

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.: 2005-02  
11 )  
SCOTT MALONI, ) **STIPULATION, DECISION AND**  
12 ) **ORDER**  
Respondent. )  
13 )

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

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

21 2. At all times mentioned herein, Respondent Scott Maloni [Respondent] was a  
22 registered lobbyist employed by Public Policy Strategies. Respondent has been registered as a  
23 lobbyist with the Office of the City Clerk since March of 2000.

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.

#### **Summary of Law and Allegations**

24           8.    On January 10, 2004, Respondent was retained by Lennar-Greystone Homes  
25 [Greystone] to provide “government, community, and media relations” services associated with  
26 the Cabrillo project, which involved the demolition of several buildings in the Sports Arena area  
27 in order to construct condominium units. In particular, Respondent was tasked with soliciting  
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1 support from residents and other third parties in connection with Greystone’s proposal to amend  
2 an existing Conditional Use Permit and acquire a new Planned Development Permit for the  
3 Cabrillo project.

4 9. On June 16, 2005, Respondent met with City Council staff members to brief them  
5 on Greystone’s community outreach efforts with regard to the Cabrillo project. The approvals  
6 on this project matters were docketed for consideration by the City Council on June 21, 2005.

7 10. Petitioner alleges that because Respondent performed the above-described work on  
8 behalf of Greystone for purposes of influencing a municipal decision, Greystone became  
9 Respondent’s “client” for the purposes of the City’s Municipal Lobbying Ordinance.

10 11. On September 27, 2004, Respondent was retained by Reino Parking Systems  
11 [Reino]. As part of this agreement, Respondent engaged in a variety of activities associated  
12 with the preparation and coordination of a Request for Proposal [RFP] Reino planned to submit  
13 regarding the Downtown Parking Management Pilot Program, which involved on-street pay  
14 stations. Although SDMC section 27.4004(c) exempts certain activities associated with RPFs,  
15 Respondent engaged in activities that do not fall within these exemptions. In particular, during  
16 the fourth quarter of 2004, Respondent attended meetings with City officials concerning this  
17 Reino proposal.

18 12. Petitioner alleges that because Respondent performed the above-described work on  
19 behalf of Reino for purposes of influencing a municipal decision, Reino became Respondent’s  
20 “client” for the purposes of the City’s Municipal Lobbying Ordinance.

21 13. The City’s Municipal Lobbying Ordinance requires lobbyists to register with the  
22 City Clerk within ten days of qualifying as a lobbyist (qualification is based on the receipt of a  
23 threshold level of compensation for lobbying and related activities). The Lobbying Ordinance  
24 requires registered lobbyists to file quarterly disclosure reports no later than the last day of the  
25 months of April, July, October, and January. SDMC §§ 27.4007, 27.4015, and 27.4016. The  
26 registration form must include the following for each of the lobbyist’s clients: name, address,  
27 and telephone number; a description of the client’s business; and the specific municipal decision  
28 or the types of municipal decisions for which the lobbyist was retained to represent the client.

1 SDMC § 27.4009. If the information on the registration form changes, the Lobbying Ordinance  
2 requires lobbyists to file an amended registration form with the next quarterly report, or to use  
3 the quarterly report to disclose any change in information required on the registration form.

4 SDMC §§ 27.4012 and 27.4015.

5 14. As a registered lobbyist, Respondent filed a disclosure report for the fourth quarter  
6 of 2004 on February 1, 2005. In addition, he filed a disclosure report for the second quarter of  
7 2005 on August 1, 2005. In each of these quarterly disclosure reports, Respondent provided  
8 information regarding some of the clients he was retained to represent, but did not disclose that  
9 he was retained to represent Greystone and Reino in connection with the lobbying activities  
10 described above.

### 11 Counts

#### 12 **Counts 1 and 2 - Violations of SDMC sections 27.4012 and 27.4015**

13 15. Petitioner alleges that Respondent failed to disclose his lobbying activities during  
14 the second quarter of 2005 on behalf of Greystone, in violation of SDMC sections 27.4012 and  
15 27.4015.

16 16. Petitioner alleges that Respondent failed to timely disclose his lobbying activities  
17 during the fourth quarter of 2004 on behalf of Reino, in violation of SDMC sections 27.4012 and  
18 27.4015. Petitioner alleges that Respondent did not disclose his efforts on behalf of Reino  
19 during the fourth quarter of 2004 until July 29, 2005, approximately six months late.

### 20 Factors in Mitigation

21 17. The Commission's investigation indicates that the basis of Respondent's contract  
22 with Greystone was not for lobbying activities, but was instead focused on Respondent's  
23 handling of community relations issues associated with the Cabrillo project. Respondent,  
24 therefore, had reason to believe that he was not required to register Greystone as a client. In  
25 addition, the Commission's investigation indicates that Respondent failed to register Reino as a  
26 client because he was relying on the mistaken belief that the compensation threshold (\$2,542 in  
27 2005) is calculated on a "per client" basis rather than on an "all clients" basis.

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1 18. Respondent has cooperated fully with the Ethics Commission investigation.

2 **Factors in Aggravation**

3 19. Respondent is an experienced lobbyist in the City of San Diego. There is  
4 therefore a reasonable expectation that Respondent should have been aware of the disclosure  
5 requirements in the City’s Municipal Lobbying Ordinance.

6 **Conclusion**

7 20. Without admitting or denying the allegations set forth above, Respondent agrees  
8 to take necessary and prudent precautions to comply with all provisions of the Municipal  
9 Lobbying Ordinance in the future.

10 21. Without admitting or denying the allegations set forth above, Respondent agrees  
11 to file an amendment to his lobbyist disclosure report for the second quarter of 2005 on or before  
12 May 31, 2006, in order to disclose his lobbying activities on behalf of Greystone during this  
13 period.

14 22. Without admitting or denying the allegations set forth above, Respondent agrees  
15 to pay a fine in the amount of \$950. This amount must be paid no later than May 10, 2006, by  
16 check or money order made payable to the City Treasurer. The submitted payment will be held  
17 pending Commission approval of this Stipulation and execution of the Decision and Order  
18 portion set forth below.

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20 DATED: \_\_\_\_\_

\_\_\_\_\_  
STACEY FULHORST, Executive Director  
ETHICS COMMISSION, Petitioner

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23 DATED: \_\_\_\_\_

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SCOTT MALONI, Respondent

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**DECISION AND ORDER**

The Ethics Commission has considered the above Stipulation at its meeting on \_\_\_\_\_, 2006. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pays a fine in the amount of \$950.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Dorothy Leonard, Chair  
SAN DIEGO ETHICS COMMISSION