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   City of San Diego Ethics Commission
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3 Telephone: (619) 533-3476
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4

5 Petitioner

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7   **BEFORE THE CITY OF SAN DIEGO**

8   **ETHICS COMMISSION**

9

10 In re the Matter of:) Case No.: 2012-24
)
11 AMERICAN FEDERATION OF   ) **STIPULATION, DECISION, AND**
   TEACHERS GUILD LOCAL 1931 SAN   ) **ORDER**
12 DIEGO AND GROSSMONT-CUYAMACA   )
   COMMUNITY COLLEGE DISTRICTS   )
13 COMMITTEE ON POLITICAL   )
   EDUCATION,   )
14   )
              Respondent.   )
15   )
   _____)

16

17   **STIPULATION**

18   **THE PARTIES STIPULATE AS FOLLOWS:**

19   1.   Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics

20 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,

21 implement, and enforce local governmental ethics laws contained in the San Diego Municipal

22 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control

23 Ordinance [ECCO], SDMC section 27.2901, *et seq*.

24   2.   At all times mentioned herein, the American Federation of Teachers Guild Local

25 1931 San Diego and Grossmont-Cuyamaca Community College Districts Committee on Political

26 Education was a committee registered with the State of California (Identification No. 901908)

27 and is referred to herein as "Respondent."

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STIPULATION, DECISION, AND ORDER

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 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. Respondent further 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 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.

7.   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

8.   ECCO defines "committee" as any person or combination of persons who raise $1,000 or more for the purpose of supporting or opposing a candidate or ballot measure, or make independent expenditures of $1,000 or more, within a single calendar year. SDMC § 27.2903.

9.   ECCO mandates that all committees that pay for mass campaign literature (200 substantially similar pieces of campaign literature) for the purpose of supporting or opposing a City candidate or measure include the words "paid for by" followed by the name and address of the committee. SDMC § 27.2970. This disclosure must be made in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size. *Id*.

10.   Respondent produced and distributed mass campaign literature in the form of six mailers to support the mayoral candidacy of Bob Filner in the June 2012 primary election that did not comply with the "paid for by" disclosure requirements in the City's campaign laws:

(a)   Respondent produced a mailer on approximately May 16, 2012, that was distributed to 181,699 City residents. This mailer included a "paid for by" disclosure printed in 8-point type.

(b)   Respondent produced a mailer on approximately May 16, 2012, that was distributed to 39,101 City residents. This mailer included a "paid for by" disclosure printed in 6-point type.

(c)   Respondent produced a mailer on approximately May 23, 2012, that was distributed to 50,460 City residents. This mailer included a "paid for by" disclosure printed in 6-point type.

(d)   Respondent produced a mailer on approximately May 23, 2012, that was distributed to 64,836 City residents. This mailer included a "paid for by" disclosure printed in 6-point type.

(e)   Respondent produced a mailer on approximately May 30, 2012, that was distributed to 64,836 City residents. This mailer included a "paid for by" disclosure printed in 6-point type.

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STIPULATION, DECISION, AND ORDER

1	(f) Respondent produced a mailer on approximately May 30, 2012, that was
2	distributed to 89,267 City residents. This mailer included a "paid for by" disclosure printed in 6-
3	point type.

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Counts

Counts 1 through 6 - Violations of SDMC section 27.2970

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6	11. Respondent violated SDMC section 27.2970 by producing and distributing mass
7	campaign literature in the form of six mailers that did not comply with the "paid for by"
8	disclosure requirements in that the disclosure was not printed in the requisite 12-point type size.
9	As discussed above in Paragraph 10, one mailer included the disclosure in 8-point type, and the
10	other five included the disclosure in 6-point type.

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Factors in Mitigation

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12	12. Respondent does not have a history of participating in City elections. It previously
13	made expenditures to support or oppose candidates in school board races, and state law requires
14	campaign mailers distributed to support or oppose school board candidates to include a "paid for
15	by" disclosure in no less than a 6-point type.
16	13. Respondent has cooperated fully with the Ethics Commission investigation.

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Conclusion

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18	14. Respondent agrees to take necessary and prudent precautions to ensure compliance
19	with all provisions of ECCO in the future.
20	15. Respondent acknowledges that the Ethics Commission may impose increased fines
21	in connection with any future violations of the City's campaign laws.
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STIPULATION, DECISION, AND ORDER

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16.   Respondent agrees to pay a fine in the amount of $3,000 for violating SDMC section 27.2970. This amount must be paid no later than October 5, 2012, 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.

[REDACTED]

DATED:_____   _____
STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

[REDACTED]

DATED:_____   _____
JIM MAHLER, on behalf of Respondent AMERICAN
FEDERATION OF TEACHERS GUILD LOCAL 1931
SAN DIEGO AND GROSSMONT-CUYAMACA
COMMUNITY COLLEGE DISTRICTS COMMITTEE
ON POLITICAL EDUCATION

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on _____, 2012. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $3,000.

[REDACTED]

DATED:_____   _____
CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION

STIPULATION, DECISION, AND ORDER