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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

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10 In re the Matter of:) Case No.: 2011-76
11 TIMOTHY GOLBA,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

16 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
17 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
18 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
19 Code [SDMC] relating to, among other things, the filing of Statements of Economic Interests
20 [SEIs] as required by the City's Ethics Ordinance.

21 2. At all times mentioned herein, Timothy Golba was a member of the City of San
22 Diego's Planning Commission and the principal of Golba Architecture Inc. Golba is referred to
23 herein as "Respondent."

24 3. This Stipulation will be submitted for consideration by the Ethics Commission at its
25 next scheduled meeting, and the agreements contained herein are contingent upon the approval
26 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

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1 4. This Stipulation resolves all factual and legal issues raised in this matter by the
2 Ethics Commission without the necessity of holding an administrative hearing to determine
3 Respondent’s liability.

4 5. Respondent understands and knowingly and voluntarily waives any and all
5 procedural rights under the SDMC, including, but not limited to, a determination of probable
6 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
7 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
8 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
9 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
10 to hold the City of San Diego harmless from any and all claims or damages resulting from the
11 Commission’s investigation, this stipulated agreement, or any matter reasonably related thereto.
12 Respondent further agrees that the terms of this Stipulation constitute compliance with the
13 provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
14 reference to each violation, and an order.

15 6. Respondent acknowledges that this Stipulation is not binding upon any other law
16 enforcement or government agency and does not preclude the Ethics Commission from referring
17 this case to, cooperating with, or assisting any other law enforcement or government agency with
18 regard to this or any other related matters.

19 7. The parties agree that in the event the Ethics Commission refuses to accept this
20 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
21 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
22 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
23 because of prior consideration of this Stipulation.

24 **Summary of Law and Facts**

25 8. Respondent assumed office as a member of the City’s Planning Commission on
26 May 22, 2008.

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1 9. As a member of the City’s Planning Commission, Respondent is a “High Level
2 Filer” as that term is defined by SDMC section 27.3503, and is required to file SEIs pursuant to
3 the disclosure guidelines in the California Government Code. SDMC § 27.3510.

4 10. SDMC section 27.3510 requires High Level Filers to file an annual SEI on or
5 before April 1 of each year, covering the period from January 1 through December 31 of the
6 previous calendar year.

7 11. According to California Government Code sections 82030 and 87203, Respondent
8 is required to disclose income from any source located within the City of San Diego, doing
9 business in the City of San Diego, planning to do business in the City of San Diego, or having
10 done business in the City of San Diego in the prior two year period. In addition, California
11 Government Code section 82030 states that the income of an individual includes the individual’s
12 pro rata share of income received by any business entity in which the individual has a ten percent
13 or greater ownership interest, and California Government Code section 87207 states that filers
14 must disclose the names of sources of income to a business entity if the filer’s pro rata share of
15 the gross income from a single source was \$10,000 or more during the reporting period.

16 12. On March 25, 2009, Respondent filed his SEI for the 2008 calendar year. Although
17 Respondent disclosed his receipt of income from Golba Architecture Inc., he failed to disclose
18 that he had received income of \$10,000 or more from various clients of his architectural firm.

19 13. On March 25, 2010, Respondent filed his SEI for the 2009 calendar year. Although
20 Respondent disclosed his receipt of income from Golba Architecture Inc., he failed to disclose
21 that he had received income of \$10,000 or more from various clients of his architectural firm.

22 14. On March 24, 2011, Respondent filed his SEI for the 2010 calendar year. Although
23 Respondent disclosed his receipt of income from Golba Architecture Inc., he failed to disclose
24 that he had received income of \$10,000 or more from various clients of his architectural firm.

25 15. On November 8, 2011, Respondent filed amended annual SEIs for 2008, 2009, and
26 2010, and disclosed all the requisite information concerning the clients of Golba Architecture
27 Inc.

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1 Counts

2 **Counts 1 through 3 – Violations of SDMC section 27.3510**

3 16. Respondent violated SDMC section 27.3510 by failing to timely disclose on his
4 2008 annual SEI the names of clients that provided him with income of \$10,000 or more

5 17. Respondent violated SDMC section 27.3510 by failing to timely disclose on his
6 2009 annual SEI the names of clients that provided him with income of \$10,000 or more

7 18. Respondent violated SDMC section 27.3510 by failing to timely disclose on his
8 2010 annual SEI the names of clients that provided him with income of \$10,000 or more

9 Factors in Mitigation

10 19. Respondent fully cooperated with the Ethics Commission investigation. He
11 immediately filed the requisite amendments to his SEIs. In addition, he provided information
12 demonstrating that he carefully refrained from participating in, or otherwise influencing, any
13 Planning Commission decisions that involve sources of income to his architectural firm.

14 Conclusion

15 20. Respondent agrees to take necessary and prudent precautions to comply with all
16 provisions of the Ethics Ordinance in the future. In particular, Respondent agrees to fully and
17 completely disclose his economic interests.

18 21. Respondent acknowledges that the Ethics Commission may impose increased fines
19 in connection with any future violations of the City's ethics laws.

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