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:  
UNITE HERE SAN DIEGO: A SPONSORED COMMITTEE OF UNITE HERE INTERNATIONAL AND UNITE HERE LOCAL 30,  
Respondent.

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, Unite Here San Diego: a Sponsored Committee of Unite Here International and Unite Here Local 30 [Unite Here] was a City general purpose committee sponsored by Unite Here Local 30 and registered with the State of California (Identification No. 1322418). Unite Here is referred to herein as “Respondent.”

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4. 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.

5. 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.

6. 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.

7. 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.

8. 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

9. 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.

10. ECCO requires committees to file campaign statements in the time and manner required by California Government Code section 81000, et seq. and the regulations adopted by the Fair Political Practices Commission. It is unlawful under ECCO to fail to comply with the disclosure requirements of ECCO and state law. SDMC § 27.2930(j).

11. According to Government Code sections 82036.5 and 84204, any committee that makes independent expenditures totaling $1,000 or more to support or oppose a candidate or measure in the sixteen day period preceding an election is required to file a Late Independent Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the November 2, 2010, general election, this sixteen day period commenced on October 17, 2010.

12. On October 25, 2010, Respondent made independent expenditures in support of Felipe Hueso, a candidate for City Council District 8, in the form of six payments to BNA Communications totaling $4,775.83.

13. On October 27, 2010 (one day late), Respondent filed a Form 496 with the City Clerk and disclosed two independent expenditures made on October 25, 2010, totaling $2,774.73. Respondent failed to disclose the four additional expenditures it made on October 25, 2010, totaling $2,001.10 to support Felipe Hueso.

Counts

Count 1 - Violation of SDMC section 27.2930

14. Respondent violated SDMC section 27.2930 by failing to timely disclose all of the independent expenditures it made on October 25, 2011, in support of a City candidate. In particular, Respondent filed a Form 496 on October 27, 2011, and disclosed expenditures totaling $2,774.73 when in fact Respondent made independent expenditures totaling $4,775.83 on October 25, 2011.

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Factors in Aggravation

15. The timely disclosure of campaign contributions and expenditures is the foundation of the City’s campaign laws. In particular, the pre-election filing requirement for independent expenditures made in the weeks leading up to an election is extremely important because it ensures that the public receives time-sensitive information regarding the sources and amounts of expenditures made to support and oppose local candidates before they cast their votes.

Factors in Mitigation

16. On January 31, 2011, Respondent filed a Supplemental Independent Expenditure Report with the City Clerk covering the period from July 1, 2010, through December 31, 2010, and disclosed all of the independent expenditures it made on October 25, 2010, to support Felipe Hueso. By filing this campaign statement, Respondent essentially acknowledged its previous failure to disclose four of the six expenditures it made to support a City candidate. In addition, because Respondent included the requisite “paid for by” disclosure on its campaign literature, the recipients were aware that Respondent had expended funds to support Felipe Hueso’s candidacy.

17. Respondent has cooperated fully with the Ethics Commission investigation.

Conclusion

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

19. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City’s campaign laws.
20. Respondent agrees to pay a fine in the amount of $500 for violating SDMC section 27.2930. This amount must be paid no later than September 30, 2011, by check or money order 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:_________________  ______________________________________________

UNITE HERE SAN DIEGO: A SPONSORED COMMITTEE OF UNITE HERE INTERNATIONAL AND UNITE HERE LOCAL 30, Respondent
By: Dan Rottenstreich, Political Director

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on __________, 2011. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $500.

DATED:_________________  CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION