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: Case No.: 2013-26 (OF)
OLIVIA FALCONE, 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, Olivia Falcone was an administrative professional employed by Symbolic Motor Car Company, a luxury automobile dealership doing business in La Jolla, California. Ms. Falcone 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.

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4. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics Commission concerning the Respondent’s conduct 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. ECCO imposes limits on contributions to City candidates in order to prevent the corruption and appearance of corruption that would result if candidates for elective City office were permitted to accept large campaign contributions. At all times mentioned herein, the contribution limit for City candidates was $500 per election. SDMC § 27.2935.
9. In order to prevent circumvention of the $500 contribution limit, ECCO prohibits any person from making a contribution on behalf of another, or while acting as an intermediary or agent of another, without disclosing to the recipient the true source of the funds. SDMC § 27.2944. Requiring the identity of the true source making a contribution serves to ensure that no one contributes more than $500 to a candidate. Making a contribution on behalf of another without the requisite disclosure is commonly known as money laundering, and is prohibited by ECCO because it deprives the public of important information concerning the identity of campaign donors.

10. In December of 2011, Respondent’s employer, Marc Chase [Chase], asked Respondent to make a $500 contribution to the Bonnie Dumanis for Mayor 2012 committee [Dumanis Mayoral Committee] with the understanding that Respondent would be reimbursed in full for the contribution. Respondent agreed to this arrangement. She immediately wrote a $500 check to the Dumanis Mayoral Committee and, in exchange, Chase gave her $500 in cash. Neither Respondent nor Chase informed the Dumanis Mayoral Committee that the source of the $500 contribution was anyone other than Respondent. The Dumanis Mayoral Committee filed a campaign disclosure statement reflecting receipt of a $500 contribution from Respondent on December 29, 2011.

11. Jose Susumo Azano Matsura [Azano], a customer of Symbolic Motor Car Company, was the source of the $500 cash that Chase gave to Respondent. Consequently, at the time Respondent made the $500 contribution to the Dumanis Mayoral Committee, Azano was the true source of the contribution, and Respondent was acting as an intermediary for Azano, a fact that was not disclosed to the Dumanis Mayoral Committee. Additionally, by failing to disclose that she was not the true source of the $500 contribution, Respondent (and a series of other straw donors) enabled Azano to make contributions to the Dumanis Mayoral Committee far in excess of the City’s contribution limit.
Counts

Count 1 - Violation of SDMC section 27.2944

12. Respondent violated SDMC section 27.2944 when she made a $500 contribution to the Dumanis Mayoral Committee on behalf of someone else without disclosing that she was not the true source of the funds.

Factors in Mitigation

13. Respondent cooperated with the Ethics Commission’s investigation.

Conclusion

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

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

16. Respondent agrees to pay a fine in the amount of $5,000 for violating SDMC section 27.2944. This amount must be paid no later than July 3, 2014, 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:_________________               [REDACTED]
STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

DATED:_________________               [REDACTED]
OLIVIA FALCONE, Respondent
DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on July 10, 2014. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $5,000.

[REDACTED]

DATED:__________________

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