STACEY FULHORST, Executive Director
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Petitioner

BEFORE THE CITY OF SAN DIEGO

ETHICS COMMISSION

In re the Matter of:	)	Case No.: 2005-07
	)	
RON ROBERTS,	)	**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. At all times mentioned herein, Ron Roberts [Roberts] was a candidate for Mayor of the City of San Diego in the November 2, 2004, general election. The San Diegans for Ron Roberts Committee [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 committee was controlled by Roberts within the meaning of the California Political Reform Act, California Government Code section 82016. Roberts is referred to herein as "Respondent."

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3. 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.

4. This Stipulation resolves all factual and legal issues pertaining to the Ethics Commission's investigation of the manner in which the Committee reported occupation and employer information for the 2004 election cycle without the necessity of holding an administrative hearing to determine 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. Respondent agrees 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. Respondent further agrees 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.

6. 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 Ethics Commission becomes necessary, no member of the Ethics Commission or its staff shall be disqualified because of prior consideration of this Stipulation.

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Summary of Law and Facts

8. Although ECCO was amended and renumbered in early 2005, 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.

9. Because the Committee was formed for the purpose of supporting a candidate in a City of San Diego election, Respondent is required to comply with the provisions of ECCO.

10. SDMC section 27.2931 required committees to file campaign statements in the time and manner required by state law. California Government Code section 84211 requires that campaign statements include the following information:

> (f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:
>
> (1) His or her full name.
>
> (2) His or her street address.
>
> (3) His or her occupation.
>
> (4) The name of his or her employer, or if self-employed, the name of the business.
>
> (5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.
>
> (6) The cumulative amount of contributions.

11. SDMC section 27.2921 prohibited candidate-controlled committees from depositing contributions into a campaign checking account without the receipt of the information required by California Government Code section 84211. SDMC section 27.2921 also required candidate-controlled committees to request, in writing, any information that was not provided by a contributor within ten business days of the receipt of the contribution.

12. The Commission's investigation reveals that the Committee failed to diligently collect and report occupation and employer information as required by California Government Code section 84211 and SDMC section 27.2921. To date, the Commission has conducted a review of approximately 70 of the 3,740 contributions accepted by the Committee. The Commission's investigation reveals that the Committee incorrectly described 30 of the 70

contributors on campaign statements as either "retired" or homemaker." The Commission's investigation therefore suggests that it is possible that the occupation and employer information for as many as 10 percent of the Committee's contributors was inaccurately reported. Moreover, the Commission's investigation reveals that the Committee did not have proper control procedures in place to ensure that accurate occupation and employer information was obtained and reported. Instead, the Committee's fundraising staff relied on untrained volunteers and outdated or incorrect information in public and private databases rather than contacting contributors directly on the telephone or in writing.

13. Although Roberts is responsible for all actions by representatives of the Committee, the Commission's investigation reveals that he was not personally involved in obtaining occupation and employer information for contributors, and that he relied on his fundraising staff to perform this work.

14. The Commission's investigation does not suggest that the Committee intended to conceal the true occupations of any particular industry group or special interest. The Commission's investigation revealed that the true occupations of the contributors were varied, as indicated below:

Amount	Date	Reported Occupation	Actual Occupation
$250 $250	02/25/04 06/02/04	homemaker/retired	parking lot contractor
$250	10/21/04	retired	engineering firm owner
$250	05/24/04	homemaker	consulting firm director
$250	10/21/04	homemaker	self-employed CPA
$100	08/17/04	retired	physician
$250	11/01/04	homemaker	court translator
$100	09/13/04	homemaker	psychologist

Amount	Date	Reported Occupation	Actual Occupation
$250	09/23/04	homemaker	trade association office manager
$250	09/09/04	homemaker	computer specialist for fed. govt.
$250	10/19/04	retired	real estate firm president/CEO
$250	11/01/04	retired	nonprofit development director
$150	10/16/04	retired	home building company owner
$250	11/05/04	homemaker	teacher
$250	10/08/04	homemaker	nonprofit executive
$250	06/30/04	retired	sign and awning company owner
$250	09/16/04	homemaker	research firm president
$250	07/28/04	retired	restaurant owner
$250	07/28/04	retired	hotel concierge
$250	05/24/04	retired	research and development company owner
$125 $100	02/20/04 09/08/04	retired	nonprofit executive director
$250	05/18/04	homemaker	construction firm co-owner
$250	09/16/04	homemaker	law firm client development director
$250	10/21/04	homemaker	private law firm attorney
$250	09/07/04	retired	bank president
$250	10/04/04	retired	foundation executive director
$250	11/03/04	homemaker	trade association executive assistant

Amount	Date	Reported Occupation	Actual Occupation
$250	10/15/04	homemaker	teacher
$250 $250	02/10/04 09/16/04	retired	realtor
$250 $250	02/10/04 09/16/04	retired	high tech company executive
$250	11/01/04	homemaker	teacher

Counts

Counts 1 through 30 - Violations of SDMC section 27.2921 and SDMC section 27.2931

15. The Committee did not obtain accurate information regarding the contributors' occupation and employer as required by California Government Code section 84211 prior to depositing checks from thirty contributors as described above in paragraph 12, in violation of SDMC section 27.2921.

16. The Committee did not report accurate information regarding the occupation and employer of thirty contributors as described above in paragraph 12, in violation of SDMC section 27.2931.

Factors in Mitigation

17. Respondent has fully cooperated with the Ethics Commission investigation.

Conclusion

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

19. Respondent agrees to file amendments to previously-filed campaign statements in order to correct the occupation and employer information for the contributors discussed in paragraph 14, on or before January 31, 2006. In addition, Respondent agrees to make reasonable efforts to obtain or verify the correct occupation and employer information for approximately

900 contributors who were previously reported as "retired" or "homemaker, and to file amended campaign statements where appropriate on or before January 31, 2006.

20. Respondent agrees to pay a fine in the amount of $15,000 for violating SDMC sections 27.2921 and 27.2931. This amount must be paid no later than April 30, 2006, by check or money order made payable to the City Treasurer. Respondent acknowledges that if the fine is not timely paid in full, the Commission may refer the collection of the fine to the City Treasurer's Collection Division, which may pursue any or all available legal remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.

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

DATED:_____ _____
RON ROBERTS, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____, 2005. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $15,000.

DATED:_____ _____
Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION