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.:  2009-21
LOUNSBERRY FERGUSON ALTONA &  )  STIPULATION, DECISION AND
PEAK, LLP,  )  ORDER

  Respondent.

STIPULATION

THE PARTIES STIPULATE AS FOLLOWS:

1. Petitioner Stacey Fulhurst 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 Municipal  
   Lobbying Ordinance.

2. At all times mentioned herein, Respondent Lounsbery Ferguson Altona & Peak,  
   LLP [Respondent] was a lobbying firm registered with the Office of the City Clerk. Members of  
   Respondent’s firm have been registered as lobbyists with the City Clerk since 2006.

3. 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.
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 the 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 a volunteer 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 or 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. The Respondent acknowledges that this Stipulation is not binding upon any other law enforcement or government agency and does not preclude the Ethics Commission from 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 City Ethics Commission becomes necessary, no member of the Ethics Commission or its staff shall be disqualified because of prior consideration of this Stipulation.

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STIPULATION, DECISION, AND ORDER
Summary of Law and Facts

8. The Lobbying Ordinance requires registered lobbying firms to file quarterly disclosure reports no later than the last day of the months of April, July, October, and January, covering the preceding calendar quarter. SDMC §§ 27.4015, 27.4016.


10. Respondent failed to file a disclosure report for the first quarter of 2008 until June 16, 2008, approximately six weeks after the due date of April 30, 2008. According to the report ultimately filed by Respondent, the firm’s representatives lobbied City Officials on seven different municipal decisions during the first quarter of 2008.

Counts

Count 1 – Violation of SDMC sections 27.4015 and 27.4016

11. Respondent failed to timely file its first quarterly disclosure report as required by SDMC sections 27.4015 and 27.4016. Respondent’s quarterly disclosure report for the first quarter of 2008 was due on April 30, 2008, but Respondent did not file it until June 16, 2008.

Factors in Aggravation

12. Respondent is an experienced lobbying firm in the City of San Diego. Thus, there is a reasonable expectation that Respondent was aware of the quarterly filing requirements in the Lobbying Ordinance. Moreover, the City Clerk staff sent several letters to Respondent reminding the firm that its first quarter report was due by April 30, 2008.

Factors in Mitigation

13. Respondent fully cooperated with the Ethics Commission’s investigation.

Conclusion

14. Respondent agrees to take necessary and prudent precautions to comply with all provisions of the City’ Municipal Lobbying Ordinance in the future.

15. Respondent agrees to pay a fine in the amount of $500. This amount must be paid no later than August 14, 2009, by check, money order or credit card payment to the City Treasurer. The Respondent acknowledges that if the fine is not timely paid in full, the
Commission may refer the collection of the fine to the City Treasurer’s Collection Division, which may pursue any or all available legal remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.

DATED:__________________

STACEY FULHORST, Petitioner
City of San Diego Ethics Commission

DATED:__________________

LOUNSBERRY FERGUSON ALTONA & PEAK, LLP, Respondent
By: Kenneth Lounsbery, Esq., Partner

DECISION AND ORDER

The Ethics Commission has 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 pays a fine in the amount of $500.

DATED:__________________

Richard Valdez, Chair
SAN DIEGO ETHICS COMMISSION