

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.: 2013-23 (JB)
11 JIM BIEBER,) **STIPULATION, DECISION, AND**
12 Respondent.) **ORDER**
13)
14)

15 **STIPULATION**

16 **THE PARTIES STIPULATE AS FOLLOWS:**

17 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
18 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
19 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
20 Code [SDMC] relating to, among other things, the provisions of the Election Campaign Control
21 Ordinance [ECCO], SDMC section 27.2901, et seq.

22 2. At all times mentioned herein, Respondent Jim Bieber was the principal of Bieber
23 Communications, which is the dba of Designed to Win. Inc., a California Corporation located in
24 Santa Ana, California [collectively referred to as "Bieber"]. Bieber is referred to herein as
25 Respondent.

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

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

4 5. Respondent understand 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 an impartial 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, this stipulated agreement, or any matter reasonably related thereto.
12 Respondents further agree that the terms of this Stipulation constitute compliance with the
13 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. Respondent acknowledges that this Stipulation is not binding upon any other law
16 enforcement or government agency and does not preclude the Ethics Commission from referring
17 this matter to, cooperating with, or assisting any other law enforcement or government agency
18 with regard to 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 Ethics Commission
22 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
23 because of prior consideration of this Stipulation.

24 **Summary of Law and Facts**

25 8. Respondent provided campaign consulting services to Nuestro Pueblo Unido Para
26 el Progreso in support of Blanca Lopez-Brown for City Council 2013 Sponsored by the Lincoln
27 Club of San Diego County (ID # 1356263) [Committee], a City committee primarily formed to
28 support the candidacy of Blanca Lopez-Brown for City Council in the Council District Four

1 special election on March 26, 2013. Because the Committee was formed for the purpose of
2 supporting a candidate in a City of San Diego election, it was required to comply with the
3 provisions of ECCO.

4 9. ECCO requires committees to file campaign statements in the time and manner
5 required by California Government Code sections 81000, *et seq.* and the Regulations adopted by
6 the Fair Political Practices Commission [FPPC]. It is unlawful under ECCO to fail to comply
7 with the disclosure requirements of ECCO and state law. SDMC § 27.2930(g).

8 10. With respect to expenditures of one hundred dollars (\$100) or more, California
9 Government Code section 84211 requires that the committee making the expenditure identify on
10 a campaign statement the name of the person or vendor providing services to the committee and
11 the amount of the expenditure. The same information must also be disclosed for expenditures of
12 \$500 or more made by a committee agent on the committee's behalf (commonly known as
13 subvendors). *Id.*

14 11. On March 23, 2013, Superior, Inc. [Superior] submitted three invoices to the
15 Committee totaling \$11,662.15 for goods and services it purportedly provided to the Committee
16 in connection with three campaign mailers.

17 12. The Commission's investigation reveals that Superior did not provide any goods
18 or services to the Committee. Instead, at Respondent's request, Superior created invoices that
19 included the cost of Respondent's consulting services and the costs incurred by Respondent's
20 subvendors.

21 13. After Superior submitted its invoices and received payment from the Committee,
22 Superior kept \$300 and forwarded the remaining \$11,362.15 to Respondent. Respondent
23 retained \$4,351.87 as payment for consulting services, and used the remaining \$7,010.28 to
24 make payments to various subvendors that provided goods and services to the Committee.

25 14. On May 23, 2013, the Committee filed a campaign statement covering the period
26 from January 1, 2013, through May 23, 2013 (when the Committee was terminated) and
27 disclosed that Superior was paid \$11,662.15 for campaign literature and mailing. The
28 Committee did not disclose the work performed or payment received by Respondent.

1 15. It is unlawful for any person to counsel, aid, abet, advise, or participate with
2 another to violate ECCO. SDMC § 27.2991.

3 16. By arranging for and assisting in the preparation of Superior invoices to
4 effectively conceal the work performed by Respondent, as described above in paragraphs 11
5 through 13, Respondent participated with another to violate ECCO.

6 **Counts**

7 **Count 1 - Violation of SDMC section 27.2991**

8 17. Respondent participated with another to violate ECCO by arranging for and
9 assisting in the preparation of invoices from Superior that effectively concealed the work
10 performed by Respondent and that resulted in the Committee's failure to disclose the work
11 performed and payment received by Respondent.

12 **Factors in Aggravation**

13 18. Respondent has significant professional experience with regard to political
14 campaigns and was well aware of the obligation to accurately disclose the identities of vendors
15 that provide goods and services to a campaign committee.

16 19. Respondent initially claimed that he did not recall performing any work for the
17 Committee or receiving any compensation from the Committee; however, Respondent
18 subsequently revised his testimony and produced documents confirming his involvement in the
19 Committee's activities.

20 **Conclusion**

21 20. Respondent agrees to take necessary and prudent precautions to ensure
22 compliance with all provisions of ECCO in the future.

23 21. Respondent acknowledges that the Ethics Commission may impose increased
24 fines in connection with any future violations of the City's campaign laws.

25 22. Respondent agrees to pay a fine in the amount of \$1,500 for violating SDMC
26 section 27.2991. This amount must be paid no later than April 6, 2015, by check or money order
27 payable to the City Treasurer. The submitted payment will be held pending Commission
28 approval of this Stipulation and execution of the Decision and Order portion set forth below.

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[REDACTED]

DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

[REDACTED]

DATED: _____

JIM BIEBER, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on April 9, 2015.
The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the
Stipulation, Respondents pay a fine in the amount of \$1,500.

[REDACTED]

DATED: _____

JOHN C. O'NEILL, Chair
SAN DIEGO ETHICS COMMISSION