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City of San Diego Ethics Commission  
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Petitioner

BEFORE THE CITY OF SAN DIEGO  
ETHICS COMMISSION

In re the Matter of:  
SAVE SAN DIEGO HIGH – YES ON MEASURE I,  
Respondent.  
Case No.:  2019-28  
STIPULATION, DECISION, AND ORDER

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. All SDMC references in this Stipulation relate to provisions of ECCO that were in effect at the time of the actions described herein.

2. At all times mentioned herein, Save San Diego High – Yes on Measure I was a City committee primarily formed to support a ballot measure in the November 2016 general election. The committee was registered with the State of California (Identification No. 1388894) and 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 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. Respondent was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 14, 2017. An audit was conducted covering the period from August 22, 2016, through December 16, 2016. The information set forth in this Stipulation was obtained during the course of the audit.

10. Because Respondent was formed for the purpose of supporting a City of San Diego ballot measure, Respondent was required to comply with the provisions in ECCO.

11. At the time of the actions described herein, ECCO required committees that paid for advertisements supporting or opposing a City measure to include a disclosure statement on the advertisement identifying the top two donors from which it had received contributions of $10,000 or more. SDMC § 27.2975.

12. Respondent had only one donor of $10,000 or more. On October 6, 2016, the Southwest Regional Council of Carpenters Issues Committee [Carpenters Committee] made a $15,000 contribution to Respondent.

13. Respondent paid for a social media advertising campaign that ran from October 20, 2016, through November 8, 2016. These digital advertisements included a disclosure indicating that they were “paid for by” Respondent, but failed to identify the Carpenters Committee as a top donor.

14. Respondent paid a vendor to conduct 33,000 robocalls on November 7, 2016, that included a disclosure indicating that the ads were “paid for by” Respondent, but failed to identify the Carpenters Committee as a top donor.

Counts

Counts 1 and 2 - Violations of SDMC section 27.2975

15. Respondent violated SDMC section 27.2975 by failing to identify the Carpenters Committee as a top donor on social media advertising as described above in paragraph 13.

16. Respondent violated SDMC section 27.2975 by failing to identify the Carpenters Committee as a top donor on robocalls as described above in paragraph 14.

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Factors in Mitigation

17. Respondent fully cooperated with the Ethics Commission investigation.

18. Respondent’s consultant, Scott Barnett, LLC, has accepted responsibility for the violations described herein and has agreed to pay the fine referenced below.

Conclusion

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

20. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City’s campaign laws.

21. Respondent agrees to pay a fine in the amount of $2,000 for violating SDMC section 27.2975. This amount must be paid no later than October 4, 2019, 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: _________________  _______________________________________________
Richard Barrera, Principal Officer
SAVE SAN DIEGO HIGH – YES ON MEASURE I, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on October 10, 2019. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $2,000.

DATED: _________________  [REDACTED]
Sid Voorakkara, Chair
SAN DIEGO ETHICS COMMISSION