1	STACEY FULHORST, Executive Director
2	City of San Diego Ethics Commission 1010 Second Avenue, Suite 1530
3	San Diego, CA 92101 Telephone: (619) 533-3476
4	Facsimile: (619) 533-3448
5	Petitioner
6	
7	BEFORE THE CITY OF SAN DIEGO
8	ETHICS COMMISSION
9	
10	In re the Matter of:) Case No.: 2009-51
11 12	INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS FIREPAC NON- FEDERAL,STIPULATION, DECISION, AND ORDER
12) Respondent.
13)
15	STIPULATION
16	THE PARTIES STIPULATE AS FOLLOWS:
17	1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
18	Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
19	implement, and enforce local governmental ethics laws contained in the San Diego Municipal
20	Code [SDMC] relating to, among other things, the filing of campaign statements as required by
21	the City's Election Campaign Control Ordinance [ECCO].
22	2. At all times mentioned herein, International Association of Fire Fighters FIREPAC
23	Non-Federal [Respondent] was a committee sponsored by the International Association of Fire
24	Fighters, and registered with the State of California as a general purpose recipient committee
25	(Filer Identification No. 1255870).
26	3. This Stipulation will be submitted for consideration by the Ethics Commission at its
27	next scheduled meeting, and the agreements contained herein are contingent upon the approval
28	of the Stipulation and the accompanying Decision and Order by the Ethics Commission.
	-1- STIPULATION, DECISION, AND ORDER

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.

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.

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Summary of Law and Facts

8. Respondent has a history of making independent expenditures in support of
candidates that have been endorsed by the state and local affiliates of the International
Association of Fire Fighters. As discussed below, Respondent made an independent expenditure
in support of a City candidate. As a general purpose recipient committee that participated in a
City of San Diego election, Respondent is required to comply with ECCO.

9. SDMC section 27.2930 requires candidates and committees participating in City of
San Diego elections to file campaign statements in the time and manner required by California
Government Code sections 81000 *et seq*.

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1 10. According to Government Code section 82031, an "independent expenditure" is an 2 expenditure made by a committee in connection with a communication that expressly advocates 3 the election or defeat of a clearly identified candidate or measure, but that is not made in 4 cooperation or coordination with the affected candidate or committee. According to Government 5 Code section 82036.5, a "late independent expenditure" is any independent expenditure that 6 totals in the aggregate \$1,000 and that is made before the date of the election, but after the 7 closing date of the last campaign statement that is required to be filed prior to the election by a 8 candidate or committee participating in the election. 9 11. Government Code section 84200.7 provides that the closing date for the last pre-

election campaign statement for the November 4, 2008, general election was 17 days before the
election, or October 18, 2008. Thus, an independent expenditure made by a committee between
October 19, 2008, and November 3, 2008, constituted a late independent expenditure for the
November 4, 2008, general election.

14 12. Government Code section 84204 requires a committee that makes a late
15 independent expenditure in connection with a City of San Diego election to file a Late
16 Independent Expenditure Report [Form 496] with the San Diego City Clerk within 24 hours of
17 the time the independent expenditure is made.

18 13. On October 20, 2008, Respondent made a late independent expenditure in the
amount of \$25,105 for radio advertising in support of Jan Goldsmith, a candidate for San Diego
City Attorney in the November 4, 2008, general election.

21 14. Respondent filed a Form 496 with the Secretary of State on October 21, 2008.
22 15. Respondent failed to file a Form 496 with the City Clerk, although this form was
23 due on October 21, 2008.

24

<u>Count</u>

25Count One - Violation of SDMC section 27.29302616. Respondent violated SDMC section 27.2930 by failing to file a Form 496 with the27City Clerk within 24 hours of making a late independent expenditure on October 20, 2008, in the28amount of \$25,105 in support of Jan Goldsmith for San Diego City Attorney.

1	Factors in Mitigation
2	17. Respondent has cooperated fully with the Ethics Commission investigation.
3	18. In addition to Respondent's obligation to report its late independent expenditure
4	in support of Jan Goldsmith with the City Clerk within 24 hours, Respondent was required to file
5	a Supplemental Independent Expenditure Report [Form 465] with the City Clerk disclosing the
6	independent expenditure by February 2, 2009. Respondent filed a Form 465 with the City Clerk
7	on October 28, 2008, and disclosed the independent expenditure made on October 20, 2008, in
8	support of Jan Goldsmith. Thus, while the independent expenditure was not disclosed to the
9	public within 24 hours as required by state and local law, it was disclosed prior to the election of
10	November 4, 2008.
11	Conclusion
2	19. Respondent agrees to file a Form 496 with the City Clerk no later than August 11,
3	2009, reflecting the independent expenditure described above in Paragraph 13.
4	20. Respondent agrees to take necessary and prudent precautions to ensure timely
5	disclosure of independent expenditures in the future, and to comply with all of the provisions of
6	the City's Election Campaign Control Ordinance.
7	21. Respondent agrees to pay a fine in the amount of \$1,500 for violating SDMC
8	section 27.2930. This amount must be paid no later than August 11, 2009, by check or money
9	order made payable to the City Treasurer. The submitted payment will be held pending
0	Commission approval of this Stipulation and execution of the Decision and Order portion set
21	forth below.
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3	DATED:
4	STACEY FULHORST, Executive Director ETHICS COMMISSION, Petitioner
25	
26	DATED: INTERNATIONAL ASSOCIATION OF FIRE
27	FIGHTERS FIREPAC NON-FEDERAL, Respondent
28	By: VINCENT J. BOLLON, Treasurer
	-4- STIPULATION, DECISION, AND ORDER

1	DECISION AND ORDER
2	The Ethics Commission considered the above Stipulation at its meeting on August 13,
3	2009. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
4	with the Stipulation, Respondent pay a fine in the amount of \$1,500.
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6	DATED:
7	Richard Valdez, Chair CITY OF SAN DIEGO ETHICS COMMISSION
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	STIPULATION, DECISION, AND ORDER

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