

1 STACEY FULHORST, Executive Director  
City of San Diego Ethics Commission  
2 450 B 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 No.: 2020-33  
)  
11 SUCCESS SAN DIEGO IN SUPPORT OF ) **STIPULATION, DECISION, AND**  
BARBARA BRY FOR MAYOR 2020; and ) **ORDER**  
12 GOULD & ORELLANA, LLC, )  
)  
13 Respondents. )  
)

14 **STIPULATION**  
15

16 **THE PARTIES STIPULATE AS FOLLOWS:**

17 1. Petitioner Stacey Fulhorst 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 [SDMC] relating to, among other things, the provisions of the Election  
21 Campaign Control Ordinance [ECCO], SDMC section 27.2901, *et seq.*

22 2. At all times mentioned herein, Success San Diego in Support of Barbara Bry for  
23 Mayor 2020 [SSD] was a City committee primarily formed to support Barbara Bry for Mayor in  
24 the March 2020 primary and November 2020 general elections. The committee was registered  
25 with the State of California (Identification No. 1417787). Gould & Orellana, LLC [G&O] was, at  
26 all relevant times, the campaign treasurer for SSD. Together, SSD and G&O are referred to  
27 herein as “Respondents.”  
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1           3.       This Stipulation will be submitted for consideration by the Ethics Commission at  
2 its next scheduled meeting, and the agreements contained herein are contingent upon the  
3 approval of the Stipulation and the accompanying Decision and Order by the Ethics  
4 Commission.

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

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

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

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

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

1 **Summary of Law and Facts**

2 9. ECCO defines “committee” as any person or combination of persons who, within a  
3 single calendar year, raise \$2,000 or more or make expenditures of \$1,000 or more for the  
4 purpose of supporting or opposing a City candidate or ballot measure. SDMC § 27.2903.

5 10. ECCO requires committees to file campaign statements in the time and manner  
6 required by California Government Code section 81000, et seq. and the Regulations adopted by  
7 the Fair Political Practices Commission. SDMC § 27.2930. It is unlawful under ECCO to fail to  
8 comply with the disclosure requirements of ECCO and state law. SDMC § 27.2930(i).

9 11. Pursuant to Government Code sections 82036.5 and 84204, any committee that  
10 makes independent expenditures totaling \$1,000 or more to support or oppose a candidate or  
11 measure in the ninety day period preceding an election is required to file a Late Independent  
12 Expenditure Report [Form 496] within twenty-four hours with the City Clerk. For the March 3,  
13 2020 primary election, this ninety-day period commenced on December 4, 2019. For the  
14 November 3, 2020 general election, the ninety-day period commenced on August 5, 2020.

15 12. Respondent SSD made expenditures totaling \$65,717 to disseminate a campaign  
16 mailer on February 25, 2020 in support of Barbara Bry’s mayoral candidacy. Respondents failed  
17 to file a Form 496 to disclose this independent expenditure within twenty-four hours.  
18 Respondents did not file the Form 496 until October 20, 2020, after they were contacted by the  
19 Ethics Commission staff and more than six months after the primary election.

20 13. Respondent SSD made expenditures totaling \$60,302 to disseminate a campaign  
21 mailer on September 25, 2020 in support of Barbara Bry’s mayoral candidacy. Respondents  
22 failed to file a Form 496 to disclose this independent expenditure within twenty-four hours.  
23 Respondents did not file the Form 496 until October 9, 2020, eleven days late.

24 14. In order to provide the public with readily-accessible information concerning the  
25 major sources of funding to committees formed to support and oppose City candidates and  
26 measures, ECCO requires such committees to include the text “Funding details at  
27 [www.sandiego.gov/donors](http://www.sandiego.gov/donors)” on or during its campaign advertisements. ECCO also requires that,  
28 within three business days of receiving \$10,000 (in the aggregate) or more from a single

1 contributor, these committees send a notification email to the Ethics Commission with (1) the  
2 name and identification number of the committee; (2) the name of the contributor; and (3) if  
3 applicable, the contributor's identification number. SDMC § 27.2975. This information is then  
4 posted on the Ethics Commission's website so that it can be accessed by the public via the  
5 website address provided on campaign advertisements.

6 15. On November 11, 2019 and February 12, 2020, Gregorio Galicot contributed  
7 \$5,000 and \$1,800 respectively to SSD. On June 29, 2020, Galicot contributed an additional  
8 \$5,000 to SSD. The deadline for notifying the Ethics Commission was July 2, 2020. Respondents  
9 did not make the notification until September 28, 2020 (88 days late).

10 16. On January 28, 2020, MIP Advisors, Inc. contributed \$45,000 to SSD. The deadline  
11 for notifying the Ethics Commission was January 31, 2020. Respondents never made the  
12 notification.

13 17. On February 10, 2020, Scott Jones contributed \$10,000 to SSD. The deadline for  
14 notifying the Ethics Commission was February 13, 2020. Respondents did not make the  
15 notification until September 28, 2020 (228 days late).

16 18. On February 10, 2020, Thomas W. Sudberry, Jr. contributed \$10,000 to SSD. The  
17 deadline for notifying the Ethics Commission was February 13, 2020. Respondents did not make  
18 the notification until September 28, 2020 (228 days late).

19 19. On February 14, 2020, Frederick Pierce contributed \$5,000 to SSD. On September  
20 16, 2020, Pierce contributed an additional \$5,000 to SSD. The deadline for notifying the Ethics  
21 Commission was September 21, 2020. Respondents never made the notification.

22 20. On February 14, 2020, Alan Viterbi contributed \$5,000 to SSD. On September 29,  
23 2020, Viterbi contributed an additional \$10,000 to SSD. The deadline for notifying the Ethics  
24 Commission was October 2, 2020. Respondents did not make the notification until October 9,  
25 2020 (seven days late).

26 21. On February 19, 2020, Moran & Company contributed \$20,000 to SSD. The  
27 deadline for notifying the Ethics Commission was February 24, 2020. Respondents never made  
28 the notification.



1 **Factors in Aggravation**

2 30. Respondents were reminded of the \$10,000 donor notification requirement by  
3 Ethics Commission staff on several occasions.

4 **Conclusion**

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

7 32. Respondents acknowledge that the Ethics Commission may impose increased fines  
8 in connection with any future violations of the City’s campaign laws.

9 33. Respondents agree to pay a fine in the amount of \$7,000 for violating SDMC  
10 sections 27.2970 and 27.2975. This amount must be paid no later than January 8, 2021, by check  
11 or money order payable to the City Treasurer. The submitted payment will be held pending  
12 Commission approval of this Stipulation and execution of the Decision and Order portion set  
13 forth below.

14  
15 DATED: \_\_\_\_\_ [REDACTED]  
16 Stacey Fulhorst, Petitioner  
17 SAN DIEGO ETHICS COMMISSION

18  
19 DATED: \_\_\_\_\_ [REDACTED]  
20 Gwen Rosenberg, Principal Officer  
21 RESPONDENT SUCCESS SAN DIEGO IN SUPPORT  
22 OF BARBARA BRY FOR MAYOR 2020

23 DATED: \_\_\_\_\_ [REDACTED]  
24 David L. Gould, Managing Partner  
25 GOULD & ORELLANA, LLC

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**DECISION AND ORDER**

The Ethics Commission considered the above Stipulation at its meeting on January 14, 2021. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents pay a fine in the amount of \$7,000.

[REDACTED]

DATED: \_\_\_\_\_

\_\_\_\_\_  
Sid Voorakkara, Chair  
SAN DIEGO ETHICS COMMISSION