STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
1010 Second Avenue, Suite 1530
San Diego, CA 92101
Telephone: (619) 533-3476
Facsimile: (619) 533-3448

Petitioner

BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of: Case No.: 2008-75
LORENA GONZALEZ and XAVIER
MARTINEZ, STIPULATION, DECISION, AND
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. At all times mentioned herein, Lorena Gonzalez [Gonzalez] was a candidate for City Council District 2 in the November 8, 2005, special election and the January 10, 2006, special run-off election. The Lorena Gonzalez for City Council committee [Gonzalez Committee] was a campaign committee registered with the State of California (Identification No. 1278735) established to support Ms. Gonzalez’s candidacy for City Council District 2. At all relevant times herein, the Gonzalez Committee was controlled by Ms. Gonzalez within the meaning of the California Political Reform Act, California Government Code section 82016.
3. At all times mentioned herein, Xavier Martinez [Martinez] was the treasurer for the Gonzalez Committee.

4. Gonzalez and Martinez are referred to herein collectively as “Respondents.”

5. 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.

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 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 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.

8. 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 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 September 13, 2007, the Gonzalez Committee was selected for audit at a random drawing in accordance with the provisions in the Ethics Commission Audit Manual. Accordingly, an audit of the Gonzalez Committee was performed for the period August 2, 2005, through June 30, 2006 (the date the committee was terminated).

11. Because the Gonzalez Committee was formed for the purpose of supporting a candidate in a City of San Diego election, Respondents are required to comply with the provisions of ECCO.

12. SDMC section 27.2930 requires candidates and committees to file campaign statements in the time and manner required by California Government Code sections 81000 et seq. California Government Code section 84211 requires that campaign statements include the following information:

   (k) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:

   (1) His or her full name.
   (2) His or her street address.
   (3) The amount of each expenditure.
   (4) A brief description of the consideration for which each expenditure was made.

13. The Commission’s audit revealed that the Gonzalez Committee did not comply with the requirements of SDMC section 27.2930. In particular, Respondents did not disclose expenditures to four campaign vendors as follows:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>CompleteCampaigns.com</td>
<td>$150.00</td>
</tr>
<tr>
<td>Karen Goyette</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>Commerce Printing Service</td>
<td>$700.00</td>
</tr>
<tr>
<td>Political Data Inc.</td>
<td>$527.87</td>
</tr>
<tr>
<td></td>
<td>$4,377.87</td>
</tr>
</tbody>
</table>
Counts

Count 1 - Violations of SDMC section 27.2930

14. Respondents failed to report campaign expenditures to four vendors totaling $4,377.87 as required by SDMC section 27.2930.

Factors in Aggravation

15. The Commission’s audit reveals that Respondent Martinez made several additional mistakes in preparing campaign statements for the Gonzalez Committee. Specifically, he reported that the Gonzalez Committee made a payment in the amount of $3,657.48 to Mailrite Print & Mail Inc., although this expenditure was actually made by the San Diego County Democratic Party, for whom Respondent Martinez also serves as the treasurer. In addition, Respondent Martinez failed to disclose two contributions made to the Gonzalez Committee in the amounts of $100 and $150. Finally, the information provided on the summary pages of various campaign statements included inaccurate information regarding total campaign contributions and expenditures. Although Respondent Martinez maintains that he prepared amended campaign statements in order to correct some of these mistakes, he failed to file these amendments with the City Clerk.

Factors in Mitigation

16. The Commission’s audit revealed that Respondent Gonzalez reasonably relied on Respondent Martinez as a professional campaign treasurer to report campaign expenditures and contributions as required by local law. Respondent Martinez has therefore taken full responsibility for the violations described herein as well as the monetary penalty referenced below.

17. Respondents have cooperated fully with the Ethics Commission investigation.

Conclusion

18. Respondent Martinez agrees to implement appropriate controls and procedures to prevent future similar violations of ECCO.

19. Respondent Martinez agrees to pay a fine in the amount of $500 for violating SDMC section 27.2930. This amount must be paid no later than June 19, 2009, by check.
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: ____________________ __________________________________________
LORENA GONZALEZ, Respondent

DATED: ____________________ __________________________________________
XAVIER MARTINEZ, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on __________, 2009. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent Martinez pay a fine in the amount of $500.

DATED: ____________________ Richard Valdez, Chair
SAN DIEGO ETHICS COMMISSION