

1 SHARON SPIVAK, Executive Director  
City of San Diego Ethics Commission  
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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 No.: 2021-12  
11 THE SAN DIEGO COUNTY DEMOCRATIC )  
12 PARTY, ) **STIPULATION, DECISION, AND**  
13 Respondent. ) **ORDER**  
14

15 **STIPULATION**

16 **THE PARTIES STIPULATE:**

17 1. Petitioner Sharon Spivak 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 (Municipal Code and SDMC) relating to, among other things, the provisions of the  
21 Election Campaign Control Ordinance (ECCO), Municipal Code section 27.2901, *et seq.* All  
22 Municipal Code references in this Stipulation relate to provisions of ECCO that were in effect at  
23 the time of the actions described.

24 2. At all times mentioned in this Stipulation, the San Diego County Democratic Party  
25 (Respondent) was registered with the State of California (Identification No. 741906) as a  
26 general-purpose recipient committee.

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

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

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

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

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

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

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1 **Summary of Law and Facts**

2 9. Respondent is, and at all times relevant to this Stipulation was, registered with the  
3 State of California as a general-purpose committee and accepted contributions that it contributed  
4 to municipal campaigns in the City of San Diego (City). In 2018, Respondent made contributions  
5 of \$2,000 or more to candidates for municipal office in the City and paid for written campaign  
6 advertisements, specifically door hangers, supporting Tommy Hough for City Council 2018. As  
7 a committee participating in the 2018 municipal election process, Respondent was required to  
8 comply with the provisions of ECCO.

9 10. ECCO requires any committee paying for written campaign advertisements  
10 supporting a City candidate to retain records identifying the date(s) of dissemination and the  
11 number of pieces disseminated for each piece of campaign literature. (SDMC § 27.2925(c)(1)  
12 and (d).) ECCO requires Respondent to make these records available to Ethics Commission staff  
13 upon request. (SDMC § 27.2925(f).) Such records are requested by the Ethics Commission staff  
14 during investigations into allegations of ECCO violations. In this case, the records were  
15 requested after an audit of the Tommy Hough for City Council 2018 committee revealed possible  
16 record-keeping violations of ECCO by the Respondent.

17 11. In 2018, Tommy Hough (Hough) was a candidate for the District 6 City Council  
18 seat. Respondent paid for door hangers supporting Hough’s candidacy. Though Respondent  
19 maintained records showing the dates, costs, and methods of distributing the door hangers, it did  
20 not maintain records of the exact number distributed.

21 **Count**

22 **Count 1 - Violation of Municipal Code Section 27.2925 - Recordkeeping**

23 12. Respondent violated Municipal Code section 27.2925 by failing to maintain legally  
24 required records relating to campaign literature, specifically documentation regarding the  
25 number of door hangers disseminated, as described above in paragraph 11.

26 **Factors in Mitigation**

27 13. Respondent fully cooperated with the Ethics Commission investigation.  
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