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5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2017-25
11 MIKE AGUIRRE,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**
_____)

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15 **STIPULATION**

16 **THE PARTIES STIPULATE AS FOLLOWS:**

17 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
18 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
19 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
20 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control
21 Ordinance [ECCO], SDMC section 27.2901, *et seq.*

22 2. At all times mentioned herein, Mike Aguirre was a candidate for Mayor in the
23 special election on November 19, 2013. The Mike Aguirre for Mayor committee (Identification
24 No. 1360503) [Committee] was a campaign committee registered with the State of California
25 established to support Mr. Aguirre’s candidacy. At all relevant times herein, the Committee was
26 controlled by Mr. Aguirre within the meaning of the California Political Reform Act, California
27 Government Code section 82016. Mr. Aguirre 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
5 Ethics 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
8 procedural rights under the SDMC including, but not limited to, a determination of probable
9 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
10 any 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 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
14 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
15 order.

16 6. Respondent agrees to hold the City of San Diego and the Ethics Commission
17 harmless from any and all claims or damages resulting from the Commission's investigation, this
18 stipulated agreement, or any matter reasonably related thereto.

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

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

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1 **Summary of Law and Facts**

2 9. The Committee was selected for audit by a designee of the City Clerk in a random
3 drawing conducted at a public meeting of the Ethics Commission held on September 10, 2015.
4 An audit was conducted covering the period from September 9, 2013, through January 31, 2014.
5 The information set forth in this Stipulation was obtained during the course of audit.

6 10. SDMC section 27.2930 requires candidates and committees to file campaign
7 statements in the time and manner required by state law. California Government Code section
8 84211 requires candidates and committees to disclose the name, street address, occupation, and
9 employer of individuals who have contributed a total of \$100 or more. Respondent failed to
10 disclose the occupation and employer for eleven contributions totaling \$1,250, approximately ten
11 percent of total contributions received by the Committee.

12 **Counts**

13 **Count 1 - Violation of SDMC section 27.2930**

14 11. Respondent violated SDMC section 27.2930 by failing to disclose occupation and
15 employer information for eleven contributions totaling \$1,250.

16 **Factors in Aggravation**

17 12. Respondent has run for elective office on several prior occasions and served as the
18 elected City Attorney from 2004 to 2008. Accordingly, Respondent knew or should have known
19 that he was required to disclose occupation and employer information for contributors of \$100 or
20 more.

21 **Factors in Mitigation**

22 13. Respondent cooperated with the Ethics Commission investigation.

23 **Conclusion**

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

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

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