

1 SHARON SPIVAK, Executive Director
City of San Diego Ethics Commission
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4

5 Petitioner
6

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

10 In re the Matter of:) Case Nos.: 2022-29
11 MARNI VON WILPERT, POLÍTICA)
12 CAMPAIGN TREASURY, LLC,) **STIPULATION, DECISION, AND**
13 Respondents.) **ORDER**
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
19 administering, implementing, and enforcing local governmental ethics laws in the
20 San Diego Municipal Code (SDMC), including the Election Campaign Control Ordinance
21 (ECCO), SDMC sections 27.2901 to 27.2991.

22 2. At all times referenced in this Stipulation, Marni von Wilpert (the
23 Councilmember) was a candidate for, or had been elected to, the District 5 seat on the
24 San Diego City Council.

25 3. At all times referenced in this Stipulation, the Marni von Wilpert Legal
26 Defense Fund (LDF) was a professional expense committee established to solicit,
27 accept, and spend funds contributed to the LDF under SDMC section 27.2965. The
28 Councilmember controlled the LDF within the meaning of California Government Code

1 section 82016. The LDF is registered with the State of California (Identification No.
2 1429848).

3 4. At all times referenced in this Stipulation, Política Campaign Treasury,
4 LLC (PCT) was the treasurer for the LDF.

5 5. Together, the Councilmember and PCT are referred to as "Respondents."

6 6. This Stipulation will be submitted to the Ethics Commission for
7 consideration at its next meeting. The agreements in this Stipulation are contingent
8 upon the Ethics Commission's approval of the Stipulation and the accompanying
9 Decision and Order.

10 7. This Stipulation resolves all factual and legal issues raised in this matter
11 by the Ethics Commission without the need for an administrative hearing to determine
12 Respondents' liability.

13 8. Respondents understand and knowingly and voluntarily waive any and all
14 procedural rights under the SDMC, including, but not limited to: a determination of
15 probable cause, the issuance and receipt of an administrative complaint, the right to
16 appear personally in any administrative hearing held in this matter, the right to confront
17 and cross-examine witnesses testifying at the hearing, the right to subpoena witnesses
18 to testify at the hearing, and the right to have the Ethics Commission or an impartial
19 hearing officer hear this matter.

20 9. Respondents agree that the terms of this Stipulation constitute compliance
21 with the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation
22 of facts, a reference to each violation, and an order.

23 10. Respondents agree to hold the City of San Diego and the Ethics
24 Commission harmless from all claims or damages resulting from the Commission's
25 investigation, this stipulated agreement, or any matter reasonably related to it.

26 11. Respondents acknowledge that this Stipulation is not binding upon any
27 other law enforcement or government agency and does not preclude the Ethics
28

1 Commission from cooperating with or assisting any other law enforcement or
2 government agency regarding this or any other related matter.

3 12. The parties agree that if the Ethics Commission refuses to accept this
4 Stipulation, it shall become null and void. Respondents further agree that if the Ethics
5 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics
6 Commission becomes necessary, no member of the Ethics Commission or its staff shall
7 be disqualified because of their prior consideration of this Stipulation.

8 **Summary of Law and Facts**

9 13. The LDF is a professional expense committee created by the
10 Councilmember and controlled by Respondents to receive and spend funds to defray
11 professional fees and costs incurred in the Councilmember's defense of one civil legal
12 proceeding. The LDF qualified as a committee on August 20, 2020 and was terminated
13 on March 31, 2021.

14 14. ECCO provisions govern professional expense committees, otherwise
15 known as legal defense funds, in the City of San Diego. As the parties controlling the
16 LDF, Respondents were required to comply with ECCO regulations.

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

22 16. ECCO also requires a City Official's professional expense committee to
23 disclose its financial activity on a campaign statement filed quarterly (except during
24 election cycles when the campaign statements are due more frequently). SDMC
25 § 27.2967. Within 10 calendar days of the filing deadline applicable to a campaign
26 statement, an LDF also must file, with the City Clerk, a DPM form for each contribution
27 the LDF received during the reporting period. SDMC § 27.2965(e)(4).
28

1 17. The Councilmember was elected to the San Diego City Council on
2 November 3, 2020. She assumed office as the Council's District 5 representative on
3 December 10, 2020.

4 18. The LDF was required to file a Form 460, disclosing all contributions
5 received during the reporting period from July 1, 2020, through September 19, 2020.
6 Once filed, these forms are available for the public to access. The deadline to file the
7 Form 460 was September 24, 2020. The LDF timely filed the Form 460 on
8 September 24, 2020.

9 19. Signed DPM forms for any contributions received during the same period
10 were due to be filed by October 4, 2020. The LDF received the following contributions,
11 totaling \$6,300, during this period; none of the contributions was accompanied by a
12 corresponding DPM form. The LDF has not filed any DPM forms for the contributors.

13 *Contributions Received August 19, 2020*

- 14 a) Daniel Bamberg, retired, contributed \$500.
- 15 b) Eric Isaacson, Law Office of Eric Isaacson, contributed \$600.
- 16 c) Martin Judge, retired, contributed \$200.
- 17 d) Mihir Sabnis, Apple, contributed \$600.
- 18 e) Claudia von Wilpert, HKM Enterprises, Inc., contributed \$600.
- 19 f) Jason von Wilpert, Masimo, contributed \$600.
- 20 g) Paul von Wilpert, United States Government, contributed \$600.
- 21 h) Mark West, City of Imperial Beach, contributed \$500.

22 *Contributions Received August 25, 2020*

- 23 i) Vivienne Palmer, Scripps Cardiovascular and Thoracic Surgical Group, Inc.,
24 contributed \$600.
- 25 j) Rebecca Phillpott, San Diego Unified School District, contributed \$300.

26 *Contributions Received September 3, 2020*

- 27 k) Judy Ki, retired, contributed \$600.
- 28 l) Doris Yam, homemaker, contributed \$600.

1 20. The LDF was required to file a Form 460, disclosing all contributions
2 received during the reporting period from October 18, 2020, through December 31,
3 2020. Once filed, these forms are available for the public to access. The deadline to file
4 the Form 460 was February 1, 2021 (January 31, 2021, fell on a Sunday, which allowed
5 an extra day). The LDF timely filed the Form 460 on January 28, 2021.

6 21. Signed DPM forms for any contributions received during the same period
7 were due to be filed by February 11, 2021. The LDF received the following
8 contributions, totaling \$8,150, during this period; none of the contributions was
9 accompanied by a corresponding DPM form. The LDF has not filed any DPM forms for
10 the contributors.

11 *Contributions Received October 26, 2020*

12 a) Candace Carroll, retired, contributed \$250.

13 *Contributions Received December 1, 2020*

14 b) Michael Gelfand, Terra Vista Management, contributed \$600.

15 c) Masis Kevorkian, Monarch Group, contributed \$600.

16 d) Kimberly Miller, Miller Public Affairs, contributed \$600.

17 e) Warren Ruis, SDG&E, contributed \$100.

18 f) Rodney Stone, Monarch Group, contributed \$600.

19 g) Ryan Stone, Monarch Group, contributed \$600.

20 h) Jason Wood, Cisterra, contributed \$600.

21 *Contributions Received December 15, 2020*

22 i) Craig Benedetto, California Strategies, contributed \$600.

23 j) Steven Black, Cisterra, contributed \$600.

24 k) Jacob Gelfand, Terra Vista Management, contributed \$600.

25 l) Stephanie Saathoff, The Clay Company, contributed \$600.

26 m) James Silverwood, Affirmed Housing, contributed \$600.

27 n) Chris Wahl, Southwest Strategies, contributed \$600.

28 o) Jennifer Wahl, Southwest Strategies, contributed \$600.

1 **Counts**

2 **Counts 1 through 27 – Violations of SDMC Section 27.2967**

3 22. As the controlling parties of the LDF, Respondents violated SDMC section
4 27.2967 by failing to file, with the City Clerk, 27 DPM forms that provide the public with
5 disclosures of the matters that contributors had pending at the time they made
6 contributions to the LDF.

7 **Factors in Mitigation**

8 23. Respondents fully cooperated with the Ethics Commission investigation.

9 24. The Councilmember, a first-time candidate for elective office, reasonably
10 relied on PCT, the campaign committee’s professional treasurer, to timely file all LDF
11 disclosure statements and DPM forms. PCT has, therefore, taken full responsibility for
12 the violations described herein and will be responsible for paying the fine in paragraph
13 29 below.

14 25. The information that would have been disclosed in five of the missing
15 DPM forms was available to the public through the lobbyist disclosure forms of Terra
16 Vista Management (two contributors), Miller Public Affairs (one contributor), California
17 Strategies (one contributor), and The Clay Company (one contributor).

18 **Factors in Aggravation**

19 26. The 27 DPM forms were not filed late. Instead, they were never collected
20 by Respondents or filed with the City Clerk as is required by the SDMC.

21 **Conclusion**

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

24 28. Respondents acknowledge that the Ethics Commission may impose
25 increased fines in connection with any future violations of the City’s campaign laws.

26 29. Respondents agree to pay a fine in the amount of \$6,200 for the 27
27 violations of SDMC section 27.2967. Respondents will provide the Ethics Commission
28 with checks payable to the City Treasurer totaling \$6,200 on or before April 7, 2023.

1 The checks will be held pending Ethics Commission approval of this Stipulation and the
2 execution of the Decision and Order portion set forth below.

3 [REDACTED]
4 DATED: _____ Sharon Spivak, Petitioner
5 SAN DIEGO ETHICS COMMISSION

6 [REDACTED]
7 DATED: _____ Marni von Wilpert, Controlling Officeholder
8 MARNI VON WILPERT LEGAL DEFENSE FUND

9 [REDACTED]
10 DATED: _____ Stephanie Sanchez, Owner
11 POLÍTICA CAMPAIGN TREASURY, LLC

12
13 **DECISION AND ORDER**

14 The Ethics Commission considered the above Stipulation at its meeting on May
15 11, 2023. The Ethics Commission hereby approves the Stipulation and orders that, in
16 accordance with the Stipulation, Respondents pay a fine in the amount of \$6,200.

17 [REDACTED]
18 DATED: _____ Caridad Sanchez, Chair
19 SAN DIEGO ETHICS COMMISSION