty business days in January of 2005). Former SDMC section 27.2921.

14. On June 30, 2004, six contributors made contributions totaling $1,300 to the 2004 Committee. These contributions were deposited into the 2000 Committee bank account.

15. On January 31, 2005, and February 1, 2005, eight contributors made contributions totaling $2,000 to the 2004 Committee. These contributions were deposited into the 2000 Committee bank account.

/ / /

Counts

Counts 1 through 14 - Violations of SDMC section 27.2921

16. On June 30, 2004, six contributions totaling $1,300 made payable to the 2004 Committee were improperly deposited into the 2000 Committee bank account, in violation of SDMC section 27.2921.

17. On January 31, 2005, and February 1, 2005, eight contributions totaling $2,000 made payable to the 2004 Committee were improperly deposited into the 2000 Committee bank account, in violation of SDMC section 27.2921.

Factors in Mitigation

18. Respondents have fully cooperated with the Ethics Commission audit and investigation.

19. Information obtained during the course of the Commission's audit indicates that Scott mistakenly believed that contributions made payable to a candidate's controlled committee could be deposited into another committee controlled by the same candidate. Moreover, the Commission's audit revealed no intent to conceal the fact that contributions made payable to the 2004 Committee were deposited into the 2000 Committee bank account.

Factors in Aggravation

20. The 2000 Committee used the $3,300 which was improperly deposited into its bank account to pay back a portion of an $11,000 personal loan, which Roberts had made to the 2000 Committee in 2003. Roberts made this loan to the 2000 Committee after entering into a stipulation with the Ethics Commission in January of 2003, in which he agreed to pay approximately $35,000 in outstanding vendor debts previously incurred by the 2000 Committee.

Conclusion

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

22. Respondents agree to pay a fine in the amount of $1,000 for violating SDMC section 27.2921. This amount must be paid no later than September 12, 2007, by check or money order made payable to the City Treasurer. The submitted payment will be held pending

Commission approval of this Stipulation and execution of the Decision and Order set forth below.

DATED:_____ _____
STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

DATED:_____ _____
RON ROBERTS, Respondent

DATED:_____ _____
F. LAURENCE SCOTT, JR., Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on September 13, 2007. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of $1,000.

DATED:_____ _____
Guillermo Cabrera, Chair
SAN DIEGO ETHICS COMMISSION