

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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4

5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

9
10 In re the Matter of:) Case No.: 2018-11
11 BRYAN PEASE,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**
_____)

14
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 City's Election Campaign
21 Control Ordinance [ECCO].

22 2. At all times mentioned herein, Bryan Pease was a candidate for City Council
23 District 2 in the June 2018 primary election. The Bryan Pease for City Council 2018 committee
24 (Identification No. 1395389) [Committee] was a campaign committee registered with the State
25 of California established to support Mr. Pease's candidacy for Council District 2. At all relevant
26 times herein, the Committee was controlled by Mr. Pease within the meaning of the California
27 Political Reform Act, California Government Code section 82016. In addition, at all relevant
28 times herein, Mr. Pease was the President of the APRL Fund, Inc. [APRL], a 501(c)(4) non-

1 profit organization whose stated mission is “Protecting the rights and habitats of all animals
2 through outreach, education, lobbying, and litigation.” Mr. Pease is referred to herein as
3 “Respondent.”

4 3. This Stipulation will be submitted for consideration by the Ethics Commission at its
5 next scheduled meeting, and the agreements contained herein are contingent upon the approval
6 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

7 4. This Stipulation resolves all factual and legal issues raised in this matter by the
8 Ethics Commission without the necessity of holding an administrative hearing to determine
9 Respondent’s liability.

10 5. Respondent understands and knowingly and voluntarily waives any and all
11 procedural rights under the SDMC including, but not limited to, a determination of probable
12 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
13 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
14 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
15 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
16 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
17 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
18 order.

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

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

26 8. The parties agree that in the event the Ethics Commission refuses to accept this
27 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
28 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission

1 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
2 because of prior consideration of this Stipulation.

3 **Summary of Law and Facts**

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

6 10. ECCO prohibits contributions from organizations to City candidates. SDMC §
7 27.2950.

8 11. By definition, the term “contribution” includes payments received and/or made at
9 the request of a candidate. SDMC § 27.2903; FPPC Regulation 18215. A candidate receives a
10 “nonmonetary contribution” when money is spent at the behest of the candidate, when the
11 candidate takes possession or control of the relevant goods or services, or when the candidate
12 otherwise receives the benefit of the expenditure. FPPC Regulation 18421.1(f).

13 12. In late 2017, Respondent commissioned Zogby Analytics to conduct a telephone
14 survey of 300 likely voters regarding candidates for City Council District 2 in the June 2018
15 primary election. In January of 2018, Zogby Analytics provided the survey results to
16 Respondent, who subsequently posted them on his campaign website. On January 12, 2018,
17 Zogby Analytics submitted an invoice in the amount of \$10,300 to APRL for the subject survey,
18 and on February 6, 2018, APRL paid the bill in full.

19 13. SDMC section 27.2930 requires candidates and committees to file campaign
20 statements and disclose all of the information required by state law. California Government
21 Code section 84211 requires that candidates and committees itemize all contributions of \$100 or
22 more on their campaign statements.

23 14. On April 26, 2018, the Committee filed a campaign statement covering the period
24 from January 1 through April 21, 2018, but failed to disclose the \$10,300 nonmonetary
25 contribution from APRL.

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1 Counts

2 **Count 1 - Violation of SDMC section 27.2950**

3 15. Respondent violated SDMC section 27.2950 when he accepted a nonmonetary
4 contribution from an organization, as described above in paragraph 12.

5 **Count 2 - Violation of SDMC section 27.2930**

6 16. Respondent violated SDMC section 27.2930 when he failed to timely report the
7 nonmonetary contribution he received from APRL, as described above in paragraph 14.

8 Factors in Mitigation

9 17. On June 19, 2018, after being advised by Commission staff that the payment by
10 APRL for the Zogby Analytics poll constituted an unlawful nonmonetary contribution,
11 Respondent made a personal payment to the Committee in the amount of \$10,300, and the
12 Committee subsequently issued payment to APRL in the same amount.

13 Factors in Aggravation

14 18. Commission staff contacted Respondent and his representative numerous times
15 beginning on May 15, 2018, asking Respondent to immediately file an amended campaign
16 statement to disclose the payment made for the subject poll. Respondent failed to file the
17 requested amendment before the primary election on June 5, 2018, thereby depriving voters of
18 relevant information concerning his campaign financing.

19 19. Respondent has a history of failing to comply with the City's campaign laws. In
20 particular, he paid a \$200 fine in October of 2017 as a result of his failure to timely file a
21 campaign statement associated with his 2016 candidacy for City Attorney. In addition, the
22 Commission's audit of his 2012 campaign for City Council District 1 revealed that he failed to
23 adequately maintain campaign records and failed to include a "paid for by" disclosure on a
24 newspaper campaign advertisement.

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1 **Conclusion**

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

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

6 22. Respondent agrees to pay a fine in the amount of \$4,000. This amount must be paid
7 no later than August 31, 2018, by check or money order payable to the City Treasurer. The
8 submitted payment will be held pending Commission approval of this Stipulation and execution
9 of the Decision and Order portion set forth below.

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11 [REDACTED]
12 DATED: _____
13 Stacey Fulhorst, Petitioner
14 SAN DIEGO ETHICS COMMISSION

15 [REDACTED]
16 DATED: _____
17 Bryan Pease, Respondent

18 **DECISION AND ORDER**

19 The Ethics Commission considered the above Stipulation at its meeting on October 11,
20 2018. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
21 with the Stipulation, Respondent pay a fine in the amount of \$4,000.

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23 [REDACTED]
24 DATED: _____
25 Deborah Cochran, Chair
26 SAN DIEGO ETHICS COMMISSION