1	STACEY FULHORST, Executive Director City of San Diego Ethics Commission 1010 Second Avenue, Suite 1530			
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3	San Diego, CA 92101 Telephone: (619) 533-3476			
4	Facsimile: (619) 533-3448			
5	Petitioner			
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7	BEFORE THE CITY OF SAN DIEGO			
8	ETHICS COMMISSION			
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10	In re the Matter of:)	Case No.: 2015-14	
11	DOUGLAS AUSTIN,)	STIPULATION, DECISION, AND ORDER	
12	Respondent.)	ONDER	
13)		
14	STIPULATION			
15	THE PARTIES STIPULATE AS FOLLOWS:			
16	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 filing of Statements of Economic Interests			
20	[SEIs] as required by the City's Ethics Ordinance.			
21	2. At all times mentioned herein, Douglas Austin was a member of the City of San			
22	Diego's Planning Commission and the principal of AVRP Studios, Inc., AVRP Architecture,			
23	Inc., SAVR, Inc., and Pre-Form Systems, LLC. Austin is referred to herein as "Respondent."			
24	3. This Stipulation will be submitted for consideration by the Ethics Commission at its			
25	next scheduled meeting, and the agreements contained herein are contingent upon the approval			
26	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 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. 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 case to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matters.
- 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. As a member of the City's Planning Commission, Respondent is a "High Level Filer" as that term is defined by SDMC section 27.3503, and is required to file an assuming office Statement of Economic Interests [SEI] within thirty days of assuming office, and an annual SEI on or before April 1 of each year, covering the period from January 1 through

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December 31 of the previous calendar year, in accordance with the disclosure guidelines in the California Government Code. SDMC § 27.3510.

- 9. According to SDMC section 27.3510 and California Government Code sections 82030 and 87203, Respondent is required to disclose income from any source located within the City of San Diego, doing business in the City of San Diego, planning to do business in the City of San Diego, or having done business in the City of San Diego in the prior two year period. In addition, California Government Code section 82030 states that the income of an individual includes the individual's pro rata share of income received by any business entity in which the individual has a ten percent or greater ownership interest, and California Government Code section 87207 states that filers must disclose the names of sources of income to a business entity if the filer's pro rata share of the gross income from a single source was \$10,000 or more during the reporting period.
- 10. On May 20, 2014, Respondent assumed office as a Planning Commissioner. On June 20, 2014, he filed an assuming office SEI. Although he disclosed his ownership interest of ten percent or greater in AVRP Studios, AVRP Architecture, and SAVR, he failed to disclose the individual sources of income of \$10,000 or more he received through these three firms during the reporting period, including Mission Valley Holdings, Inc.
- 11. On March 27, 2015, Respondent filed his annual SEI for the 2014 calendar year (which covered the period from his last filing, May 21, 2014, through December 31, 2014). Although he disclosed his ownership interest of ten percent or greater in AVRP Studios, AVRP Architecture, SAVR, and Pre-Form Systems, he failed to disclose the individual sources of income of \$10,000 or more he received through these three firms during the reporting period, including Mission Valley Holdings, Inc.
- 12. On December 14, 2015, after he was contacted by Commission staff, Respondent filed an amendment to his assuming office SEI and disclosed the sources of income of \$10,000 or more he received through AVRP Studios, AVRP Architecture, and SAVR during the reporting period.

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Commission decision that directly involved his personal financial interests.

Count 3 – Violation of SDMC section 27.3561

Respondent violated SDMC section 27.3561 by participating in a Planning

1	<u>Factors in Mitigation</u>			
2	19. Respondent fully cooperated with the Ethics Commission investigation.			
3	20. Respondent has a demonstrated history of recusing himself from Planning			
4	Commission matters that involve his clients, including Mission Valley Holdings and Manchester			
5	Financial Group. These actions support Respondent's representation that his participation in the			
6	matter discussed above in paragraph 15 was an oversight and not intentional.			
7	<u>Conclusion</u>			
8	21. Respondent agrees to take necessary and prudent precautions to comply with all			
9	provisions of the Ethics Ordinance in the future. In particular, Respondent agrees to fully and			
10	completely disclose his economic interests.			
11	22. Respondent acknowledges that the Ethics Commission may impose increased fines			
12	in connection with any future violations of the City's ethics laws.			
13	23. Respondent agrees to pay a fine in the amount of \$6,000 for violating SDMC			
14	sections 27.3510 and 27.3561. This amount must be paid by check or money order made			
15	payable to the City Treasurer no later than December 1, 2016. Respondent acknowledges that if			
16	the fine is not timely paid in full, the Commission may refer the collection of the fine to the City			
17	Treasurer's Collection Division, which may pursue any or all available legal remedies to recover			
18	late penalties, interest, and costs, in addition to seeking the outstanding balance owed.			
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21	[REDACTED] DATED:			
22	STACEY FULHORST, Executive Director ETHICS COMMISSION, Petitioner			
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24	[REDACTED] DATED:			
25	DOUGLAS AUSTIN, Respondent			
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	STIPULATION, DECISION, AND ORDER			

DECISION AND ORDER The Ethics Commission considered the above Stipulation at its meeting on June 9, 2016. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of \$6,000. [REDCATED] DATED:_____ Clyde Fuller, Vice Chair SAN DIEGO ETHICS COMMISSION

STIPULATION, DECISION, AND ORDER