

1 CHARLES B. WALKER
Executive Director
2 City of San Diego Ethics Commission
1010 Second Avenue, Suite 1530, San Diego, CA 92101
3 (619) 533-3476

4 Complainant

5

6

7

8

BEFORE THE CITY OF SAN DIEGO

9

ETHICS COMMISSION

10 In the Matter of) Case No. C2002-43
11 Ron Roberts,)
12) **STIPULATION, DECISION**
13 Respondent.) **AND ORDER**

14 **THE PARTIES STIPULATE AS FOLLOWS:**

15 1. Complainant Charles B. Walker is the Executive Director of the City of San
16 Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to
17 administer, implement, and enforce local governmental ethics laws contained in the San Diego
18 Municipal Code [SDMC] relating to, among other things, campaign finance as set forth in the
19 City’s Campaign Control Ordinance [ECCO].

20 2. Ron Roberts was a mayoral candidate for the City of San Diego in the year 2000.

21 3. The “Ron Roberts for Mayor” committee [Committee] is a campaign committee
22 (Committee Identification No. 983539) established to support Ron Roberts’s candidacy for mayor
23 in the year 2000. The Committee has not yet been terminated. At all relevant times herein, the
24 Committee was controlled by Ron Roberts within the meaning of the California Political Reform
25 Act, California Government Code section 82016.

26 4. Ron Roberts is referred to herein as “Respondent.”

27 5. This Stipulation, Decision and Order [Stipulation] will be submitted for consideration by
28 the Ethics Commission at its next scheduled meeting, and the agreements contained herein are

1 contingent upon the approval of the Stipulation and the accompanying Decision and Order by the
2 Ethics Commission.

3 6. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics
4 Commission without the necessity of holding an administrative hearing at this time. However, it
5 is understood and agreed upon by the parties that if the terms of this stipulation are not satisfied in
6 a timely manner as described in the “Conclusions and Order” section below, an administrative
7 hearing shall be scheduled and conducted in accordance with SDMC Sections 26.0435 and
8 26.0436 for the limited purpose of determining whether the presiding authority should impose any
9 additional order for compliance and/or impose a penalty.

10 7. Except for those issues reserved for future adjudication, as described above in paragraph
11 6, the Respondent understands and knowingly and voluntarily waives any and all procedural rights
12 under the SDMC, including, but not limited to, a determination of probable cause, the issuance
13 and receipt of an administrative complaint, the right to appear personally in any administrative
14 hearing held in this matter, the right to confront and cross-examine witnesses testifying at the
15 hearing, to subpoena witnesses to testify at the hearing, and to have the Ethics Commission or an
16 impartial hearing officer hear this matter.

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

21 9. The parties agree that it is their intent in entering into this stipulation to comply with the
22 law currently contained in ECCO in a manner that meets the respective goals and objectives of the
23 parties. If there are any changes in these laws that have a material impact upon the
24 implementation of this Stipulation, each party shall participate in a good faith renegotiation of this
25 Stipulation and shall not unreasonably withhold approval of any requested modifications to this
26 Stipulation made by either party when it can be demonstrated that the requested modification is
27 necessitated or warranted by changes in the law.

28 ///

1 the month in which the goods/services were provided. The Respondent carried vendor debt in
2 excess of ninety (90) days in violation of San Diego Municipal Code section 27.2945(d).

3 **Agreement to Pay Remaining Debt**

4 15. The Respondent agrees to pay in full all outstanding vendor debt no later than June 30,
5 2003.

6 **Factors in Mitigation**

7 16. The Respondent has cooperated fully with Ethics Commission staff in assisting with the
8 investigation.

9 17. Respondent has been making considerable good faith efforts to raise campaign
10 contributions to retire the outstanding vendor debt remaining from his mayoral campaign.
11 Respondent has represented that the Committee has paid in full twelve of the seventeen vendors,
12 such that only five vendors remain unpaid. A campaign statement for the period from July 1, 2002,
13 through December 31, 2002, is due on January 31, 2003, and Respondent has indicated that the
14 statement will report outstanding balances totaling no more than \$35,574.72.

15 18. There is no evidence that Respondent ever attempted to demand reductions, negotiate
16 reductions, or seek forgiveness of the debts.

17 19. The exact meaning of the provision of ECCO at issue has never been interpreted by any
18 formal opinion of the City Clerk, the City Attorney, or the Ethics Commission. The Respondent
19 has indicated that it was his understanding that this provision of ECCO was not enforceable.

20 20. The Committee's vendor debt was first incurred prior to the establishment of the Ethics
21 Commission, although the extension of debt at issue occurred after the Ethics Commission
22 established jurisdiction to enforce ECCO in July 2001.

23 **CONCLUSION AND ORDER**

24 21. Although the ninety day vendor debt rule had not been historically enforced prior to the
25 creation of the Ethics Commission, it is clearly and unambiguously codified in ECCO as a
26 requirement and therefore cannot be ignored by the Respondent or any other candidate. The
27 Respondent and all other candidates running in a City of San Diego election must act prudently
28 and responsibly by not incurring debt unless sufficient contributions have been collected, or there

1 is a reasonable certainty that sufficient contributions will be collected, to pay the debt off within
2 ninety days.

3 22. In recognition of the Respondent's cooperation with the Ethics Commission's
4 investigation, the Respondent's acknowledgment of carrying vendor debt beyond ninety days, and
5 the Respondent's agreement to pay all outstanding debt no later than June 30, 2003, the Ethics
6 Commission agrees that a penalty is not warranted.

7 23. On or before July 31, 2003, Respondent shall file a campaign report and/or schedule a
8 meeting with Ethics Commission staff and demonstrate that all outstanding vendor debt for the
9 Committee has been paid. If Respondent does not meet this obligation, this matter shall be
10 scheduled for an administrative hearing to be conducted in accordance with SDMC sections
11 26.0435 and 26.0436 for the limited purpose of determining whether the Commission should
12 impose any additional order for compliance and/or to impose a penalty.

13

14 DATED: _____ CITY OF SAN DIEGO ETHICS COMMISSION

15

16 _____
17 CHARLES B. WALKER, Executive Director
18 Complainant

18

19 DATED: _____ _____
20 RICK DUVERNAY, Attorney for Complainant

20

21

22 DATED: _____ _____
23 RON ROBERTS, Respondent

23

24

25 DATED: _____ _____
26 JAMES SUTTON, Attorney for Respondent

26

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECISION AND ORDER

The Ethics Commission has considered the above Stipulation at its meeting on _____.

The Ethics Commission hereby approves the Stipulation.

DATED: _____

DOROTHY LEONARD, Chair
SAN DIEGO ETHICS COMMISSION