

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

8 **BEFORE THE CITY OF SAN DIEGO**

9 **ETHICS COMMISSION**

10 In re the Matter of:) Case No.: No. 2004-10
11)
12 DWAYNE CRENSHAW,) **STIPULATION, DECISION AND**
13) **ORDER**
14 Respondent.)
15)
16)

17 **THE PARTIES STIPULATE AS FOLLOWS:**

18 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
19 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
20 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
21 Code [SDMC] relating to, among other things, the filing of campaign statements as required by
22 the City’s Election Campaign Control Ordinance [ECCO].

23 2. Respondent Dwayne Crenshaw [Respondent] was a candidate for the District 4
24 City Council seat in 2002.

25 3. The “Friends of Dwayne Crenshaw” committee [Committee] is a campaign
26 committee (Committee Identification No. 1234999) established to support Respondent’s
27 candidacy in the District 4 City Council race. The committee has not yet been terminated. At all
28 relevant times herein, the committee was controlled by Respondent within the meaning of the
California Political Reform Act, California Government Code section 82016.

4. This Stipulation, Decision and Order [Stipulation] will be submitted for consideration
by the Ethics Commission at its next scheduled meeting, and the agreements contained herein are

1 contingent upon the approval of the Stipulation and the accompanying Decision and Order by the
2 Ethics Commission.

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

6 6. Respondent understands and knowingly and voluntarily waives any and all procedural
7 rights under the SDMC, including, but not limited to, a determination of probable cause, the
8 issuance and receipt of an administrative complaint, the right to appear personally in any
9 administrative hearing held in this matter, the right to confront and cross-examine witnesses
10 testifying at a hearing, the right to subpoena witnesses to testify at a hearing, and the right to
11 have the Ethics Commission or an impartial hearing officer hear this matter.

12 7. The Respondent acknowledges that this Stipulation is not binding upon any other law
13 enforcement or government agency and does not preclude the Ethics Commission from referring
14 this matter to, cooperating with, or assisting any other law enforcement or government agency
15 with regard to this or any other related matter.

16 8. The parties agree that in the event the Ethics Commission refuses to accept this
17 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
18 Commission rejects the Stipulation and a full evidentiary hearing before the City Ethics
19 Commission becomes necessary, no member of the Ethics Commission or its staff shall be
20 disqualified because of prior consideration of this Stipulation.

21 **SUMMARY OF LAW AND FACTS**

22 9. ECCO requires candidates and committees to file campaign statements in the time
23 and manner required by California Government Code section 81000, et seq. (SDMC section
24 27.2931).

25 10. California Government Code section 84200 states that semi-annual campaign
26 statements must be filed no later than July 31 for the period ending June 30, and no later than
27 January 31 for the period ending December 31.

28 ///

1 11. Respondent's semi-annual campaign statement for the period ending December 31,
2 2003, was due on February 2, 2004 (January 31, 2004, fell on a Saturday; February 2 was the
3 next business day). Respondent did not file his committee's semi-annual statement until April
4 23, 2004, eighty-one days late.

5 12. The Ethics Commission, in accordance with SDMC section 26.0425, authorized a
6 formal investigation of a complaint alleging that Respondent failed to comply with provisions of
7 SDMC section 27.2931.

8 13. Following this investigation, Petitioner concluded that the Respondent failed to
9 timely file his semi-annual campaign statement for the period ending December 31, 2003.

10 **COUNT 1**

11 **[Violation of SDMC Section 27.2931]**

12 14. Respondent failed to timely file his semi-annual campaign statement for the period
13 ending December 31, 2004. SDMC section 27.2931 requires the filing of campaign statements
14 in the time and manner required by state law. California Government Code section 84200
15 requires the filing of semi-annual statements no later than January 31 for the period ending
16 December 31. Respondent filed his semi-annual campaign statement for the period ending
17 December 31, 2003, on April 23, 2004, eighty-one days late.

18 **AGREEMENT**

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

21 **FACTORS IN MITIGATION**

22 16. Although the City Clerk's Office sent Respondent two letters regarding his filing
23 responsibilities, Respondent's address changed in October of 2003, and his mail was therefore
24 delayed in the process of forwarding to his new address.

25 **FACTORS IN AGGRAVATION**

26 17. Ethics Commission staff contacted Respondent by telephone on March 26, 2004,
27 and reminded him of his filing responsibilities. At that time, Respondent stated that he would
28 file his committee's campaign statement by March 29, 2004. Respondent failed to file his

1 committee's statement on March 29, 2004. Respondent failed to file the statement until nearly
2 an additional month had elapsed, after receiving several additional telephone messages from
3 Commission staff.

4 **CONCLUSION**

5 18. Respondent shall pay a fine in the amount of \$250 for violating SDMC section
6 27.2931 (Count 1). This amount shall be paid no later than September 30, 2004.

7 19. This Stipulation shall not become effective until Respondent has provided to the
8 Ethics Commission the amount set forth in paragraph 18, by check or money order made payable
9 to the City Treasurer.

10
11 DATED: _____

12 STACEY FULHORST, Executive Director
13 ETHICS COMMISSION, Petitioner

14 DATED: _____

15 DWAYNE CRENSHAW, Respondent

16
17 **DECISION AND ORDER**

18 The Ethics Commission considered the above Stipulation at its meeting on June 10, 2004.
19 The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the
20 Stipulation, Respondent pay a fine in the amount of \$250.

21
22 DATED: _____

23 DOROTHY L.W. SMITH, Chair
24 SAN DIEGO ETHICS COMMISSION