

1 STACEY FULHORST, Executive Director
2 City of San Diego Ethics Commission
3 1010 Second Avenue, Suite 1530
4 San Diego, CA 92101
5 Telephone: (619) 533-3476
6 Facsimile: (619) 533-3448

7 Petitioner

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

10 In re the Matter of:) Case No.: 2009-21
11)
12 LOUNSBERY FERGUSON ALTONA &) **STIPULATION, DECISION AND**
13 PEAK, LLP,) **ORDER**
14 Respondent.)
15)

16 **STIPULATION**

17 **THE PARTIES STIPULATE AS FOLLOWS:**

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

23 2. At all times mentioned herein, Respondent Lounsbery Ferguson Altona & Peak,
24 LLP [Respondent] was a lobbying firm registered with the Office of the City Clerk. Members of
25 Respondent's firm have been registered as lobbyists with the City Clerk since 2006.

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

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.

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1 **Summary of Law and Facts**

2 8. The Lobbying Ordinance requires registered lobbying firms to file quarterly
3 disclosure reports no later than the last day of the months of April, July, October, and January,
4 covering the preceding calendar quarter. SDMC §§ 27.4015, 27.4016.

5 9. Respondent registered as a lobbying firm with the Office of the City Clerk on
6 January 16, 2008.

7 10. Respondent failed to file a disclosure report for the first quarter of 2008 until June
8 16, 2008, approximately six weeks after the due date of April 30, 2008. According to the report
9 ultimately filed by Respondent, the firm's representatives lobbied City Officials on seven
10 different municipal decisions during the first quarter of 2008.

11 **Counts**

12 **Count 1 – Violation of SDMC sections 27.4015 and 27.4016**

13 11. Respondent failed to timely file its first quarterly disclosure report as required by
14 SDMC sections 27.4015 and 27.4016. Respondent's quarterly disclosure report for the first
15 quarter of 2008 was due on April 30, 2008, but Respondent did not file it until June 16, 2008.

16 **Factors in Aggravation**

17 12. Respondent is an experienced lobbying firm in the City of San Diego. Thus, there
18 is a reasonable expectation that Respondent was aware of the quarterly filing requirements in the
19 Lobbying Ordinance. Moreover, the City Clerk staff sent several letters to Respondent
20 reminding the firm that its first quarter report was due by April 30, 2008.

21 **Factors in Mitigation**

22 13. Respondent fully cooperated with the Ethics Commission's investigation.

23 **Conclusion**

24 14. Respondent agrees to take necessary and prudent precautions to comply with all
25 provisions of the City' Municipal Lobbying Ordinance in the future.

26 15. Respondent agrees to pay a fine in the amount of \$500. This amount must be paid
27 no later than August 14, 2009, by check, money order or credit card payment to the City
28 Treasurer. The Respondent acknowledges that if the fine is not timely paid in full, the

1 Commission may refer the collection of the fine to the City Treasurer's Collection Division,
2 which may pursue any or all available legal remedies to recover late penalties, interest, and costs,
3 in addition to seeking the outstanding balance owed.

4 DATED: _____
5 _____
6 STACEY FULHORST, Petitioner
City of San Diego Ethics Commission

7 DATED: _____
8 _____
9 LOUNSBERY FERGUSON ALTONA & PEAK, LLP,
Respondent
By: Kenneth Lounsbery, Esq., Partner

10
11 **DECISION AND ORDER**

12 The Ethics Commission has considered the above Stipulation at its meeting on
13 _____, 2009. The Ethics Commission hereby approves the Stipulation and orders that,
14 in accordance with the Stipulation, Respondent pays a fine in the amount of \$500.

15
16 DATED: _____
17 _____
18 Richard Valdez, Chair
SAN DIEGO ETHICS COMMISSION