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:  
SAN DIEGO SAFE BEACHES  
COALITION,  
Respondent.  

Case No.:  2008-64  
STIPULATION, DECISION, AND  
ORDER  

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 Election Campaign Control Ordinance [ECCO], SDMC section 27.2901 et seq.  

2. At all times mentioned herein, Jacob Pyle [Pyle] was the principal of San Diego Safe Beaches Coalition [Safe Beaches Committee], a committee registered with the State of California (Identification No. 1309244). Safe Beaches Committee is referred to herein as “Respondent.”  

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.  

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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 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, 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.

**Summary of Law and Facts**

8. ECCO defines “committee” as any person or combination of persons who raise $1,000 or more for the purpose of supporting or opposing a candidate or ballot measure, or make independent expenditures of $1,000 or more, within a single calendar year. SDMC § 27.2903.
9. ECCO mandates that all committees that pay for mass campaign literature (200 substantially similar pieces of campaign literature) for the purpose of supporting or opposing a City measure include the words “paid for by” followed by the name and address of the committee, in 12 point legible type in a color that contrasts with the background. SDMC § 27.2970.

10. On August 8, 2008, Respondent filed a Form 410 with the California Secretary of State and County Registrar of Voters, and indicated on the form that the Safe Beaches Committee is a County general purpose committee established for the purpose of “increasing community political awareness.”

11. On September 24, 2008, Respondent paid $397.60 for mass campaign literature in the form of 20,000 business cards for the purpose of opposing Proposition D on the November 2008 ballot, which amended San Diego Municipal Code section 56.54 to make the consumption of alcohol unlawful at City beaches, Mission Bay Park, and coastal parks. Respondent failed to include the requisite “paid for by” disclosure on this campaign literature.

Counts

Count 1 – Violation of SDMC section 27.2970

12. Respondent violated SDMC section 27.2970 by failing to include a “paid for by” disclosure on mass campaign literature in the form of 20,000 business cards purchased for the purpose of opposing Proposition D.

Factors in Aggravation

13. On September 9, 2008, Respondent paid for 5,000 remittance envelopes and on September 16, 2008, paid for 1,600 yard signs for the purpose of opposing Proposition D. These remittance envelopes and yard signs included a “paid for by” disclosure, indicating that Respondent was aware of the disclosures required on mass campaign literature.

Factors in Mitigation

14. Respondent has cooperated fully with the Ethics Commission’s investigation.
Conclusion

15. Respondent agrees to take necessary and prudent precautions to ensure compliance with all provisions of ECCO in the future.

16. Respondent agrees to pay a fine in the amount of $1,000 for violating SDMC section 27.2970. This amount must be paid no later than July 2, 2010, by check or money order made payable to the City Treasurer. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order portion set forth below.

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

DATED:_______________  JACOB PYLE, on behalf of Respondent,
SAN DIEGO SAFE BEACHES COALITION

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on __________, 2010. 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 for violating SDMC section 27.2970.

DATED:_______________  LARRY WESTFALL, Chair
SAN DIEGO ETHICS COMMISSION