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:  
SAN DIEGANS AGAINST CRIME  
SPONSORED BY THE SAN DIEGO  
COUNTY DEPUTY DISTRICT ATTORNEY’S ASSOCIATION; and SCOTT & CRONIN, LLP,  
Respondents.

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 San Diego Municipal Election Campaign Control Ordinance [ECCO]. SDMC §§ 27.2901, et seq.

2. At all times mentioned herein, San Diegans Against Crime Sponsored by the San Diego County Deputy District Attorney’s Association [SDAC] was a county general purpose committee registered with the State of California [Identification No. 951998]. Scott & Cronin, LLP [S&C] was, at all relevant times, the campaign treasurer for SDAC. Together, SDAC and S&C are referred to herein as “Respondents.”

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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 in this matter by the Ethics Commission without the necessity of holding an administrative hearing to determine Respondents’ liability.

5. Respondents understand and knowingly and voluntarily waive 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.

6. Respondents agree to hold the City of San Diego harmless from any and all claims or damages resulting from the Commission’s investigation, this Stipulation, 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.

7. 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.

8. 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.

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Summary of Law and Facts

9. ECCO defines “committee” as any person or combination of persons who, within a single calendar year, raise $2,000 or more or make expenditures of $1,000 or more for the purpose of supporting or opposing a City candidate or ballot measure. SDMC § 27.2903.

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

11. Pursuant to Government Code sections 82036.5 and 84204, any committee that makes independent expenditures totaling $1,000 or more to support or oppose a candidate or measure in the ninety day period preceding an election is required to file a Late Independent Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the June 7, 2016 primary election, this ninety day period commenced on March 9, 2016.

12. On May 9, 2016, Respondents made payments totaling $9,998 for printing, postage, and data vendor fees associated with the distribution of campaign mailers to 20,782 City residents that supported Robert Hickey for San Diego City Attorney on one side, and James Mangione and Keri Katz, who were running in Superior Court Judge races, on the other side.

13. On May 10, 2016, Respondents filed Forms 496 with the San Diego County Registrar disclosing the independent expenditures made on May 9, 2016, to support City candidate Robert Hickey as well as the two County judicial candidates.

14. On June 27, 2016, forty-eight days late and several weeks after the primary election, Respondents filed a Form 496 with the City Clerk to disclose $4,999 in independent expenditures (one half of the multi-candidate mailer) made to support Robert Hickey on May 9, 2016.

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Counts

Count 1 - Violation of SDMC § 27.2930

15. Respondents violated SDMC section 27.2930 by failing to timely disclose the independent expenditures made on May 9, 2016, in support of a candidate for City office. Respondents were required to file a Form 496 with the City Clerk to disclose these independent expenditures by May 10, 2016, but did not do so until June 27, 2016.

Factors in Mitigation

16. Respondents have cooperated fully with the Ethics Commission investigation.

17. As noted above, Respondents filed Forms 496 with the County Registrar within twenty-four hours to disclose the independent expenditures made to support one City candidate and two County candidates. Additionally, Respondent SDAC has an extensive history of making independent expenditures to support County candidates (and timely filing corresponding campaign statements with the County Registrar) and rarely makes independent expenditures to support City candidates. These facts support Respondents’ representation that the failure to timely file a Form 496 with the City Clerk was an inadvertent oversight.

18. Respondent SDAC reasonably relied on Respondent S&C to timely file campaign disclosure statements as required by local law. Respondent S&C has therefore taken full responsibility for the violations described herein.

Conclusion

19. Respondents agree to take necessary and prudent precautions to ensure compliance with all provisions of ECCO in the future.

20. Respondents acknowledge that the Ethics Commission may impose increased fines in connection with any future violations of the City’s campaign laws.
21. Respondents agree to pay a fine in the amount of $500 for violating SDMC section 27.2930. This amount must be paid by check or money order made payable to the City Treasurer no later than August 5, 2016. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order portion set forth below.

DATED:__________________  ______________________________
Stacey Fulhorst, Petitioner
SAN DIEGO ETHICS COMMISSION

DATED:__________________  ______________________________
Jim Koerber, Principal Officer
SAN DIEGANS AGAINST CRIME SPONSORED BY THE SAN DIEGO COUNTY DEPUTY DISTRICT ATTORNEY’S ASSOCIATION, Respondent

DATED:__________________  ______________________________
Nancy Haley, Political Finance Director
SCOTT & CRONIN, LLP, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on August 11, 2016. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of $500.

DATED:__________________  ______________________________
Clyde Fuller, Chair
SAN DIEGO ETHICS COMMISSION