STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
1010 Second Avenue, Suite 1530
San Diego, CA  92101
Telephone:  (619) 533-3476
Facsimile:  (619) 533-3448

Petitioner

BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:  )  Case No.:  2005-76
PETER Q. DAVIS, )  STIPULATION, DECISION, AND
     )  ORDER
     )
     )  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 City’s Election Campaign Control Ordinance [ECCO].

2. At all times mentioned herein, Peter Q. Davis [Davis] was a candidate for Mayor in the City of San Diego. The Peter Q. Davis for Mayor committee [Committee] was a campaign committee registered with the State of California (Identification No. 1259838) established to support Davis’ candidacy in the 2004 election cycle. At all relevant times herein, the committee was controlled by Davis within the meaning of the California Political Reform Act, California Government Code section 82016. Davis 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 and arising out of the audit of the Committee 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 or 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 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.
Summary of Law and Facts

8. Although ECCO was amended and renumbered in early 2005, this Stipulation refers to the applicable provisions of the SDMC by the section number and language in force and effect at the time of the actions that are the subject of this Stipulation.

9. Because the Committee was formed for the purpose of supporting a candidate in a City of San Diego election, Respondent is required to comply with the provisions of ECCO.

10. The Committee was selected for audit by the Ethics Commission at a random drawing conducted on April 25, 2005. An audit was performed for the period from January 1, 2003, through September 29, 2004 (the date the committee was terminated).

11. Former SDMC section 27.2931 required committees to file campaign statements in the time and manner required by state law. California Government Code section 84303 requires Committees to report any payments of $500 or more made by an agent to a subvendor.

12. The Commission’s audit reveals that the Committee did not fully comply with the subvendor disclosure requirements in local and state law. In particular, the Committee failed to timely disclose nine payments made by agents totaling $82,993.80, as follows:

<table>
<thead>
<tr>
<th>Period Ending</th>
<th>Name of Agent</th>
<th>Amount</th>
<th>Subvendor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 12/31/03</td>
<td>Scott Barnett</td>
<td>$600.00</td>
<td>Lincoln Club</td>
</tr>
<tr>
<td>2 12/31/03</td>
<td>Jennifer Bowden</td>
<td>$555.00</td>
<td>U.S. Postmaster</td>
</tr>
<tr>
<td>3 02/14/04</td>
<td>Scott Barnett</td>
<td>$12,500.00</td>
<td>WCM QSub-26 Inc.</td>
</tr>
<tr>
<td>4 02/14/04</td>
<td>PRB Associates</td>
<td>$2,826.62</td>
<td>Creative Services of New England</td>
</tr>
<tr>
<td>5 02/14/04</td>
<td>JCA Com, Inc.</td>
<td>$766.13</td>
<td>U.S. Postmaster</td>
</tr>
<tr>
<td>6 06/30/04</td>
<td>Scott Barnett</td>
<td>$2,850.00</td>
<td>WCM QSub-26 Inc.</td>
</tr>
<tr>
<td>7 06/30/04</td>
<td>Scott Barnett</td>
<td>$37,500.00</td>
<td>WCM QSub-26 Inc.</td>
</tr>
<tr>
<td>8 06/30/04</td>
<td>JCA Com, Inc.</td>
<td>$24,682.85</td>
<td>U.S. Postmaster</td>
</tr>
<tr>
<td>9 06/30/04</td>
<td>PRB Associates</td>
<td>$713.20</td>
<td>Creative Services of New England</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$82,993.80</td>
<td></td>
</tr>
</tbody>
</table>
13. In addition, former SDMC section 27.2944(b) required candidates and committees to disclose expenditures in the same time and manner required by California Government Code section 84211, and further required expenditures that were incurred but not paid during a reporting period to be disclosed as accrued expenses. California Government Code section 84211 requires the disclosure of all expenditures over $100, and specifically includes accrued expenses.

14. The Commission’s audit reveals that the Committee did not fully comply with local and state law pertaining to the disclosure of accrued expenses. The Commission’s audit reveals that the Committee failed to timely disclose six accrued expenses totaling $10,076.09, as follows:

<table>
<thead>
<tr>
<th>Period Ending</th>
<th>Payee</th>
<th>Amount</th>
<th>Check #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 12/31/03</td>
<td>News Monitoring Services</td>
<td>$110.00</td>
<td>1298</td>
</tr>
<tr>
<td>2 01/17/04</td>
<td>The V-Team Consulting</td>
<td>$5,750.00</td>
<td>1587</td>
</tr>
<tr>
<td>3 01/17/04</td>
<td>Barry Layne</td>
<td>$2,136.00</td>
<td>1622</td>
</tr>
<tr>
<td>4 02/14/04</td>
<td>JCA Com, Inc.</td>
<td>$1,183.79</td>
<td>1714</td>
</tr>
<tr>
<td>5 02/14/04</td>
<td>Maryanne Pintar</td>
<td>$193.09</td>
<td>1667</td>
</tr>
<tr>
<td>6 02/14/04</td>
<td>Maryanne Pintar</td>
<td>$703.21</td>
<td>1666</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$10,076.09</strong></td>
<td></td>
</tr>
</tbody>
</table>

Counts

Counts 1 through 9 - Violations of SDMC section 27.2931

15. The Committee did not properly disclose campaign expenditures, in violation of former SDMC section 27.2931. In particular, the Committee failed to timely disclose nine payments by agents totaling $82,993.80, as described above in paragraph 12.

Counts 10 through 15 – Violations of SDMC section 27.2944

16. The Committee did not properly disclose campaign expenditures, in violation of former SDMC section 27.2944. In particular, the Committee failed to timely disclose six accrued expenses totaling $10,076.09, as described above in paragraph 14.
**Factors in Mitigation**

17. The Commission’s investigation indicates that Respondent relied on his treasurer to properly disclose subvendors and accrued expenses. In addition, the Commission’s investigation did not reveal any evidence indicating that the Committee intended to conceal information or deceive the public. Through the examination of the Committee’s records and campaign disclosure statements, the Ethics Commission’s auditor verified that the Committee timely filed all campaign statements. The Committee reported payments made to consultants with codes that explained that the payments were for television and print advertisements, but failed to report the actual payments by the consultants to subvendors. In addition, the Committee reported campaign expenditures at the time they were paid, but failed to report accrued expenditures that were incurred but not paid by the close of a reporting period.

**Conclusion**

18. Respondent agrees to take necessary and prudent precautions to comply with all provisions of the Election Campaign Control Ordinance in the future.

19. Respondents agree to file all necessary amendments to correct the deficiencies described above in paragraphs 12 and 14. The amendments must be filed on or before February 28, 2006.

20. Respondent agrees to pay a fine in the amount of $2,500 for violating SDMC sections 27.2931 and 27.2944. This amount must be paid no later than February 3, 2006, 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: ____________________  PETER Q. DAVIS, Respondent
DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on ________, 2006. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $2,500.

DATED:__________________ _______________________________

Dorothy Leonard, Chair
SAN DIEGO ETHICS COMMISSION