BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:

MARA ELLIOTT; KM STRATEGIES; AMPLIFY CAMPAIGNS; AND RIVER CITY BUSINESS SERVICES,

Respondents.

Case Nos.: 2021-07

STIPULATION

THE PARTIES STIPULATE:

1. Petitioner Sharon Spivak is the Executive Director of the City of San Diego 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 (Municipal Code and SDMC) relating to, among other things, the provisions of the Election Campaign Control Ordinance (ECCO), Municipal Code section 27.2901, et seq.

2. At all times mentioned herein, Mara Elliott (City Attorney Elliott) was the elected City Attorney for the City of San Diego. The Mara Elliott Legal Defense Fund (LDF) was, and is, a professional expense committee established for the purpose of soliciting, accepting, and spending funds contributed to the LDF in accordance with Municipal Code section 27.2965. At all relevant times herein, City Attorney Elliott controlled the LDF within the meaning of California Government Code section 82016. The LDF is registered with the State of California (Identification No. 1431354). At all relevant times, KM Strategies (KM) was the fundraiser for
the LDF, Amplify Campaigns (Amplify) was the political consultant to the LDF, and River City Business Services (RCBS) was the treasurer for the LDF. Together, City Attorney Elliott, KM, Amplify, and RCBS are referred to herein as “Respondents.”

3. This Stipulation will be submitted to the Ethics Commission for consideration at its next scheduled meeting. The agreements contained in this Stipulation are contingent upon the Ethics Commission’s approval of the Stipulation and the accompanying Decision and Order.

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 Respondents’ liability.

5. Respondents understand and knowingly and voluntarily waive 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. Respondents agree that the terms of this Stipulation constitute compliance with the provisions of Municipal Code section 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an order.

6. Respondents agree 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. Respondents acknowledge 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 regarding 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. Respondents further agree 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 their prior consideration of this Stipulation.

Summary of Law and Facts

9. The LDF is a professional expense committee created by City Attorney Elliott (an elected City Official) and controlled by Respondents for the purpose of receiving and spending funds to defray professional fees and costs incurred in City Attorney Elliott’s legal defense of one or more civil proceedings. ECCO includes provisions regulating professional expense committees in the City of San Diego. As the parties controlling the LDF, Respondents are required to comply with the Municipal Code provisions in ECCO that govern the LDF.

10. ECCO requires that any contribution to a professional expense committee be accompanied by a signed Disclosure of Pending Matters form (DPM form). The DPM form discloses whether the contributor has a financial interest in any municipal decisions pending before the City Official to whose professional expense committee the contribution is being made. SDMC § 27.2965(e).

11. ECCO also requires a City Official’s professional expense committee to disclose its financial activity on a campaign statement filed quarterly (except during election cycles when the campaign statements are due more frequently). For purposes of this Stipulation, the relevant statement was required to be filed, and was timely filed, by January 31, 2021, covering the period of October 1 through December 31, 2020. SDMC § 27.2967. Within 10 calendar days of the filing deadline applicable to a campaign statement, a professional expense committee also must file, with the City Clerk, a DPM form for each contribution received during the reporting period. SDMC § 27.2965(e)(4).

12. City Attorney Elliott was elected to her second term during the General Election held November 3, 2020. The LDF was required to file a Form 460, covering the reporting period from October 18, 2020 through December 31, 2020, by February 1, 2021 (January 31, 2021 fell on a Sunday, which allowed an extra day). Signed DPM forms for any contributions received during the same period were due to be filed by February 11, 2021.
13. Inga Lintvedt contributed $250 to the LDF on December 17, 2020. A DPM form signed by Lintvedt was due to be filed with the City Clerk on or before February 11, 2021, upon which time it would be available for public view. The DPM form was filed April 29, 2021, 77 days late. The DPM form did not disclose any financial interests in any matter pending before City Attorney Elliott.

14. Jeffrey Forrest contributed $600 to the LDF on December 17, 2020. A DPM form was due to be filed with the City Clerk on or before February 11, 2021, upon which time it would be available for public view. The DPM form was filed April 29, 2021, 77 days late. The DPM form did not disclose any financial interests in any matter pending before City Attorney Elliott.

Counts

Counts 1 and 2 – Violations of Municipal Code Section 27.2967

15. Respondents violated SDMC section 27.2967, as the controlling parties of the LDF, by failing to timely file with the City Clerk two signed DPM forms that were required to be disclosed to the public. The forms were due to be filed on or before February 11, 2021 but were filed April 29, 2021, 77 days late, as described above in paragraphs 13 and 14.

Factors in Mitigation

16. Respondents fully cooperated with the Ethics Commission investigation.

17. City Attorney Elliott reasonably relied on KM, Amplify, and RCBS to timely file all LDF disclosure statements and DPM forms. KM, Amplify, and RCBS have all, therefore, taken full responsibility for the violations described herein and will be responsible for paying the fine in paragraph 20 below.

Conclusion

18. Respondents agree to take necessary and prudent precautions to ensure compliance with all provisions of ECCO in the future.

19. Respondents acknowledge that the Ethics Commission may impose increased fines in connection with any future violations of the City’s campaign laws.
20. Respondents agree to pay a fine in the amount of $400 for the violations of Municipal Code section 27.2967. This amount must be paid no later than December 3, 2021, by check or money order payable to the City Treasurer and submitted to the Ethics Commission. The submitted payment will be held pending Ethics Commission approval of this Stipulation and the execution of the Decision and Order portion set forth below.

DATED: __________________

[REDACTED]

Sharon Spivak, Petitioner
SAN DIEGO ETHICS COMMISSION

DATED: __________________

[REDACTED]

Mara Elliott, Controlling Officeholder
MARA ELLIOTT LEGAL DEFENSE FUND

DATED: __________________

[REDACTED]

Kelli Maruccia, Owner/CEO
KM STRATEGIES

DATED: __________________

[REDACTED]

Dan Rottenstreich, Owner
AMPLIFY CAMPAIGNS

DATED: __________________

[REDACTED]

Marissa Russell, Political Reporting Specialist
RIVER CITY BUSINESS SERVICES

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on December 16, 2021. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of $400.

DATED: __________________

[REDACTED]

Bill Baber, Chair
SAN DIEGO ETHICS COMMISSION