

1 STACEY FULHORST, Executive Director
2 City of San Diego Ethics Commission
3 450 B Street, Suite 780
4 San Diego, CA 92101
5 Telephone: (619) 533-3476

6 Petitioner

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

9 In re the Matter of:) Case No.: 2019-19
10)
11 FAYAZ NAWABI and TAZHEEN NIZAM,) **STIPULATION, DECISION, AND**
12) **ORDER**
13 Respondents.)
14)
15)
16)

17 **STIPULATION**

18 **THE PARTIES STIPULATE AS FOLLOWS:**

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

24 2. At all times mentioned herein, Fayaz Nawabi was a candidate for City Council
25 District 6 in the June 2018 primary election. The Fayaz Nawabi For San Diego City Council
26 2018 committee (Identification No. 1400617) [Committee] was a campaign committee registered
27 with the State of California and established to support Mr. Nawabi's candidacy. At all relevant
28 times herein, the Committee was controlled by Mr. Nawabi within the meaning of the California
Political Reform Act, California Government Code section 82016. Tazheem Nizam was, at all
relevant times, the Committee's campaign treasurer. Mr. Nawabi and Ms. Nizam are collectively
referred to herein as "Respondents."

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

4 4. This Stipulation resolves all factual and legal issues raised in this matter by the
5 Ethics Commission without the necessity of holding an administrative hearing to determine
6 Respondents' liability.

7 5. Respondents understand and knowingly and voluntarily waive any and all
8 procedural rights under the SDMC including, but not limited to, a determination of probable
9 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
10 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
11 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
12 have the Ethics Commission or an impartial hearing officer hear this matter. Respondents agree
13 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
14 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
15 order.

16 6. Respondents agree to hold the City of San Diego and the Ethics Commission
17 harmless from any and all claims or damages resulting from the Commission's investigation, this
18 stipulated agreement, or any matter reasonably related thereto.

19 7. Respondents acknowledge that this Stipulation is not binding upon any other law
20 enforcement or government agency and does not preclude the Ethics Commission from referring
21 this matter to, cooperating with, or assisting any other law enforcement or government agency
22 with regard to this or any other related matter.

23 8. The parties agree that in the event the Ethics Commission refuses to accept this
24 Stipulation, it shall become null and void. Respondents further agree that in the event the Ethics
25 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
26 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
27 because of prior consideration of this Stipulation.

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1 Summary of Law and Facts

2 9. Because the Committee was formed for the purpose of supporting a City of San
3 Diego candidate, Respondents were required to comply with the provisions in ECCO.

4 10. SDMC section 27.2930 requires candidates and committees to file campaign
5 statements in the time and manner required by California Government Code sections 81000 et
6 seq. California Government Code section 84211 requires the disclosure of all contributions
7 received and expenditures made during the reporting period, including the name, address,
8 occupation, and employer of each contributor who cumulatively contributed \$100 or more, as
9 well as the name and address of each person to whom an expenditure of \$100 or more was made.

10 11. On February 1, 2018, Respondents filed a campaign statement covering the period
11 from October 1 through December 31, 2017, and failed to disclose information concerning 29
12 contributions totaling \$4,500. Instead of itemizing and disclosing information regarding each
13 individual contribution, Respondents reported \$4,500 as a lump sum contribution received from
14 Act Blue (an online fundraising platform for Democratic candidates), when in fact Act Blue was
15 merely serving as an intermediary and was not the true source of the funds.

16 12. On May 17, 2018, Respondents filed a campaign statement covering the period from
17 January 1 through April 21, 2018, and failed to disclose information concerning 23 contributions
18 totaling \$3,900. Instead of itemizing and disclosing information regarding each individual
19 contribution, Respondents reported the contributions as a lump sum received from Act Blue.
20 Respondents also failed to disclose 46 expenditures of \$100 or more totaling \$7,934.

21 13. On May 24, 2018, Respondents filed a campaign statement covering the period from
22 April 22 through May 19, 2018, and failed to disclose information concerning 12 contributions
23 totaling \$2,200. Instead of itemizing and disclosing information regarding each individual
24 contribution, Respondents reported a lump sum received from Act Blue.

25 14. On July 31, 2018, Respondents filed a campaign statement covering the period from
26 May 20 through June 30, 2018, and failed to disclose 4 expenditures of \$100 or more totaling
27 \$2,310.

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1 15. Respondents recently filed amendments to the campaign statements described above
2 in paragraphs 13 through 16 and disclosed the missing contributions and expenditures identified
3 by Commission staff.

4 Counts

5 **Counts 1 through 4 - Violations of SDMC Section 27.2930**

6 16. Respondents violated SDMC section 27.2930 by failing to disclose contributions
7 received and expenditures made on four campaign statements as described above in paragraphs
8 11 through 14.

9 Factors in Mitigation

10 17. In late April 2018, Respondent Nawabi effectively suspended his campaign for City
11 Council District 6 as a result of personal injuries he sustained in the preceding weeks.

12 Factors in Aggravation

13 18. The amount of campaign contributions and expenditures that were not timely
14 reported respectively constituted approximately forty percent of the total contributions received
15 and total expenditures made throughout Respondent Nawabi's candidacy. The violations were
16 systemic in nature and deprived the voters of important information concerning Respondent
17 Nawabi's campaign finances.

18 19. Respondents did not address the errors and omissions in the Committee's campaign
19 statements until they were contacted by Commission staff. Moreover, despite specific
20 instructions provided by Commission staff, the amendments filed by Respondents in September
21 and October of 2019 were repeatedly insufficient. Ultimately, Respondents were unable to
22 accurately reconcile the ending cash balance for each reporting period, thereby raising doubts as
23 to the complete accuracy of activities reported on campaign statements.

24 Conclusion

25 20. Respondents agree to take necessary and prudent precautions to ensure compliance
26 with all provisions of ECCO in the future.

27 21. Respondents acknowledge that the Ethics Commission may impose increased fines
28 in connection with any future violations of the City's campaign laws.

1 22. Respondents agree to pay a fine in the amount of \$2,500 for violating SDMC
2 section 27.2930. This amount must be paid by check or money order made payable to the City
3 Treasurer no later than March 31, 2020. Respondents acknowledge that if the fine is not timely
4 paid in full, the Commission may refer the collection of the fine to the City Treasurer's
5 Collection Division, which may pursue any or all available legal remedies to recover late
6 penalties, interest, and costs, in addition to seeking the outstanding balance owed.

7
8 [REDACTED]
9 DATED: _____
10 Stacey Fulhorst, Petitioner
11 SAN DIEGO ETHICS COMMISSION

12 [REDACTED]
13 DATED: _____
14 Fayaz Nawabi, Respondent

15 [REDACTED]
16 DATED: _____
17 Tazheen Nizam, Respondent

18 **DECISION AND ORDER**

19 The Ethics Commission considered the above Stipulation at its meeting on November 14,
20 2019. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
21 with the Stipulation, Respondents pay a fine in the amount of \$2,500.

22 [REDACTED]
23 DATED: _____
24 Sid Voorakkara, Chair
25 SAN DIEGO ETHICS COMMISSION