

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

9
10 In re the Matter of:) Case No.: 2013-45
11 BRIAN POLLARD,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**
_____)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

16 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
17 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
18 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
19 Code [SDMC] relating to, among other things, the provisions of the City’s Election Campaign
20 Control Ordinance [ECCO].

21 2. At all times mentioned herein, Brian “Barry” Pollard was a candidate for City
22 Council District 4 in the special election on March 26, 2013. The Brian ‘Barry’ Pollard for City
23 Council 2013 committee (Identification # 1354752) [Committee] was a campaign committee
24 registered with the State of California established to support Mr. Pollard’s candidacy for Council
25 District 4. At all relevant times herein, the Committee was controlled by Mr. Pollard within the
26 meaning of the California Political Reform Act, California Government Code section 82016.
27 Mr. Pollard is referred to herein as “Respondent.”

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1 3. This Stipulation will be submitted for consideration by the Ethics Commission at its
2 next scheduled meeting, and the agreements contained herein are contingent upon the approval
3 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

4 4. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics
5 Commission without the necessity of holding an administrative hearing to determine
6 Respondent's liability.

7 5. Respondent understands and knowingly and voluntarily waives any and all procedural
8 rights under the SDMC, including, but not limited to, a determination of probable cause, the
9 issuance and receipt of an administrative complaint, the right to appear personally in any
10 administrative hearing held in this matter, the right to confront and cross-examine witnesses
11 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
12 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
13 to hold the City of San Diego harmless from any and all claims or damages resulting from the
14 Commission's investigation or this stipulated agreement, or any matter reasonably related
15 thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with
16 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
17 reference to each violation, and an order.

18 6. Respondent acknowledges that this Stipulation is not binding upon any other law
19 enforcement or government agency and does not preclude the Ethics Commission from referring
20 this matter to, cooperating with, or assisting any other law enforcement or government agency
21 with regard to this or any other related matter.

22 7. The parties agree that in the event the Ethics Commission refuses to accept this
23 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
24 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
25 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
26 because of prior consideration of this Stipulation.

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1 **Summary of Law and Facts**

2 8. Because the Respondent was a candidate in a City of San Diego election,
3 Respondent is required to comply with the provisions of ECCO.

4 9. SDMC section 27.2960 requires candidates to pay for goods and services provided
5 by campaign vendors within 180 calendar days. This time limit serves to prevent the
6 circumvention of the City's contribution limit and ban on organizational contributions that would
7 occur if unpaid debts could essentially become in-kind contributions.

8 10. In the months leading up to the special election for City Council District 4 on March
9 26, 2013, Respondent received goods and services from three vendors that he did not pay within
10 180 calendar days, as follows:

11 (a) Campaign management services from Marshall Anderson totaling \$1,000.00;

12 (b) Robo-calls and campaign literature from Campaign Services Group totaling
13 \$5,711.64; and,

14 (c) Fundraising services from Freelove Consulting Group, Inc., totaling \$2,160.00.

15 The amount of the debts not paid within the requisite 180-day period constitutes almost twenty-
16 five percent of the total expenditures made by the Committee.

17 11. In April of 2014, more than one year after Respondent incurred the debt owed to
18 Freelove Consulting, he made a \$2,000.00 payment to this vendor. As of the date of this
19 Stipulation, Respondent has not made any other payments to the vendors identified above.

20 **Counts**

21 **Counts 1 through 3 – Violation of SDMC section 27.2960**

22 12. Respondent violated SDMC section 27.2960 by failing to pay the vendor debts
23 described above in Paragraph 10 within 180 calendar days.

24 **Factors in Aggravation**

25 13. Respondent was reminded on numerous occasions by Commission staff of the need
26 to comply with the City's 180-day vendor debt laws.

27 14. Respondent was the subject of two previous Ethics Commission enforcement actions
28 in connection with his two prior candidacies for City Council District 4, and agreed to pay

1 monetary fines totaling \$5,000 for violating numerous provisions of the City’s campaign laws,
2 including: failing to timely file a pre-election campaign disclosure statement, failing to provide a
3 “paid for by” disclosure on a campaign advertisement, failing to disclose contributions, and
4 failing to maintain records associated with contributions and expenditures.

5 **Factors in Mitigation**

6 15. Respondent has fully cooperated with the Ethics Commission’s investigation.

7 **Conclusion**

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

10 17. Respondents acknowledge that the Ethics Commission may impose increased fines
11 in connection with any future violations of the City’s campaign laws.

12 18. Respondent agrees to pay a fine in the amount of \$7,000 for violating SDMC
13 section 27.2960. This amount must be paid no later than August 1, 2014, by check or money
14 order payable to the City Treasurer. Respondent acknowledges that if the fine is not timely paid
15 in full, the Commission may refer the collection of the fine to the City Treasurer’s Collection
16 Division, which may pursue any or all available legal remedies to recover late penalties, interest,
17 and costs, in addition to seeking the outstanding balance owed.

18
19 [REDACTED]

20 DATED: _____

21 STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

22 [REDACTED]

23 DATED: _____

24 BRIAN POLLARD, Respondent

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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 \$7,000.

[REDACTED]

DATED: _____

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