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 FOR THE MINIMUM  
WAGE – YES ON PROP I, SAN DIEGO- 
IMPERIAL COUNTIES LABOR COUNCIL  
AFL-CIO, and CENTER ON POLICY 
INITIATIVES,  
Respondents.  
Case No.:  2016-38

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, the San Diego-Imperial Counties Labor Council AFL-CIO [Labor Council] and the Center on Policy Initiatives [CPI] were the sponsors of, and were responsible for the activities of, San Diegans for the Minimum Wage – Yes on Prop I [SDMW], a committee registered with the State of California (Identification No. 1382831). The
Labor Council, CPI, and SDMW are individually and collectively referred to herein as “Respondent(s).”

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. Respondents 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. Respondents agree 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.

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.

**Summary of Law and Facts**

9. Because SDMW was formed for the purpose of supporting a City of San Diego ballot measure, Respondents are required to comply with the provisions in ECCO.

10. ECCO requires committees to file campaign statements in the time and manner required by California Government Code section 81000, *et seq.* [Political Reform Act] 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(j). In particular, a committee formed to support a City of San Diego ballot measure is required to file a Statement of Organization [Form 410] within 10 days of qualifying as a committee, as well as pre-election and semi-annual campaign disclosure statements [Forms 460] pursuant to a schedule established by state and local law. SDMC § 27.2930; Cal. Gov’t Code §§ 84101, 84215(e).

11. According to SDMC section 27.2903, a committee is “sponsored” by another entity if any of the following criteria apply:

   (a) the committee receives 80% or more of its contributions either from the entity or from the entity’s members; or

   (b) the entity collects contributions for the committee by use of dues from its members; or

   (c) the entity (alone or with other entities) provides all or nearly all of the administrative services for the committee; or

   (d) the entity (alone or with other entities) sets the committee’s policies for soliciting contributions or making expenditures.

12. ECCO requires sponsored committees to adhere to the reporting obligations set forth in FPPC Regulation 18419. SDMC § 27.2930. Regulation 18419 requires a committee that is sponsored by another entity to include the name of the sponsor in the name of the committee, and to identify the sponsor and the sponsor’s industry group or affiliation on the committee’s Form 410. In addition, whenever a committee files a campaign disclosure
statement, it is required to identify itself using the committee’s “full name.” Cal. Gov’t Code §§ 84204, 84203, and 84211(o).

13. ECCO mandates that all committees that pay for campaign literature, telephone communications, and mass media advertisements for the purpose of supporting or opposing a ballot measure include the words “paid for by” followed by the full name and address of the committee. SDMC §§ 27.2970, 27.2971, 27.2974.

14. The Commission’s investigation reveals that SDMW was sponsored by Labor Council and CPI. The Labor Council, CPI, and their employees were responsible for establishing SDMW, directing its activities, and setting its policies for soliciting contributions and making expenditures. Consequently, Respondents were required to: (a) identify the Labor Council and CPI as the committee sponsors on the committee’s Form 410; (b) describe their industry group or affiliation on the committee’s Form 410; (c) include the Labor Council and CPI in the committee name on all campaign disclosure statements; and (d) include the Labor Council and CPI in the committee name as part of the “paid for by” disclosure included on all campaign advertisements.

15. On February 11, 2016, Respondents filed a Form 410 with the City Clerk. Respondents failed to identify the Labor Council and CPI as the sponsors of SDMW on this Form 410, as well as on all subsequent campaign disclosure statements filed with the City Clerk.

16. From approximately March 7, 2016, through April 29, 2016, Respondents produced and disseminated seven campaign advertisements that did not include the full name of the committee in the “paid for by” disclosure. In particular, the disclosures properly indicated that the advertisements were paid for by SDMW, but did not identify Labor Council and CPI as the committee’s sponsors. These advertisements include the following:

(a) two door hangers ordered in quantities of 10,000 each;

(b) two campaign mailers ordered in quantities of 125,000 each;

(c) eight paid video advertisements on Internet web pages.
17. In addition, in May and June of 2016, Respondents paid for various resources associated with two phone banks that combined to reach approximately 10,700 households. None of these telephone communications included the required “paid for by” disclosure.

Counts

Count 1 - Violations of SDMC section 27.2930

18. Respondents violated SDMC section 27.2930 by failing to disclose that SDMW was sponsored by Labor Council and CPI on the Form 410 filed on February 11, 2016, and on all subsequently-filed campaign disclosure statements.

Counts 2 through 5 - Violations of SDMC section 27.2970

19. Respondents violated SDMC section 27.2970 by failing to identify Labor Council and CPI as SDMW’s sponsors in the “paid for by” disclosure on two door hangers and two campaign mailers.

Count 6 - Violation of SDMC section 27.2974

20. Respondents violated SDMC section 27.2974 by failing to identify Labor Council and CPI as SDMW’s sponsors in the “paid for by” disclosure in eight paid video advertisements on Internet web pages.

Counts 7 and 8 - Violation of SDMC section 27.2971

21. Respondents violated SDMC section 27.2971 by failing to include any “paid for by” disclosure during telephone calls made in connection with two phone banks.

Factors in Aggravation

22. Respondent Labor Council was the subject of two previous Commission enforcement actions that resulted in fines totaling $6,000 for various violations of the City’s campaign laws, including the failure to identify itself as a committee sponsor and the failure to include a “paid for by” disclosure on campaign communications.

Factors in Mitigation

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

24. Respondents correctly identified Labor Council and CPI as SDMW’s top two major donors on a number of campaign advertisements that are not the subject of this Stipulation. These
facts support Respondents’ representation that the failure to disclose SDMW’s sponsors was inadvertent and not an attempt to hide the involvement of Labor Council and CPI.

25. Respondents reasonably relied on the advice of campaign professionals who were paid by the committee to ensure compliance with ECCO and the Political Reform Act.

**Conclusion**

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

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

28. Respondents agree to pay a fine in the amount of $15,000 for violating SDMC sections 27.2930, 27.2970, 27.2971, and 27.2974. This amount must be paid by check or money order made payable to the City Treasurer no later than April 30, 2017. Respondent acknowledges that if the fine is not timely paid in full, the Commission may refer the collection of the fine to the City Treasurer’s Collection Division, which may pursue any or all available legal remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.

DATED: __________________

Stacey Fulhorst, Petitioner
SAN DIEGO ETHICS COMMISSION

DATED: __________________

Dale Kelly Bankhead, on behalf of SAN DIEGANS FOR THE MINIMUM WAGE – YES ON PROP I and SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL AFL-CIO, Respondents

DATED: __________________

Clare Crawford, on behalf of SAN DIEGANS FOR THE MINIMUM WAGE – YES ON PROP I and CENTER FOR POLICY INITIATIVES, Respondents
The Ethics Commission considered the above Stipulation at its meeting on April 13, 2017. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of $15,000.