1	STACEY FULHORST, Executive Director	,		
2	City of San Diego Ethics Commission 450 B Street, Suite 780			
3	San Diego, CA 92101 Telephone: (619) 533-3476			
4	Petitioner			
5				
6	BEFORE THE CI	TY OF SAN DIEGO		
7	ETHICS COMMISSION			
8				
9	In re the Matter of:) Case No.: 2019-10		
10	KEVIN FAULCONER,) STIPULATION, DECISION, AND		
11	Respondent.) ORDER		
12)		
13	·)		
14	STIPULATION			
15	THE PARTIES STIPULATE AS FOI	LLOWS:		
16	1. Petitioner Stacey Fulhorst is the Ex	xecutive Director of the City of San Diego Ethics		
17	Commission [Ethics Commission]. The Ethics Commission [Ethics Commission].	Commission is charged with a duty to administer,		
18	implement, and enforce local governmental ethic	ics laws contained in the San Diego Municipal		
19	Code [SDMC] relating to, among other things, t	the provisions of the Ethics Ordinance, SDMC		
20	section 27.3501, et seq.			
21	2. At all times mentioned herein, Key	vin Faulconer was the Mayor elected to represent		
22	the City of San Diego. Mayor Faulconer is refer	rred to herein as "Respondent."		
23	3. This Stipulation will be submitted	for consideration by the Ethics Commission at its		
24	next scheduled meeting, and the agreements con	ntained herein are contingent upon the approval		
25	of the Stipulation and the accompanying Decisi	on and Order by the Ethics Commission.		
26	4. This Stipulation resolves all factua	and legal issues raised in this matter by the		
27	Ethics Commission without the necessity of holding an administrative hearing to determine			
28	Respondent's liability.			
		-1-		

1 5. Respondent understands and knowingly and voluntarily waives any and all 2 procedural rights under the SDMC including, but not limited to, a determination of probable 3 cause, the issuance and receipt of an administrative complaint, the right to appear personally in 4 any administrative hearing held in this matter, the right to confront and cross-examine witnesses 5 testifying at the hearing, the right to subpoen a witnesses to testify at the hearing, and the right to 6 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees 7 that the terms of this Stipulation constitute compliance with the provisions of SDMC section 8 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an 9 order.

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

7. Respondent acknowledges 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.

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

22

Summary of Law and Facts

9. The City's Ethics Ordinance requires elected City Officials to file a Fair Political
Practices Commission Form 803 Behested Payment Report whenever a person or entity makes
payments totaling \$5,000 or more in a calendar year for a legislative, governmental, or charitable
purpose at the behest of the City Official. The Form 803 must be filed with the City Clerk within
30 calendar days of a donor meeting the \$5,000 threshold, and within 30 days of any subsequent
payments made by the same donor. SDMC § 27.3515.

1	10. In November of 2014, Respondent announced the creation of One San Diego, a non-	
2	profit entity established to "support the organization of the Mayor's Office and City, engage	
3	neighborhoods through collaboration and community involvement, and better connect San	
4	Diegans with local leaders to build more resilient communities."	
5	11. On February 9, 2018, Campland made one \$10,000 payment to One San Diego at the	
6	behest of Respondent. Respondent did not file a Form 803 to disclose this payment until August	
7	2, 2019, sixteen months late.	
8	12. On August 5, 2018, Prime Steaks made one \$5,000 payment to One San Diego at the	
9	behest of Respondent. Respondent did not file a Form 803 to disclose this payment until	
10	December 4, 2018, three months late.	
11	13. On September 8, 2018, U Stor It made two \$7,500 payments to One San Diego at the	
12	behest of Respondent, and Cox Communications made one \$7,500 payment to One San Diego at	
13	the behest of Respondent. Respondent did not file a Form 803 to disclose these three payments	
14	until December 4, 2018, two months late.	
15	14. On September 26, 2018, Prime Steaks made one \$5,000 payment to One San Diego	
16	at the behest of Respondent, and Seidler Kutsenda made one \$10,000 payment to One San Diego	
17	at the behest of Respondent. Respondent did not file a Form 803 to disclose these two payments	
18	until December 4, 2018, six weeks late.	
19	15. On October 3, 2018, the San Diego Association of Realtors made one \$15,000	
20	payment to One San Diego at the behest of Respondent. Respondent did not file a Form 803 to	
21	disclose this payment until December 4, 2018, one month late.	
22	<u>Counts</u>	
23	Counts 1 through 5 - Violations of SDMC Section 27.3515	
24	16. Respondent violated SDMC section 27.3515 by failing to timely file five Forms 803	
25	to disclose behested payments totaling \$67,500, as described above in paragraphs 11 through 15.	
26	Factors in Mitigation	
27	17. Respondent had an established procedure in place to ensure that One San Diego	
28	provided information to his staff for them to timely file the required reports, and the vast	
	-3- STIPULATION, DECISION, AND ORDER	
	STIFULATION, DECISION, AND OKDEK	

1	majority of payments behested by Respondent were timely reported.		
2	18. Respondent's staff filed the December 4, 2018, Form 803 prior to being contacted		
3	by Ethics Commission staff.		
4	Conclusion		
5	19. Respondent agrees to take necessary and prudent precautions to ensure compliance		
6	with all provisions of the Ethics Ordinance in the future.		
7	20. Respondent acknowledges that the Ethics Commission may impose increased fines		
8	in connection with any future violations of the City's ethics laws.		
9	21. Respondent agrees to pay a fine in the amount of \$4,000 for violating SDMC		
10	section 27.3515. This amount must be paid no later than August 2, 2019, by check or money		
11	order payable to the City Treasurer. The submitted payment will be held pending Commission		
12	approval of this Stipulation and execution of the Decision and Order portion set forth below.		
13			
14	[REDACTED] DATED:		
15	Stacey Fulhorst, Petitioner		
16	SAN DIEGO ETHICS COMMISSION		
17	DATED: [REDACTED]		
18	Kevin Faulconer, Respondent		
19			
20	DECISION AND ORDER		
21 22	The Ethics Commission considered the above Stipulation at its meeting on August 8,		
22	2019. The Ethics Commission hereby approves the Stipulation and orders that, in accordance		
23 24	with the Stipulation, Respondent pay a fine in the amount of \$4,000.		
24			
26	[REDACTED]		
20	Sid Voorakkara, Chair SAN DIEGO ETHICS COMMISSION		
28			
-0	-4-		
	STIPULATION, DECISION, AND ORDER		