

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2011-33
11)
ROBERT ILKO,) **STIPULATION, DECISION, AND**
12) **ORDER**
Respondent.)
13)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

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

21 2. At all times mentioned herein, Robert Ilko was a candidate for City Council District 5
22 in the June 4, 2008, primary election. (Although he withdrew from the race in March of 2008, he
23 is considered a candidate until his campaign committee is terminated.) The Friends of Bob Ilko
24 committee (Identification No. 1299411) [Committee] was a campaign committee registered with
25 the State of California established to support Mr. Ilko’s candidacy for Council District 5. At all
26 relevant times herein, the Committee was controlled by Mr. Ilko within the meaning of the
27 California Political Reform Act, California Government Code section 82016. Mr. Ilko is
28 referred to 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 Ethics
5 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 procedural
8 rights under the SDMC, including, but not limited to, a determination of probable cause, the
9 issuance and receipt of an administrative complaint, the right to appear personally in any
10 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 or this stipulated agreement, or any matter reasonably related
15 thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with
16 the 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 6. 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 7. 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 8. On September 10, 2009, the Committee was selected for audit at a random drawing
3 conducted in accordance with the provisions in the Ethics Commission Audit Manual.
4 Accordingly, an audit of the Committee was performed for the period from June 4, 2007, through
5 December 31, 2010.

6 9. Because the Committee was formed for the purpose of supporting a candidate in a
7 City of San Diego election, Respondent is required to comply with the provisions of ECCO.
8 ECCO was amended and renumbered on January 1, 2009. Accordingly, this Stipulation refers to
9 the applicable provisions of ECCO that were in effect at the time of the actions that are the
10 subject of this Stipulation.

11 10. SDMC section 27.2930 requires candidates and committees to file campaign
12 statements and disclose all of the information required by state law. California Government
13 Code section 84211 requires disclosure of the following information:

14 (f) If the cumulative amount of contributions (including loans) received from a
15 person is one hundred dollars (\$100) or more and a contribution or loan has
16 been received from that person during the period covered by the campaign
17 statement, all of the following:

18 (1) His or her full name.

19 (2) His or her street address.

20 (3) His or her occupation.

21 (4) The name of his or her employer, or if self-employed, the name of the
22 business.

23 (5) The date and amount received for each contribution received during the
24 period covered by the campaign statement and if the contribution is a
25 loan, the interest rate for the loan.

26 (6) The cumulative amount of contributions.

27 (g) If the cumulative amount of loans received from or made to a person is one hundred
28 dollars (\$100) or more, and a loan has been received from or made to a person

1 during the period covered by the campaign statement, or is outstanding during the
2 period covered by the campaign statement, all of the following:

- 3 (1) His or her full name.
- 4 (2) His or her street address.
- 5 (3) His or her occupation.
- 6 (4) The name of his or her employer, or if self-employed, the name of the business.
- 7 (5) The original date and amount of each loan.
- 8 (6) The due date and interest rate of the loan.
- 9 (7) The cumulative payment made or received to date at the end of the reporting
10 period.
- 11 (8) The balance outstanding at the end of the reporting period.
- 12 (9) The cumulative amount of contributions.

13 11. The Commission's audit revealed that Respondent failed to disclose 7 contributions
14 totaling \$750.00 on the campaign statement covering the period from July 1, 2007, through
15 December 31, 2007.

16 12. The Commission's audit revealed that Respondent failed to disclose 3 contributions
17 totaling \$450.00 on the campaign statement covering the period from January 1, 2008, through
18 March 31, 2008.

19 13. The Commission's audit revealed that Respondent failed to disclose a loan from the
20 candidate in the amount of \$5,000 on the campaign statement covering the period from January
21 1, 2008, through March 31, 2008.

22 14. The Commission's audit revealed that Respondent failed to disclose an expenditure
23 in the amount of \$1,750.00 to its campaign consultant, VanDeWeghe Associates, on the
24 campaign statement covering the period from July 1, 2007, through December 31, 2007.

25 15. ECCO requires candidates and committees to maintain records of all contributions
26 received and all disbursements made from the campaign checking account. In particular, the
27 records required by SDMC section 27.2925 include copies of contribution checks as well as
28 invoices or other supporting documents for which funds were disbursed.

1 financial institutions. In this case, Respondent was unable to obtain copies of records associated
2 with the 27 contributions discussed above from his bank because it recently merged with another
3 financial institution.

4 **Conclusion**

5 25. Respondent agrees to take necessary and prudent precautions to comply with all
6 provisions of the Election Campaign Control Ordinance in the future.

7 26. Respondent acknowledges that the Ethics Commission may impose increased fines
8 in connection with any future violations of the City's campaign laws.

9 27. Respondent agrees to pay a fine in the amount of \$ 2,000.00 for violating SDMC
10 sections 27.2925 and 27.2930. This amount must be paid by check or money order made
11 payable to the City Treasurer no later than July 8, 2011. The submitted payment will be held
12 pending Commission approval of this Stipulation and execution of the Decision and Order
13 portion set forth below.

14
15 DATED: _____

16 STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

17
18 DATED: _____

19 ROBERT ILKO, Respondent

20 **DECISION AND ORDER**

21 The Ethics Commission considered the above Stipulation at its meeting on _____,
22 2011. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
23 with the Stipulation, Respondent pay a fine in the amount of \$2,000.00.

24
25 DATED: _____

26 CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION