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

Petitioner

BEFORE THE CITY OF SAN DIEGO

ETHICS COMMISSION

In re the Matter of:	)	Case No.: No. 2004-24
	)	
GREGORY DIETHRICH,	)	**STIPULATION, DECISION AND ORDER**
	)	
Respondent.	)	
	)	
	)	

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 filing of Statements of Economic Interests [SEIs] as required by the City's Ethics Ordinance.

2. Respondent Gregory Diethrich [Respondent] is a member of the City Heights Project Area Committee [CHPAC]. He assumed this office on December 10, 2001.

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 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.

7. 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 LAW AND FACTS

8. As a member of the CHPAC, Respondent is a "Local Code Filer" as that term is defined by SDMC section 27.3503, and is required to file SEIs in the time and manner set forth in SDMC section 27.3510.

9. SDMC section 27.3510 requires all Local Code Filers to file an annual SEI on or before April 1 of each year, covering the period from January 1 through December 31 of the previous calendar year.

10. The Ethics Commission, in accordance with SDMC section 26.0425, authorized a formal investigation of a complaint alleging that Respondent failed to comply with the provisions of SDMC section 27.3510.

11. Following the investigation, Petitioner concluded that Respondent failed to timely file his annual SEI for the 2003 calendar year.

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COUNT 1

[Violation of SDMC Section 27.3510]

12. Respondent failed to file an SEI disclosing his economic interests for the 2003 calendar year on or before April 1, 2004, as required by SDMC section 27.3510. Respondent filed his annual SEI for 2003 on August 24, 2004, 145 days late.

STIPULATIONS AND ORDER

AGREEMENT

13. Respondent agrees to take necessary and prudent precautions to ensure timely filing of SEIs in the future, and to comply with all provisions of the Ethics Ordinance.

FACTORS IN AGGRAVATION

14. The City Clerk sent Respondent a letter on February 12, 2004, reminding him to file an annual SEI for the 2003 calendar year on or before April 1, 2004. The City Clerk sent Respondent another letter on April 14, 2004, informing Respondent that his 2003 annual SEI had not been received, and asking him to file it on or before May 14, 2004. The Ethics Commission sent Respondent a letter on June 24, 2004, concerning his failure to timely file his 2003 annual SEI. In addition, the Ethics Commission staff sent Respondent an e-mail on July 14, 2004, and left him two telephone messages on July 16, 2004, and July 22, 2004. Despite the foregoing, Respondent did not file his SEI until August 24, 2004, 145 days after it was originally due.

15. The Respondent has a history of not timely filing his SEIs. In particular, Respondent filed his annual SEI for the 2002 calendar year on May 27, 2003, fifty-six days after it was originally due.

16. The Ethics Commission distributed training videos to the CHPAC in July of 2003. The video includes a discussion regarding SEI filing requirements. Since that time, Respondent has failed to return a certification form indicating that he watched this training video. The Ethics Commission wrote to Respondent on January 15, 2004, and advised him that a failure to take advantage of this training opportunity would be considered a factor in aggravation should he ever be the subject of an Ethics Commission investigation.

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CONCLUSION

17. Respondent shall pay a fine in the amount of $900 for violation of SDMC section 27.3510. This amount must be paid in full no later than June 30, 2005.

18. This Stipulation shall not become effective until Respondent has provided to the Ethics Commission the amount set forth in paragraph 17, by check or money order made payable to the City Treasurer.

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

DATED:_____ _____
GREGORY DIETHRICH, Respondent

DECISION AND ORDER

The Ethics Commission has considered the above Stipulation at its meeting on December 16, 2004. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $900.

DATED:_____ _____
DOROTHY L.W. SMITH, Chair
SAN DIEGO ETHICS COMMISSION