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

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION

In re the Matter of: ) Case No.: 2006-10
)  
GRUBB & ELLIS/BRE COMMERCIAL, and ) STIPULATION, DECISION, AND  
JOHN FRAGER, ) ORDER  
) Respondents. 
)

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. Respondent Grubb & Ellis / BRE Commercial [Grubb & Ellis] is a major donor committee that made contributions to state and local committees of $10,000 or more in a calendar year.

3. At all times mentioned herein, Respondent John Frager [Frager] was employed by Grubb & Ellis as the President and Chief Executive Officer.

4. Grubb & Ellis and Frager are referred to herein collectively as Respondents.

5. 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.

6. 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
Respondents’ liability.

7. Respondents understand and knowingly and voluntarily waive 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. Respondents agree 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. Respondents further agree 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.

8. The Respondents acknowledge 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.

9. The parties agree that in the event the Ethics Commission refuses to accept this
Stipulation, it shall become null and void. Respondents further agree 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

10. On June 29, 2005, Respondent Frager made a contribution in the amount of $300 to
the Jerry Sanders for Mayor Committee in support of Sanders’ candidacy in the July 26, 2005,
special election. In addition, on September 28, 2005, Respondent Frager made a contribution in
the amount of $300 to the Jerry Sanders for Mayor Committee in support of Sanders’ candidacy
in the November 8, 2005, special run-off election. Respondent Frager made both contributions
via a corporate credit card, and the credit card charges were ultimately paid by Respondent
Grubb & Ellis.

11. On October 20, 2005, at the behest of her husband, Respondent Frager, Kristen
Frager made a $300 contribution to the Jerry Sanders for Mayor Committee in support of
Sanders’ candidacy in the November 8, 2005, special run-off election. The contribution was
made via Respondent Frager’s personal credit card.

12. Respondent Frager submitted an Expense Report to Respondent Grubb & Ellis in
which he sought reimbursement for the campaign contribution his spouse made to the Jerry
Sanders for Mayor Committee. The request was approved and Respondent Grubb & Ellis
subsequently issued a $300 reimbursement check to Respondent Frager on November 28, 2005.

13. Because Respondent Grubb & Ellis paid the corporate credit card contributions
made by Respondent Frager and reimbursed Respondent Frager in full for the contribution made
by Respondent Frager’s spouse, Respondent Grubb & Ellis is the true source of these
contributions.

14. Because Respondents made campaign contributions for the purpose of supporting a
candidate in a City of San Diego election, Respondents are required to comply with the
provisions of ECCO.

15. SDMC section 27.2943 prohibits any person from directly or indirectly making a
contribution in the name of another person. As set forth above, the Commission’s investigation
reveals that Respondent Grubb & Ellis made three contributions to the Jerry Sanders for Mayor
Committee in the names of Respondent Frager and his spouse.

16. SDMC section 27.2944 requires any person who makes a contribution on behalf of
another to disclose to the recipient the fact that the person is serving as an intermediary for the
contribution, and to provide specific information regarding the intermediary and the true source
of the contribution. The Commission’s investigation reveals that Respondent Frager failed to
disclose to the Jerry Sanders for Mayor Committee that he and his spouse were serving as
intermediaries for Respondent Grubb & Ellis when they made contributions to this Committee.

17. SDMC section 27.2950 prohibits contributions to City candidates by anyone other
than an individual. As discussed above, Respondent Grubb & Ellis is a non-individual that made
three contributions to the Jerry Sanders for Mayor Committee by paying the corporate credit card
contributions made by Respondent Frager and reimbursing Respondent Frager for the
contribution made by Respondent Frager’s spouse.

18. SDMC section 27.2935 limits contributions to City candidates to $300 per election.
As discussed above, Respondent Grubb & Ellis paid for the contributions made by both
Respondent Frager and his spouse in support of Sanders’ candidacy in the November 8, 2005,
special run-off election, and consequently made contributions to the Jerry Sanders for Mayor
Committee totaling $600 for that election.

Counts

Counts 1 through 3 – Violations of SDMC section 27.2943

19. Respondent Grubb & Ellis made three contributions to the Jerry Sanders for
Mayor Committee in the names of Respondent Frager and his spouse, in violation of the
prohibition on making contributions in the name of another person as set forth in SDMC section
27.2943.

Counts 4 through 6 - Violations of SDMC section 27.2944

20. Respondent Frager failed to disclose to the Jerry Sanders for Mayor Committee
that he and his spouse were serving as intermediaries for Respondent Grubb & Ellis when they
made contributions to this Committee, as required by SDMC section 27.2944.

Counts 7 through 9 – Violations of SDMC section 27.2950

21. Respondent Grubb & Ellis made three contributions to the Jerry Sanders for
Mayor Committee by reimbursing Respondent Frager and his spouse for their contributions.
These contributions by Respondent Grubb & Ellis constitute contributions by an organization to
a City candidate in violation of SDMC section 27.2950.

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Count 10 – Violation of SDMC section 27.2935

22. Respondent Grubb & Ellis paid the corporate credit card contributions made by Respondent Frager and reimbursed Respondent Frager in full for the contribution made by Respondent Frager’s spouse. Consequently, Respondent Grubb & Ellis made contributions to the Jerry Sanders for Mayor Committee totaling $600 for a single election, in violation of the $300 contribution limit set forth in SDMC section 27.2935.

Factors in Mitigation

23. Respondents have cooperated with the Ethics Commission investigation.

24. Respondent Frager was not aware that Respondent Grubb & Ellis could not pay for the campaign contributions made by its employees. In fact, Respondent Grubb & Ellis publicly disclosed that it made contributions totaling $900 to the Sanders campaign on a campaign statement that was filed with the Secretary of State and the San Diego City Clerk.

Factors in Aggravation

25. On two separate occasions, Respondent Frager filled out a contribution remittance form that properly included the following notification required by SDMC section 27.2945: “It is unlawful for a contributor to be reimbursed by any organization, business, or similar entity for a contribution supporting or opposing a City candidate.” In addition, the remittance form advised that City law “permits only personal checks.”
Conclusion

26. Respondents agree to pay a fine in the amount of $3,000 for violating SDMC sections 27.2935, 27.2943, 27.2944, and 27.2950. This amount must be paid no later than June 23, 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:__________________

JOHN FRAGER, President and Chief Executive Officer of GRUBB & ELLIS/BRE COMMERCIAL, Respondent

DATED:__________________

JOHN FRAGER, 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, Respondents pay a fine in the amount of $3,000.

DATED:__________________

Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION