| 1  | STACEY FULHORST, Executive Director   |   |
|----|---|---|
| 2  | City of San Diego Ethics Commission<br>1010 Second Avenue, Suite 1530   |   |
| 3  | San Diego, CA 92101<br>Telephone: (619) 533-3476  |   |
| 4  | 4    Facsimile: (619) 533-3448  |   |
| 5  | Petitioner  |   |
| 6  |   |   |
| 7  | BEFORE THE CITY OF SAN DIEGO  |   |
| 8  | ETHICS COMMISSION   |   |
| 9  |   |   |
| 10 | In re the Matter of: ) Case No.: 2013-23 (CEZ)  |   |
| 11 | NUESTRO PUEBLO UNIDO PARA EL       )       STIPULATION, DECISION, AND         PROGRESO IN SUPPORT OF BLANCA       )       ORDER |   |
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| 13 | SAN DIEGO COUNTY, ALAN ENGLISH,   |   |
| 14 | )   |   |
| 15 | Respondents. )  |   |
| 16 | )   |   |
| 17 | STIPULATION   |   |
| 18 | THE PARTIES STIPULATE AS FOLLOWS:   |   |
| 19 | 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics   |   |
| 20 | Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,                                     | , |
| 21 | implement, and enforce local governmental ethics laws contained in the San Diego Municipal                                      | 1 |
| 22 | Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control                                    | 1 |
| 23 | Ordinance [ECCO], SDMC section 27.2901, et seq.   |   |
| 24 | 2. At all times mentioned herein, Nuestro Pueblo Unido Para el Progreso in support of   | f |
| 25 | Blanca Lopez-Brown for City Council 2013 (ID # 1356263) [Committee], was a City committee                                       | 3 |
| 26 | primarily formed to support the candidacy of Blanca Lopez-Brown for City Council in the   | 3 |
| 27 | Council District Four special election on March 26, 2013. As of April 1, 2014, the Lincoln Club                                 |   |
| 28 | of San Diego County [Lincoln Club] was the sponsor of the Committee; the Committee's name                                       | 3 |
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was subsequently changed to Nuestro Pueblo Unido Para el Progreso in support of Blanca Lopez-Brown for City Council 2013 Sponsored by the Lincoln Club of San Diego County.

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3 3. At all times mentioned herein, Alan English [English] and T. J. Zane [Zane] were
4 the principal officers of the Committee. Zane was also the Executive Director of the Lincoln
5 Club.

6 4. The Committee, English, and Zane, are collectively referred to herein as
7 "Respondents."

5. 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.

6. This Stipulation resolves all factual and legal issues raised by the Ethics
Commission with regard to the named Respondents' involvement in this matter without the
necessity of holding an administrative hearing to determine Respondents' liability.

7. Respondents understand and knowingly and voluntarily waive any and all 14 procedural rights under the SDMC, including, but not limited to, a determination of probable 15 cause, the issuance and receipt of an administrative complaint, the right to appear personally in 16 any administrative hearing held in this matter, the right to confront and cross-examine witnesses 17 testifying at the hearing, the right to subpoen a witnesses to testify at the hearing, and the right to 18 have the Ethics Commission or an impartial hearing officer hear this matter. Respondents agree 19 to hold the City of San Diego harmless from any and all claims or damages resulting from the 20 Commission's investigation, this stipulated agreement, or any matter reasonably related thereto. 21 Respondents further agree that the terms of this Stipulation constitute compliance with the 22 provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a 23 reference to each violation, and an order. 24

8. Respondents acknowledge 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.

9. The parties agree that, in the event the Ethics Commission refuses to accept this
 Stipulation, it shall become null and void. Respondents further agree 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

7 10. Because the Committee was formed for the purpose of supporting a candidate in a
8 City of San Diego election, Respondents were required to comply with the provisions of ECCO.

9 11. ECCO requires committees to file campaign statements in the time and manner
10 required by California Government Code sections 81000, *et seq.* and the Regulations adopted by
11 the Fair Political Practices Commission [FPPC]. It is unlawful under ECCO to fail to comply
12 with the disclosure requirements of ECCO and state law. SDMC § 27.2930(g).

According to FPPC Regulation 18402.1, a committee must disclose the names of 12. 13 its principal officers on a Statement of Organization [Form 410]. The term "principal officer" is 14 defined as the "individual primarily responsible for approving the political activity of the 15 committee including, but not limited to, the following activities: (1) authorizing the content of 16 the communications made by the committee; (2) authorizing expenditures, including 17 contributions, on behalf of the committee; and (3) determining the committee's campaign 18 strategy." FPPC Regulation 18402.1 also states that "if more than one individual shares in the 19 primary responsibility for approving the political activities of the committee . . . each individual 20 is a principal officer." A committee with three or fewer principal officers must identity all of its 21 principal officers on the Form 410. Id. 22

13. The Commission's investigation reveals that Respondent Zane was responsible for
directing and approving most aspects of the Committee's political activities including the
Committee's campaign strategy and budget, as well as the timing and content of the Committee's
campaign communications. Respondent English was responsible for authorizing the payment of
Committee expenditures.

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#### -12-STIPULATION, DECISION, AND ORDER

14. On March 19, 2013, the Committee filed a Form 410 identifying Respondent English as its sole principal officer. The Committee's Form 410 did not identify Respondent Zane as a principal officer, nor did the Committee ever file an amended Form 410 to add Respondent Zane as a principal officer. The Committee's terminating Form 410, filed on May 23, 2013, also failed to identify Respondent Zane as a principal officer.

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6 15. With respect to expenditures of one hundred dollars (\$100) or more, California 7 Government Code section 84211 requires that the committee making the expenditure identify on 8 a campaign statement the name of the person or vendor providing services to the committee and 9 the amount of the expenditure. The same information must also be disclosed for expenditures of 10 \$500 or more made by a committee agent on the committee's behalf (commonly known as 11 subvendors). Id.

12 16. On March 23, 2013, Superior, Inc. [Superior] submitted three invoices to the Committee totaling \$11,662.15 for goods and services it purportedly provided to the Committee 13 in connection with three campaign mailers. The Commission's investigation reveals that 14 15 Superior did not, in fact, provide any goods or services to the Committee. Instead, the work was actually performed by Bieber Communications [Bieber], and subvendors retained by Bieber. 16 After Superior submitted its invoices and received payment from the Committee, Superior kept 17 \$300 and forwarded the remaining \$11,362.15 to Bieber. Bieber retained \$4,351.87 as payment 18 for consulting services, and used the remaining \$7,010.28 to make payments to various 19 subvendors that provided goods and services to the Committee. 20

17. On May 23, 2013, the Committee filed a campaign statement covering the period 21 from January 1, 2013, through May 23, 2013 (when the Committee was terminated) and 22 disclosed that Superior was paid \$11,662.15 for campaign literature and mailing. The 23 Committee did not disclose the work performed or payment received by Respondent. 24

### Counts

## Counts 1 and 2 - Violations of SDMC section 27.2930

Respondent Committee, by and through its principal officers, Respondents English 18. 27 and Zane, violated SDMC section 27.2930 by failing to identify Respondent Zane as a principal 28

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# STIPULATION, DECISION, AND ORDER

| 1         | officer on the Committee's initial Form 410 filed on March 19, 2013, by failing to file an      |
|-----------|---|
| 2         | amended Form 410 to identify Respondent Zane as a principal officer, and by failing to identify |
| 3         | Respondent Zane as a principal officer on its terminating Form 410 filed on May 23, 2013.       |
| 4         | 19. Respondent Committee, by and through its principal officers, Respondents                    |
| 5         | English and Zane, violated SDMC section 27.2930 by failing to disclose the payment made to      |
| 5         | Bieber for consulting services on the campaign statement it filed on May 23, 2013, covering the |
| 7         | period from January 1, 2013, through May 23, 2013.  |
| 8         | <b>Factors in Mitigation</b>  |
| 9         | 20. Respondent Zane cooperated with the Ethics Commission's investigation.                      |
| 5         | Conclusion  |
| 1         | 21. Respondents agree to take necessary and prudent precautions to ensure compliance            |
| 2         | with all provisions of ECCO in the future.  |
| 3         | 22. Respondents acknowledge that the Ethics Commission may impose increased fines               |
| 4         | in connection with any future violations of the City's campaign laws.                           |
| 5         | 23. Respondents agree to pay a fine in the amount of \$1,500 for violating SDMC                 |
| 5         | section 27.2930. This amount must be paid no later than March 6, 2015, by check or money        |
| 7         | order payable to the City Treasurer. The submitted payment will be held pending Commission      |
| 3         | approval of this Stipulation and execution of the Decision and Order portion set forth below.   |
| 9         | DATED: [REDACTED]   |
| 5         | STACEY FULHORST, Executive Director<br>ETHICS COMMISSION, Petitioner                            |
| 1         | DATED: [REDACTED]   |
| 2         | NUESTRO PUEBLO UNIDO PARA EL PROGRESO IN<br>SUPPORT OF BLANCA LOPEZ-BROWN FOR CITY              |
| 4         | COUNCIL 2013 SPONSORED BY THE LINCOLN<br>CLUB OF SAN DIEGO COUNTY, Respondent<br>By: [REDACTED] |
| 5         | DATED:[REDACTED]  |
| 5         | ALAN ENGLISH, Respondent  |
| 7   <br>3 | DATED: [REDACTED]   |
| ן נ<br>   | T.J. ZANE, Respondent   |
|           | STIPULATION, DECISION, AND ORDER  |

| 1        | DECISION AND ORDER  |
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| 2        | The Ethics Commission considered the above Stipulation at its meeting on April 9, 2015.       |
| 3        | The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the |
| 4        | Stipulation, Respondents pay a fine in the amount of \$1,500.                                 |
| 5        | [REDACTED]  |
| 6        | DATED:  |
| 7        | JOHN C. O'NEILL, Chair<br>SAN DIEGO ETHICS COMMISSION   |
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