

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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5 Petitioner

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

9
10 In re the Matter of:) Case No.: 2014-43
11)
12 NATHAN FLETCHER, SCOTT & CRONIN) **STIPULATION, DECISION, AND**
LLP, and FERNANDO AGUERRE) **ORDER**
13)
Respondents.)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

16 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
17 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
18 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
19 Code [SDMC] relating to, among other things, the provisions of the City's Election Campaign
20 Control Ordinance [ECCO].

21 2. At all times mentioned herein, Nathan Fletcher [Fletcher] was a candidate for
22 Mayor in the special election held on November 17, 2013. The Fletcher for Mayor 2013
23 committee [Committee] was a campaign committee registered with the State of California
24 (Identification No. 1359831) established to support Fletcher's mayoral candidacy. At all
25 relevant times herein, the Committee was controlled by Fletcher within the meaning of the
26 California Political Reform Act, California Government Code section 82016.

27 3. At all times mentioned herein, Scott & Cronin LLP was the Committee treasurer.

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1 4. At all times mentioned herein, Fernando Aguerre [Aguerre] was the Chief
2 Executive Officer of Liquid Tribe, LLC, and the President of the International Surfing
3 Association.

4 5. Fletcher, Scott & Cronin LLP, and Aguerre are collectively referred to herein as
5 “Respondents.”

6 6. This Stipulation will be submitted for consideration by the Ethics Commission at its
7 next scheduled meeting, and the agreements contained herein are contingent upon the approval
8 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

9 7. This Stipulation resolves all factual and legal issues raised in this matter by the
10 Ethics Commission without the necessity of holding an administrative hearing to determine
11 Respondents’ liability.

12 8. Respondents understand and knowingly and voluntarily waive any and all
13 procedural rights under the SDMC, including, but not limited to, a determination of probable
14 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
15 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
16 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
17 have the Ethics Commission or an impartial hearing officer hear this matter. Respondents agree
18 to hold the City of San Diego harmless from any and all claims or damages resulting from the
19 Commission’s investigation or this stipulated agreement, or any matter reasonably related
20 thereto. Respondents further agree that the terms of this Stipulation constitute compliance with
21 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
22 reference to each violation, and an order.

23 9. Respondents acknowledge that this Stipulation is not binding upon any other law
24 enforcement or government agency and does not preclude the Ethics Commission from referring
25 this matter to, cooperating with, or assisting any other law enforcement or government agency
26 with regard to this or any other related matter.

27 10. The parties agree that in the event the Ethics Commission refuses to accept this
28 Stipulation, it shall become null and void. Respondents further agree that in the event the Ethics

1 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
2 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
3 because of prior consideration of this Stipulation.

4 **Summary of Law and Facts**

5 11. SDMC section 27.2935 limits contributions from individuals to City candidates.
6 With respect to the special mayoral election on November 17, 2013, the contribution limit was
7 \$1,000 per election.

8 12. SDMC section 27.2930 requires candidates and committees to file campaign
9 statements in the time and manner required by state law. California Government Code section
10 84211 requires candidates and committees to itemize on their campaign statements all
11 contributions totaling \$100 or more received from the same individual.

12 13. Candidates and their treasurers are required to verify that, to the best of their
13 knowledge, their campaign statements are true and complete, and must use all reasonable
14 diligence in the preparation of these statements. Fair Political Practices Commission Regulation
15 18427(a), (c).

16 14. On August 22, 2013, Aguerre made a \$1,000 contribution to the Committee for the
17 special mayoral election.

18 15. On October 5, 2013, Aguerre made three additional contributions of \$1,000 each to
19 the Committee for the same election. Pursuant to Aguerre's instructions, his assistant made the
20 contributions electronically using Aguerre's personal credit card but identified the contributors
21 as Respondent's three children who were 16 years old (triplets) at the time. The Committee's
22 credit card processing vendor subsequently transmitted information to the Committee identifying
23 Aguerre as the cardholder and his three children as the contributors. Notwithstanding any plan
24 that may have existed for Aguerre's children to reimburse Aguerre for these contributions, and
25 despite the fact that the children had access to funds in a family trust, the children ultimately
26 never used their funds to reimburse Aguerre or otherwise make any contributions to the Fletcher
27 Committee.

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