

1 SHARON SPIVAK, Executive Director
City of San Diego Ethics Commission
2 451 A Street, Suite 780
San Diego, CA 92101
3 Telephone: (619) 533-3476
4

5 Petitioner
6

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

10 In re the Matter of:) Case Nos.: 2021-07
11)
11 MARA ELLIOTT; KM STRATEGIES;) **STIPULATION, DECISION, AND**
12 AMPLIFY CAMPAIGNS; AND RIVER) **ORDER**
12 CITY BUSINESS SERVICES,)
13)
13 Respondents.)
14)

15 **STIPULATION**

16 **THE PARTIES STIPULATE:**

17 1. Petitioner Sharon Spivak is the Executive Director of the City of San Diego
18 Ethics Commission (Ethics Commission). The Ethics Commission is charged with a duty to
19 administer, implement, and enforce local governmental ethics laws contained in the San Diego
20 Municipal Code (Municipal Code and SDMC) relating to, among other things, the provisions of
21 the Election Campaign Control Ordinance (ECCO), Municipal Code section 27.2901, *et seq.*

22 2. At all times mentioned herein, Mara Elliott (City Attorney Elliott) was the elected
23 City Attorney for the City of San Diego. The Mara Elliott Legal Defense Fund (LDF) was, and
24 is, a professional expense committee established for the purpose of soliciting, accepting, and
25 spending funds contributed to the LDF in accordance with Municipal Code section 27.2965. At
26 all relevant times herein, City Attorney Elliott controlled the LDF within the meaning of
27 California Government Code section 82016. The LDF is registered with the State of California
28 (Identification No. 1431354). At all relevant times, KM Strategies (KM) was the fundraiser for

1 the LDF, Amplify Campaigns (Amplify) was the political consultant to the LDF, and River City
2 Business Services (RCBS) was the treasurer for the LDF. Together, City Attorney Elliott, KM,
3 Amplify, and RCBS are referred to herein as “Respondents.”

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

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 Respondents’ liability.

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

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

3 **Summary of Law and Facts**

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

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

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

23 12. City Attorney Elliott was elected to her second term during the General Election
24 held November 3, 2020. The LDF was required to file a Form 460, covering the reporting period
25 from October 18, 2020 through December 31, 2020, by February 1, 2021 (January 31, 2021 fell
26 on a Sunday, which allowed an extra day). Signed DPM forms for any contributions received
27 during the same period were due to be filed by February 11, 2021.

