

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

4
5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2018-22
11 KEVIN L. EGGER,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**
_____)

14
15 **STIPULATION**

16 **THE PARTIES STIPULATE AS FOLLOWS:**

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

22 2. At all times mentioned herein, Kevin L. Egger was a candidate for City Council
23 District 6 in the June 2018 primary election. The Egger for Council 2018 committee
24 (Identification No. 1401472) [Committee] was a campaign committee registered with the State
25 of California established to support Mr. Egger’s candidacy for Council District 6. At all relevant
26 times herein, the Committee was controlled by Mr. Egger within the meaning of the California
27 Political Reform Act, California Government Code section 82016. Mr. Egger is referred to
28 herein as “Respondent.”

1 3. 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 4. 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 5. 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 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
14 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
15 order.

16 6. Respondent agrees to hold the City of San Diego and the Ethics Commission
17 harmless from any and all claims or damages resulting from the Commission's investigation, this
18 stipulated agreement, or any matter reasonably related thereto.

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

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

28 ///

1 **Summary of Law and Facts**

2 9. SDMC section 27.2930 requires candidates and committees to file campaign
3 statements in the time and manner required by California Government Code sections 81000 *et*
4 *seq.* In addition to the two pre-election campaign statements required by local and state law,
5 SDMC section 27.2930(e) requires City candidates to file a third pre-election campaign
6 statement on the Friday before the election covering the period from the last campaign statement
7 through the Wednesday before the election. Candidates in the June 2018 primary election were
8 required to file a first pre-election statement covering the period from January 1 through April
9 21, on or before April 26; a second pre-election statement covering the period from April 22
10 through May 19, on or before May 24; and a third pre-election statement covering the period
11 from May 20 through May 30, on or before June 1.

12 10. Respondent did not file a campaign statement covering the period from January 1,
13 2018, through April 21, 2018, until June 15, 2018, fifty days late and after the primary election.

14 11. Respondent did not file a campaign statement covering the period from April 22,
15 2018, through May 19, 2018, until June 15, 2018, twenty-two days late and after the primary
16 election.

17 12. Respondent did not file a campaign statement covering the period from May 20,
18 2018, through May 30, 2018, until June 15, 2018, fourteen days late and after the primary
19 election.

20 **Counts**

21 **Counts 1 through 3 - Violations of SDMC section 27.2930**

22 13. As discussed above in paragraphs 10 through 12, Respondent failed to timely file
23 all three pre-election campaign statements, in violation of SDMC section 27.2930.

24 **Factors in Aggravation**

25 14. The City Clerk made numerous efforts to contact Respondent via email and
26 telephone regarding his filing responsibilities, both before and after the filing deadlines. Despite
27 these efforts by the City Clerk, Respondent failed to file any campaign statements until June 15,
28 2018, more than a week after the June 5, 2018 primary election. As a result of Respondent's

1 failure to comply with the disclosure requirements, the voters did not have access to any
2 information concerning his campaign contributions or expenditures prior to the election.

3 **Conclusion**

4 15. Respondent agrees to take necessary and prudent precautions to ensure compliance
5 with all provisions of the Election Campaign Control Ordinance in the future.

6 16. Respondent acknowledges that the Ethics Commission may impose increased fines
7 relating to any future violations of the City's Election Campaign Control Ordinance.

8 17. Respondent agrees to pay a fine in the amount of \$1,500. This amount must be paid
9 no later than September 7, 2018, by check or money order payable to the City Treasurer. The
10 submitted payment will be held pending Commission approval of this Stipulation and execution
11 of the Decision and Order portion set forth below.

12
13 [REDACTED]
14 DATED: _____
15 Stacey Fulhorst, Petitioner
16 SAN DIEGO ETHICS COMMISSION

17 [REDACTED]
18 DATED: _____
19 Kevin L. Egger, Respondent

20 **DECISION AND ORDER**

21 The Ethics Commission considered the above Stipulation at its meeting on October 11,
22 2018. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
23 with the Stipulation, Respondent pay a fine in the amount of \$1,500.

24
25 [REDACTED]
26 DATED: _____
27 Deborah Cochran, Chair
28 SAN DIEGO ETHICS COMMISSION