

1 STACEY FULHORST, Executive Director  
City of San Diego Ethics Commission  
2 1010 Second Avenue, Suite 1530  
San Diego, CA 92101  
3 Telephone: (619) 533-3476  
4 Facsimile: (619) 533-3448

5 Petitioner

6  
7 **BEFORE THE CITY OF SAN DIEGO**  
8 **ETHICS COMMISSION**

9  
10 In re the Matter of: ) Case No.: 2011-07  
11 UNITE HERE LOCAL 30, )  
12 Respondent. ) **STIPULATION, DECISION AND**  
13 ) **ORDER**  
\_\_\_\_\_ )

14  
15 **STIPULATION**

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 City's Municipal  
21 Lobbying Ordinance.

22 2. At all times mentioned herein, Respondent UNITE HERE Local 30 [Respondent]  
23 was an organization lobbyist registered with the Office of the City Clerk.

24 3. This Stipulation, Decision and Order [Stipulation] will be submitted for  
25 consideration by the Ethics Commission at its next scheduled meeting, and the agreements  
26 contained herein are contingent upon the approval of the Stipulation and the accompanying  
27 Decision and Order by the Ethics Commission.

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

4           5. Respondent understands and knowingly and voluntarily waives any and all  
5 procedural rights under the SDMC, including, but not limited to, a determination of probable  
6 cause, the issuance and receipt of an administrative complaint, the right to appear personally in  
7 any administrative hearing held in this matter, the right to confront and cross-examine witnesses  
8 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to  
9 have the Ethics Commission or a volunteer hearing officer hear this matter. Respondent agrees  
10 to hold the City of San Diego harmless from any and all claims or damages resulting from the  
11 Commission's investigation or this stipulated agreement, or any matter reasonably related  
12 thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with  
13 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a  
14 reference to each violation, and an order.

15           6. The Respondent acknowledges that this Stipulation is not binding upon any other  
16 law enforcement or government agency and does not preclude the Ethics Commission from  
17 cooperating with or assisting any other law enforcement or government agency with regard to  
18 this or any other related matter.

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

#### 24                                   **Summary of Law and Facts**

25           8. The Lobbying Ordinance requires organization lobbyists to file quarterly disclosure  
26 reports no later than the last day of the months of April, July, October, and January, covering the  
27 preceding calendar quarter. SDMC §§ 27.4015, 27.4016.

28           ///

1 9. On January 14, 2010, Respondent registered as an organization lobbyist for the  
2 2010 calendar year with the Office of the City Clerk.

3 10. Respondent failed to file a disclosure report for the third quarter of 2010 until  
4 December 15, 2010, approximately six weeks after the November 1, 2010, deadline (October 31,  
5 2010, fell on a Sunday). According to the disclosure report ultimately filed by Respondent, the  
6 organization's principals lobbied eight City Officials concerning amendments to the Centre City  
7 Planned District Ordinance regarding hotel developments during the third quarter of 2010.

8 Counts

9 **Count 1 – Violation of SDMC sections 27.4015 and 27.4016**

10 11. Respondent failed to timely file a 2010 third quarter disclosure report as required by  
11 SDMC sections 27.4015 and 27.4016. Respondent's quarterly disclosure report for the third  
12 quarter of 2010 was due on November 1, 2010, but Respondent did not file it until December 15,  
13 2010.

14 Factors in Aggravation

15 12. Respondent is an experienced organization lobbyist in the City of San Diego, and  
16 was aware of the Lobbying Ordinance's quarterly filing requirements. Moreover, staff in the  
17 City Clerk's office sent several letters to Respondent reminding the organization that its third  
18 quarter report was due by November 1, 2010.

19 13. Respondent has a history of failing to timely file quarterly disclosure reports. In  
20 particular, Respondent paid a \$100 fine in August of 2009 for failing to timely file its 2008  
21 second quarter disclosure report.

22 Conclusion

23 14. Respondent agrees to take necessary and prudent precautions to comply with all  
24 provisions of the City's Municipal Lobbying Ordinance in the future.

25 15. Respondent agrees to pay a fine in the amount of \$500 for violating SDMC sections  
26 27.4015 and 27.4016. This amount must be paid no later than March 18, 2011, by check or  
27 money order made payable to the City Treasurer. The submitted payment will be held pending  
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1 Commission approval of this Stipulation and execution of the Decision and Order portion set  
2 forth below.

3  
4 DATED: \_\_\_\_\_  
5 STACEY FULHORST, Petitioner  
6 City of San Diego Ethics Commission

7  
8 DATED: \_\_\_\_\_  
9 UNITE HERE LOCAL 30, Respondent  
10 By: Dan Rottenstreich, Political Director

11  
12 **DECISION AND ORDER**

13 The Ethics Commission has considered the above Stipulation at its meeting on  
14 \_\_\_\_\_, 2011. The Ethics Commission hereby approves the Stipulation and  
15 orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of \$500.

16 DATED: \_\_\_\_\_  
17 Larry Westfall, Chair  
18 SAN DIEGO ETHICS COMMISSION