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 Facsimile: (619) 533-3448		
4			
5	Petitioner		
6			
7	BEFORE THE CITY OF SAN DIEGO		
8	ETHICS COMMISSION		
9			
10	In re the Matter of:	) Case No.: No. 2004-13	
11	SAMUEL YNZUNZA,	<ul><li>STIPULATION, DECISION AND</li><li>ORDER</li></ul>	
12	Respondent.	)	
13		_)	
14	THE PARTIES STIPULATE AS FOLLOWS:		
15	1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics		
16	Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,		
17	implement, and enforce local governmental ethics laws contained in the San Diego Municipal		
18	Code [SDMC] relating to, among other things, the filing of lobbyist disclosure reports as		
19	required by the City's Municipal Lobbying Ordinance.		
20	2. Respondent Samuel Ynzunza [Respondent] is a self-employed lobbyist.		
21	Respondent has been registered as a lobbyist with the Office of the City Clerk since November		
22	of 2003.		
23	3. This Stipulation, Decision and O	rder [Stipulation] will be submitted for	
24	consideration by the Ethics Commission at its next scheduled meeting, and the agreements		
25	contained herein are contingent upon the approval of the Stipulation and the accompanying		
26	Decision and Order by the Ethics Commission.		
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- 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 a hearing, the right to subpoena witnesses to testify at a hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this matter.
- 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 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 City 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

- 8. The City's Municipal Lobbying Ordinance requires registered lobbyists to file quarterly disclosure reports no later than the last day of the months of April, July, October, and January (SDMC §§ 27.4015 and 27.4016).
- 9. Respondent's quarterly disclosure report for the fourth quarter of 2003 was due on February 2, 2004 (January 31, 2004, fell on a Saturday; February 2 was the next business day). Respondent did not file his quarterly disclosure report until May 14, 2004, 102 days late.
- 10. The Ethics Commission, in accordance with SDMC section 26.0425, authorized a formal investigation into a complaint alleging that Respondent failed to comply with provisions of SDMC sections 27.4015 and 27.4016.

11. Following the investigation, Petitioner concluded that the Respondent failed to timely file his lobbyist disclosure report for the fourth quarter of 2003.

### **COUNT 1**

# [Violation of SDMC Sections 27.4015 and 27.4016]

12. Respondent failed to timely file his lobbyist disclosure report for the fourth quarter of 2003. SDMC sections 27.4015 and 27.4016 require registered lobbyists to file quarterly disclosure reports with the City Clerk no later than the last day of the months of April, July, October, and January. Respondent filed his fourth quarter disclosure report on May 14, 2004, 102 days late.

### **AGREEMENT**

13. Respondent agrees to take necessary and prudent precautions to ensure compliance with all provisions of the Municipal Lobbying Ordinance in the future.

## **FACTORS IN AGGRAVATION**

- 14. City Clerk staff wrote to Respondent on December 16, 2003, reminding him that the fourth quarter disclosure report was due by January 31, 2004. City Clerk staff sent a second letter to Respondent on February 13, 2004, advising Respondent that the fourth quarter disclosure report was late, and asking him to file the report before March 15, 2004. Despite these notifications by City Clerk staff, Respondent did not file his report until May 14, 2004, more than 100 days after it was originally due.
- 15. During the course of the Ethics Commission investigation, Commission staff spoke with the Respondent on May 3, 2004, and the Respondent agreed to file the quarterly report by the end of the week. When Commission staff contacted him again on May 7, 2004, to ask why the report had not yet been filed, Respondent claimed that he had already mailed the report on May 6, 2004. Respondent's claim, however, conflicts with information obtained from the City Clerk indicating that Respondent contacted City Clerk staff on May 12, 2004, for assistance with filling out his disclosure report. Respondent's assertion is also contradicted by the fact that the City Clerk's office received Respondent's disclosure report on May 14, 2004, by United States

1	Postal Service's "priority mail," a mailing option that, according to the Postal Service, provides		
2	delivery anywhere in the country in "2 to 3 days."		
3	CONCLUSION		
4	16. Respondent shall pay a fine in the amount of \$500 for violating SDMC sections		
5	27.4015 and 27.4016 (Count 1). This amount shall be paid no later than August 16, 2004.		
6	17. This Stipulation shall not become effective until Respondent has provided to the		
7	Ethics Commission the amount set forth in paragraph 16, by check or money order made payable		
8	to the City Treasurer.		
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10	DATED:		
11	STACEY FULHORST, Executive Director ETHICS COMMISSION, Petitioner		
12			
13	DATED: SAMUEL YNZUNZA, Respondent		
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15			
16	DECISION AND ORDER		
17	The Ethics Commission considered the above Stipulation at its meeting on June 10, 2004		
18	The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the		
19	Stipulation, Respondent pay a fine in the amount of \$500.		
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21	DATED:		
22	DOROTHY L.W. SMITH, Chair SAN DIEGO ETHICS COMMISSION		
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