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Petitioner

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION

In re the Matter of:  
SAN DIEGO COUNTY REPUBLICAN  
CENTRAL COMMITTEE,  
Respondent.  

Case No.: 2006-07

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, the San Diego County Republican Central Committee [Committee] was committee registered with the State of California (Identification No. 741949) as a general purpose recipient committee. The Committee is referred to herein as “Respondent.”

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 a hearing, the right to subpoena witnesses to testify at a hearing, and the right to have the Ethics Commission or a 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. 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. On December 30, 2005, and January 3, 2006, the Committee sent a total of three mailers (two on December 30 and one on January 3) to 3,959 residents of San Diego City Council District 8, urging the recipients to vote for Louis Acle in the January 10, 2006, special election. All three mailers were coordinated with the candidate, Louis Acle.
9. The mailers sent to residents of District 8 were not limited to members of the Republican Party of San Diego County. Instead, 323 of the 3,959 recipients were not members of the Republican Party. Accordingly, the costs associated with the mailers sent to the 323 non-Republican households ($271 for each of the three mailers) do not qualify as “member communications,” as defined by SDMC section 27.2903. Instead, because the expenditures were made “at the behest” of the City candidate supported in the mailers, the expenditures are considered contributions to the City candidate.

10. Because the Committee made contributions to a City candidate, the Committee is subject to the provisions of ECCO that restrict the source and amount of allowable contributions.

11. SDMC section 27.2950 prohibits contributions from organizations to City candidates.

12. As discussed above, the Committee made three in-kind contributions to a City candidate on December 30, 2005, and January 3, 2006. Therefore, the Committee made three organizational contributions to a City candidate, in violation of ECCO’s prohibition against organizational contributions.

13. SDMC section 27.2935 limits contributions to City Council candidates to $250 per election.

14. As discussed above, the Committee made three payments, each in the amount of $271, for campaign mailers sent to non-Republican households that were coordinated with the City candidate supported in the mailers. Each of these three payments constitutes a contribution to a City Council candidate that exceeds the $250 per election contribution limit set forth in ECCO.

Counts

Counts 1 through 3 – Violations of SDMC section 27.2950

15. Respondent made a total of three contributions to a City candidate on December 30, 2006, and January 3, 2006, in violation of the ban on contributions from organizations to City candidates outlined in SDMC section 27.2950.
Counts 4 through 6 - Violations of SDMC section 27.2935

16. Respondent made three contributions in the amount of $271 each to a City Council candidate, in violation of the $250 contribution limit set forth in SDMC section 27.2935.

Factors in Mitigation

17. Respondent has cooperated fully with the Ethics Commission investigation. In addition, Respondent has a history of making concerted efforts to comply with local campaign laws, including those associated with member communications.

18. The Commission’s investigation reveals that the Committee specifically instructed its campaign vendor that the subject mailers were only to be sent to members of the Republican Party of San Diego County. Despite these instructions, the vendor has acknowledged that it inadvertently prepared a mailing list that included 323 recipients who were not members of the Republican Party of San Diego County, and the vendor has agreed to pay the fine referenced in paragraph 20 below.

Factors in Aggravation

19. On January 3, 2006, in the early afternoon, the Ethics Commission notified a representative of the Committee by telephone that two mailers sent by the Committee had reportedly been received by residents of City Council District 8 who were not members of the Republican Party of the County of San Diego. Despite this warning, the Committee sent a third mailer at approximately 9:00 p.m. that same day to the same list of recipients.
20. Respondent agrees to pay a fine in the amount of $7,000 for violating SDMC sections 27.2935 and 27.2950. This amount must be paid no later than April 12, 2006. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order set forth below.

DATED:_________________  ______________________________
STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

DATED:_________________  ______________________________
RON NEHRING, Chairman of the SAN DIEGO COUNTY REPUBLICAN CENTRAL COMMITTEE, Respondent

DECISION AND ORDER
The Ethics Commission considered the above Stipulation at its meeting on __________, 2006. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $7,000.

DATED:_________________  ______________________________
Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION