

1 STACEY FULHORST, Executive Director
2 City of San Diego Ethics Commission
3 450 B Street, Suite 780
4 San Diego, CA 92101
5 Telephone: (619) 533-3476
6 Facsimile: (619) 533-3448

7 Petitioner

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

10 In re the Matter of:) Case No.: 2019-28
11)
12 SAVE SAN DIEGO HIGH – YES ON) **STIPULATION, DECISION, AND**
13 MEASURE I,) **ORDER**
14 Respondent.)
15)
16)
17)

18 **STIPULATION**

19 **THE PARTIES STIPULATE AS FOLLOWS:**

20 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
21 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
22 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
23 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control
24 Ordinance [ECCO], SDMC section 27.2901, *et seq.* All SDMC references in this Stipulation
25 relate to provisions of ECCO that were in effect at the time of the actions described herein.

26 2. At all times mentioned herein, Save San Diego High – Yes on Measure I was a
27 City committee primarily formed to support a ballot measure in the November 2016 general
28 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

1 approval of the Stipulation and the accompanying Decision and Order by the Ethics
2 Commission.

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

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

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

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

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

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1 **Summary of Law and Facts**

2 9. Respondent 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 14, 2017.
4 An audit was conducted covering the period from August 22, 2016, through December 16, 2016.
5 The information set forth in this Stipulation was obtained during the course of the audit.

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

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

12 12. Respondent had only one donor of \$10,000 or more. On October 6, 2016, the
13 Southwest Regional Council of Carpenters Issues Committee [Carpenters Committee] made a
14 \$15,000 contribution to Respondent.

15 13. Respondent paid for a social media advertising campaign that ran from October 20,
16 2016, through November 8, 2016. These digital advertisements included a disclosure indicating
17 that they were “paid for by” Respondent, but failed to identify the Carpenters Committee as a top
18 donor.

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

22 **Counts**

23 **Counts 1 and 2 - Violations of SDMC section 27.2975**

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

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

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1 **Factors in Mitigation**

2 17. Respondent fully cooperated with the Ethics Commission investigation.

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

5 **Conclusion**

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

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

10 21. Respondent agrees to pay a fine in the amount of \$2,000 for violating SDMC
11 section 27.2975. This amount must be paid no later than October 4, 2019, by check or money
12 order payable to the City Treasurer. The submitted payment will be held pending Commission
13 approval of this Stipulation and execution of the Decision and Order portion set forth below.

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15 DATED: _____ [REDACTED]
16 Stacey Fulhorst, Petitioner
17 SAN DIEGO ETHICS COMMISSION

18 DATED: _____ [REDACTED]
19 Richard Barrera, Principal Officer
20 SAVE SAN DIEGO HIGH – YES ON MEASURE I,
21 Respondent

22 **DECISION AND ORDER**

23 The Ethics Commission considered the above Stipulation at its meeting on October 10,
24 2019. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
25 with the Stipulation, Respondent pay a fine in the amount of \$2,000.

26 DATED: _____ [REDACTED]
27 Sid Voorakkara, Chair
28 SAN DIEGO ETHICS COMMISSION