STACEY FULHORST, Executive Director  
City of San Diego Ethics Commission  
1010 Second Avenue, Suite 1530  
San Diego, CA 92101  
Telephone: (619) 533-3476  

Petitioner

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION

In re the Matter of:  
CHRIS CATE,  
Respondent.

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 City’s Election Campaign Control Ordinance [ECCO].

2. At all times mentioned herein, Chris Cate was a candidate for re-election to City Council District 6 in the June 2018 primary election. The Cate for City Council 2018 committee (Identification No. 1394460) [Committee] was a campaign committee registered with the State of California established to support Councilmember Cate’s candidacy for Council District 6. At all relevant times herein, the Committee was controlled by Councilmember Cate within the meaning of the California Political Reform Act, California Government Code section 82016. Councilmember Cate is referred to herein as “Respondent.”
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 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 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 agrees to hold the City of San Diego and the Ethics Commission harmless from any and all claims or damages resulting from the Commission’s investigation, this stipulated agreement, or any matter reasonably related thereto.

7. 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 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. 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.

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Summary of Law and Facts

9. Because the Committee was formed for the purpose of supporting a candidate in a City of San Diego election, Respondent is required to comply with the provisions of ECCO.

10. ECCO prohibits City candidates from directly or indirectly soliciting campaign contributions from persons they know to be City employees. SDMC §27.2946. In order to avoid violations of this law, candidates are advised to comb their email lists and remove those that end with a domain name associated with the City of San Diego or any of its agencies (e.g., sandiego.gov).

11. On February 7, 2018, the Committee sent a campaign email to a list of approximately 9,000 recipients that included 60 City employees (at their sandiego.gov email addresses). The majority of the recipients were included on a campaign list generated in connection with the 2014 election cycle, which the Committee representative incorrectly assumed had been previously combed to remove City employee email addresses. The email included a solicitation for campaign contributions in the form of a “Donate to my Campaign” button near the end of the message, which was linked to the Committee’s campaign donation page.

Counts

Count 1 - Violation of SDMC section 27.2946

12. Respondent violated SDMC section 27.2946 when his Committee sent an email to 60 City employees, at their City email addresses, that included a solicitation for campaign contributions.

Factors in Mitigation

13. Respondent fully cooperated with the Ethics Commission’s investigation.

14. Respondent’s claim that the inclusion of City employees in the distribution list was inadvertent is supported by the fact the Executive Director of the Ethics Commission was one of the City employees who received the email.

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15. Respondent will not accept any campaign contributions from any City employee who received one of the improper email solicitations. Consequently, Respondent’s campaign will not obtain any financial benefit from the improper solicitations.

Conclusion

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

17. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City’s Election Campaign Control Ordinance.

18. Respondent agrees to pay a fine in the amount of $1,500. This amount must be paid no later than April 6, 2018, by check or money order payable to the City Treasurer. 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: __________________  ______________________________________________
Chris Cate, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on April 12, 2018. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $1,500.

DATED: __________________  ______________________________________________
Deborah Cochran, Chair
SAN DIEGO ETHICS COMMISSION