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Petitioner

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION

In re the Matter of:  
JIM BIEBER,  
Respondent.

Case No.: 2013-23 (JB)

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 provisions of the Election Campaign Control Ordinance [ECCO], SDMC section 27.2901, et seq.

2. At all times mentioned herein, Respondent Jim Bieber was the principal of Bieber Communications, which is the dba of Designed to Win, Inc., a California Corporation located in Santa Ana, California [collectively referred to as “Bieber”]. Bieber 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 by the Ethics Commission with regard to the named Respondent’s involvement in this matter 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. Respondents further agree 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. Respondent provided campaign consulting services 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 (ID # 1356263) [Committee], a City committee primarily formed to support the candidacy of Blanca Lopez-Brown for City Council in the Council District Four.
special election on March 26, 2013. Because the Committee was formed for the purpose of supporting a candidate in a City of San Diego election, it was required to comply with the provisions of ECCO.

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

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

11. 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 in connection with three campaign mailers.

12. The Commission’s investigation reveals that Superior did not provide any goods or services to the Committee. Instead, at Respondent’s request, Superior created invoices that included the cost of Respondent’s consulting services and the costs incurred by Respondent’s subvendors.

13. After Superior submitted its invoices and received payment from the Committee, Superior kept $300 and forwarded the remaining $11,362.15 to Respondent. Respondent retained $4,351.87 as payment for consulting services, and used the remaining $7,010.28 to make payments to various subvendors that provided goods and services to the Committee.

14. On May 23, 2013, the Committee filed a campaign statement covering the period from January 1, 2013, through May 23, 2013 (when the Committee was terminated) and disclosed that Superior was paid $11,662.15 for campaign literature and mailing. The Committee did not disclose the work performed or payment received by Respondent.
15. It is unlawful for any person to counsel, aid, abet, advise, or participate with another to violate ECCO. SDMC § 27.2991.

16. By arranging for and assisting in the preparation of Superior invoices to effectively conceal the work performed by Respondent, as described above in paragraphs 11 through 13, Respondent participated with another to violate ECCO.

Counts

Count 1 - Violation of SDMC section 27.2991

17. Respondent participated with another to violate ECCO by arranging for and assisting in the preparation of invoices from Superior that effectively concealed the work performed by Respondent and that resulted in the Committee’s failure to disclose the work performed and payment received by Respondent.

Factors in Aggravation

18. Respondent has significant professional experience with regard to political campaigns and was well aware of the obligation to accurately disclose the identities of vendors that provide goods and services to a campaign committee.

19. Respondent initially claimed that he did not recall performing any work for the Committee or receiving any compensation from the Committee; however, Respondent subsequently revised his testimony and produced documents confirming his involvement in the Committee’s activities.

Conclusion

20. Respondent agrees to take necessary and prudent precautions to ensure compliance with all provisions of ECCO in the future.

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

22. Respondent agrees to pay a fine in the amount of $1,500 for violating SDMC section 27.2991. This amount must be paid no later than April 6, 2015, by check or money order 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.
DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on April 9, 2015. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of $1,500.

[REDACTED]

DATED:______________

JOHN C. O’NEILL, Chair
SAN DIEGO ETHICS COMMISSION