

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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3 Telephone: (619) 533-3476
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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.: 2006-67
11 MATTHEW MONCAYO,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**

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 Matthew Moncayo [Respondent] was a candidate in the July 26,
22 2005, special election for Mayor, and the November 8, 2005, special election for City Council
23 District 8.

24 3. The Matthew Moncayo for Mayor Committee [Mayoral Committee] is a
25 campaign committee established to support Respondent's candidacy in the July 26, 2005, special
26 election for Mayor. The committee has not yet been terminated. At all relevant times herein, the
27 committee was controlled by Respondent within the meaning of the California Political Reform
28 Act, California Government Code section 82016.

1 4. The Matthew Moncayo Election Committee [Council Committee] is a campaign
2 committee established to support Respondent's candidacy in the November 8, 2005, special
3 election for City Council District 8. The committee has not yet been terminated. At all relevant
4 times herein, the committee was controlled by Respondent within the meaning of the California
5 Political Reform Act, California Government Code section 82016.

6 5. This Stipulation will be submitted for consideration by the Ethics Commission at
7 its next scheduled meeting, and the agreements contained herein are contingent upon the
8 approval of the Stipulation and the accompanying Decision and Order by the Ethics
9 Commission.

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

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

24 8. Respondent acknowledges that this Stipulation is not binding upon any other law
25 enforcement or government agency and does not preclude the Ethics Commission from referring
26 this matter to, cooperating with, or assisting any other law enforcement or government agency
27 with regard to this or any other related matter.

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1 **Factors in Aggravation**

2 16. The City Clerk sent Respondent numerous letters regarding his filing
3 responsibilities, both before and after the filing deadlines. Despite these efforts by the City
4 Clerk, Respondent failed to file his campaign statements.

5 17. The Ethics Commission undertook extensive efforts to obtain compliance from
6 Respondent with respect to his filing responsibilities. In particular, the Ethics Commission staff
7 sent Respondent two letters and four emails, and communicated with him via telephone on
8 numerous occasions. Despite these repeated requests from the Ethics Commission staff,
9 Respondent failed to file his campaign statements.

10 **Conclusion**

11 18. Respondent agrees to file his overdue campaign statements and terminate both his
12 Mayoral Committee and his Council Committee no later than June 8, 2007.

13 19. Respondent agrees to pay a fine in the amount of \$1,000 for violating SDMC
14 section 27.2930. This amount must be paid no later than September 1, 2007, by check or
15 money order made payable to the City Treasurer. Respondent acknowledges that if the fine is
16 not timely paid in full, the Commission may refer the collection of the fine to the City
17 Treasurer's Collection Division, which may pursue any or all available legal remedies to
18 recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.
19 The submitted payment will be held pending Commission approval of this Stipulation and
20 execution of the Decision and Order set forth below.

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22 DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

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25 DATED: _____

MATTHEW MONCAYO, Respondent

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DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____,
2007. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
with the Stipulation, Respondent pay a fine in the amount of \$1,000.

DATED: _____
Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION