

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.: 2006-62  
11 )  
GLORIA TYLER-MALLERY, ) **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  
17 Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to  
18 administer, implement, and enforce local governmental ethics laws contained in the San Diego  
19 Municipal Code [SDMC] relating to, among other things, the filing of campaign statements as  
20 required by the City's Election Campaign Control Ordinance [ECCO].

21 2. Respondent Gloria Tyler-Mallery [Respondent] was a candidate in the November  
22 16, 2004, special election for City Council District 4.

23 3. The Friends of Gloria Tyler-Mallery committee [Committee] is a campaign  
24 committee (Committee Identification No. 1271465) established to support Respondent's  
25 candidacy in the District 4 City Council race. The committee has not yet been terminated. At all  
26 relevant times herein, the committee was controlled by Respondent within the meaning of the  
27 California Political Reform Act, California Government Code section 82016.

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1           4.       This Stipulation will be submitted for consideration by the Ethics Commission at  
2 its next scheduled meeting, and the agreements contained herein are contingent upon the  
3 approval of the Stipulation and the accompanying Decision and Order by the Ethics  
4 Commission.

5           5.       This Stipulation resolves all factual and legal issues raised in this matter by the  
6 Ethics Commission without the necessity of holding an administrative hearing to determine  
7 Respondent's liability.

8           6.       Respondent understands and knowingly and voluntarily waives any and all  
9 procedural rights under the SDMC, including, but not limited to, a determination of probable  
10 cause, the issuance and receipt of an administrative complaint, the right to appear personally in  
11 any administrative hearing held in this matter, the right to confront and cross-examine witnesses  
12 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to  
13 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees  
14 to hold the City of San Diego harmless from any and all claims or damages resulting from the  
15 Commission's investigation or this stipulated agreement, or any matter reasonably related  
16 thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with  
17 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a  
18 reference to each violation, and an order.

19           7.       Respondent acknowledges that this Stipulation is not binding upon any other law  
20 enforcement or government agency and does not preclude the Ethics Commission from referring  
21 this matter to, cooperating with, or assisting any other law enforcement or government agency  
22 with regard to this or any other related matter.

23           8.       The parties agree that in the event the Ethics Commission refuses to accept this  
24 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics  
25 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission  
26 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified  
27 because of prior consideration of this Stipulation.

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1 **Summary of Law and Facts**

2 9. As a candidate for elective office in the City of San Diego, Respondent is required  
3 to comply with the provisions of ECCO.

4 10. SDMC section 27.2930 requires City candidates and committees to file campaign  
5 statements in the time and manner required by California Government Code sections 81000 et  
6 seq. California Government Code section 84200(a) provides that candidates and committees  
7 shall file semiannual statements no later than July 31 for the period ending June 30, and no later  
8 than January 31 for the period ending December 31.

9 11. Respondent's semi-annual campaign statement for the period ending December  
10 31, 2004, was due on January 31, 2005. Respondent has not yet filed this campaign statement.

11 12. Respondent's semi-annual campaign statement for the period ending June 30,  
12 2005, was due on July 31, 2005. Respondent has not yet filed this campaign statement.

13 13. Respondent's semi-annual campaign statement for the period ending December  
14 31, 2005, was due on January 31, 2006. Respondent has not yet filed this campaign statement.

15 14. Respondent's semi-annual campaign statement for the period ending June 30,  
16 2006, was due on July 31, 2006. Respondent has not yet filed this campaign statement.

17 15. Respondent's semi-annual campaign statement for the period ending December  
18 31, 2006, was due on January 31, 2007. Respondent has not yet filed this campaign statement.

19 **Counts**

20 **Counts 1 through 5 – Violations of SDMC section 27.2930**

21 16. Respondent failed to file five semi-annual campaign statements for the periods  
22 ending December 31, 2004, June 30, 2005, December 31, 2005, June 30, 2006, and December  
23 31, 2006, as required by SDMC section 27.2930.

24 **Factors in Aggravation**

25 17. The City Clerk sent Respondent numerous letters regarding her filing  
26 responsibilities, both before and after the filing deadlines. Despite these efforts by the City  
27 Clerk, Respondent failed to file her campaign statements.

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1 18. Respondent has a prior history of not timely filing campaign statements. In  
2 particular, Respondent was a candidate in the February 27, 2001, special election for City  
3 Council District 8, and failed to file her campaign statement for the period ending June 30, 2002,  
4 until November 15, 2002, more than four months late.

5 **Conclusion**

6 19. Respondent agrees to file all overdue campaign statements and terminate the  
7 Committee no later than April 6, 2007.

8 20. Respondent agrees to pay a fine in the amount of \$500 for violating SDMC  
9 section 27.2930. This amount must be paid no later than August 1, 2007, by check or money  
10 order made payable to the City Treasurer. Respondent acknowledges that if the fine is not  
11 timely paid in full, the Commission may refer the collection of the fine to the City Treasurer's  
12 Collection Division, which may pursue any or all available legal remedies to recover late  
13 penalties, interest, and costs, in addition to seeking the outstanding balance owed.  
14 The submitted payment will be held pending Commission approval of this Stipulation and  
15 execution of the Decision and Order set forth below.

16  
17 DATED: \_\_\_\_\_

\_\_\_\_\_  
STACEY FULHORST, Executive Director  
ETHICS COMMISSION, Petitioner

18  
19  
20 DATED: \_\_\_\_\_

\_\_\_\_\_  
GLORIA TYLER-MALLERY, Respondent

21  
22 **DECISION AND ORDER**

23 The Ethics Commission considered the above Stipulation at its meeting on \_\_\_\_\_,  
24 2007. The Ethics Commission hereby approves the Stipulation and orders that, in accordance  
25 with the Stipulation, Respondent pay a fine in the amount of \$500.

26  
27 DATED: \_\_\_\_\_

\_\_\_\_\_  
Dorothy Leonard, Chair  
SAN DIEGO ETHICS COMMISSION