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:  
TIMOTHY GOLBA,  
Respondent.

Case No.: 2011-76

STIPULATION, DECISION, AND ORDER

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 filing of Statements of Economic Interests [SEIs] as required by the City’s Ethics Ordinance.

2. At all times mentioned herein, Timothy Golba was a member of the City of San Diego’s Planning Commission and the principal of Golba Architecture Inc. Golba is referred to herein as “Respondent.”

3. 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.
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. 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.

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 case to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matters.

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.

Summary of Law and Facts

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

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

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

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

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

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

Counts 1 through 3 – Violations of SDMC section 27.3510

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

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

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

Factors in Mitigation

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

Conclusion

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

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

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22. Respondent agrees to pay a fine in the amount of $3,000 for the three violations of SDMC section 27.3510 referenced above. This amount must be paid no later than March 2, 2012, by check or money order made 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:__________________ __________________________________________

TIMOTHY GOLBA, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on __________, 2012. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $3,000.

DATED:__________________  Clyde Fuller, Chair
Clyde Fuller, Chair   
SAN DIEGO ETHICS COMMISSION