

ETHICS COMMISSION RESOLUTION

FINAL DECISION OF THE CITY OF SAN DIEGO ETHICS COMMISSION IN THE MATTER OF B.D. HOWARD, RESPONDENT, CASE NUMBER 2010-42

WHEREAS, the City of San Diego Ethics Commission [Commission] is charged with the duty to enforce local governmental ethics laws contained in the San Diego Municipal Code, including the City's Election Campaign Control Ordinance; and

WHEREAS, Petitioner has presented charges against Respondent B.D. Howard [Respondent] for violating the Election Campaign Control Ordinance (in particular, San Diego Municipal Code sections 27.2925, 27.2930, and 27.2950) in connection with Respondent's candidacy for City Council District 8 in the June 8, 2010, primary election; and

WHEREAS, at a public Administrative Hearing held on May 11, 2012, Administrative Law Judge Mary Agnes Matyszewski heard testimony and reviewed evidence relating to these charges; and

WHEREAS, after taking the matter under submission, the Administrative Law Judge issued a Proposed Decision, concluding that Respondent violated the law as alleged in Counts 1 through 9 of Petitioner's Final Administrative Complaint and recommending that the Ethics Commission: (1) order the Respondent to pay a monetary penalty of \$9,500; (2) order the Respondent to file a campaign disclosure statement covering the period from July 1, 2010, through December 31, 2010; and (3) provide a copy of the Proposed Decision to the California State Bar; and

WHEREAS, at a public meeting held on July 12, 2012, the Commission (comprised of Commissioners Lee Biddle, Deborah Cochran, Faye Detsky-Weil, Clyde Fuller, William Howatt, John O'Neill, and Bud Wetzler) considered the Proposed Decision as well as oral argument from the Petitioner (with the Respondent absent), and thereafter deliberated with regard to the amount of the

fine, if any, to be imposed against Respondent for violations of the Election Campaign Control Ordinance; and

WHEREAS, the final decision of the Commission regarding violations committed by Respondent and the associated fine to be imposed, if any, against Respondent for such violations shall be expressed in writing in a separate Administrative Enforcement Order;

NOW, THEREFORE, BE IT RESOLVED, by the City of San Diego Ethics Commission that it makes the following findings with regard to whether or not Respondent violated the Election Campaign Control Ordinance:

Count (Final Administrative Complaint)	Yes	No	Vote
(1) Failure to timely file campaign statement covering the period from May 23, 2010, through June 3, 2010, in violation of SDMC section 27.2930 ----- Fine: \$1,000	X		7-0 ----- 7-0
(2) Failure to file campaign statement covering the period from July 1, 2010, through December 31, 2010, in violation of SDMC section 27.2930 ----- Fine: \$1,000	X		7-0 ----- 7-0
(3) Failure to accurately disclose campaign expenditures on campaign statement covering the period from January 1, 2010, through March 17, 2010, in violation of SDMC section 27.2930. ----- Fine: \$500	X		7-0 ----- 7-0
(4) Failure to accurately disclose campaign expenditures on campaign statement covering the period from March 18, 2010, through May 22, 2010, in violation of SDMC section 27.2930. ----- Fine: \$1,000	X		7-0 ----- 7-0

Count (Final Administrative Complaint)	Yes	No	Vote
(5) Failure to accurately disclose campaign expenditures on campaign statement covering the period from May 23, 2010, through June 3, 2010, in violation of SDMC section 27.2930. ----- Fine: \$1,000	X		7-0 ----- 7-0
(6) Failure to accurately disclose campaign expenditures and cash balance on campaign statement covering the period from June 4, 2010, through June 30, 2010, in violation of SDMC section 27.2930. ----- Fine: \$2,000	X		7-0 ----- 7-0
(7) Failure to maintain campaign records in violation of SDMC section 27.2925. ----- Fine: \$2,500	X		4-3 ----- 5-2
(8) and (9) Acceptance of unlawful contributions from non-individuals on March 9, 2010, and May 26, 2010, in violation of SDMC section 27.2950. ----- Fine: \$500	X		6-1 ----- 6-1

The Commission voted 7-0 to order Respondent to file a campaign statement for the period of July 1, 2010 through December 31, 2010, as well as any other campaign statements necessary to terminate his committee, and to amend any previously-filed campaign statements so that they are true and accurate. The Commission also voted 7-0 to require Respondent to pay the total fine of \$9,500 within ninety (90) days of the service of the Administrative Enforcement Order.

DATE: July 13, 2012

CLYDE FULLER, Chair
SAN DIEGO ETHICS COMMISSION