

1 STACEY FULHORST, Executive Director  
City of San Diego Ethics Commission  
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San Diego, CA 92101  
3 Telephone: (619) 533-3476  
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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.: No. 2006-59  
11 )  
12 ) **FINAL ADMINISTRATIVE COMPLAINT**  
13 LUIS ACLE, )  
14 ) [SDMC § 26.0430]  
15 Respondent. )  
16 ) **Date:** May 9, 2008  
17 ) **Time:** 9:00 a.m.  
18 ) **Location:** 202 C Street, 12th Floor  
19 ) San Diego, CA 92101  
20 )

21 Petitioner Stacey Fulhorst, Executive Director of the City of San Diego Ethics Commission  
22 [Ethics Commission], hereby alleges that the above-named Respondent violated the San Diego  
23 Municipal Code as follows:

24 **The Parties**

25 1. Petitioner Stacey Fulhorst is the Executive Director of the Ethics Commission and makes  
26 this accusation in her official capacity. The Ethics Commission is charged with a duty to  
27 administer, implement, and enforce local governmental ethics laws contained in the San Diego  
28 Municipal Code [SDMC] relating to, among other things, the provisions of the City's Election  
Campaign Control Ordinance [ECCO].

2. Respondent Luis Acle [Acle] was a candidate for the Eighth District City Council seat in  
the City of San Diego in the November 2005 special election and the January 2006 special run-  
off election. The Acle for City Council Committee [Committee] is a campaign committee  
registered with the State of California (Identification No. 1278931) established to support Acle's

1 candidacy in the 2005-2006 special election cycle. At all relevant times herein, the Committee  
2 was controlled by Aclé within the meaning of the California Political Reform Act, California  
3 Government Code section 82016.

#### 4 **General Allegations**

5 3. As a candidate for elective office in the City of San Diego, Respondent is required to  
6 comply with the provisions of ECCO.

7 4. ECCO requires candidates and committees to pay for goods and services in full no later  
8 than 180 calendar days after receipt of a bill or invoice, and in no event later than 180 calendar  
9 days after the last calendar day of the month in which the goods were delivered or the services  
10 were rendered. According to ECCO, each and every calendar day that a vendor debt remains  
11 partially or wholly unpaid after the expiration of the 180-day period constitutes a separate  
12 violation of law. SDMC §§ 27.2960, 27.2961.

13 5. ECCO requires candidates and committees to file campaign statements in the time and  
14 manner required by state law. SDMC § 27.2930. California Government Code section 84211  
15 requires the itemized disclosure of all contributions and expenditures over \$100.00, including  
16 accrued expenses. California Government Code section 84200(a) provides that candidates and  
17 committees shall file semiannual statements no later than July 31 for the period ending June 30,  
18 and no later than January 31 for the period ending December 31. In addition, ECCO requires  
19 candidates and committees to file campaign statements electronically if they have received  
20 contributions or made expenditures of \$10,000.00 or more in connection with a City election.  
21 SDMC § 27.2931.

22 6. ECCO prohibits cash contributions in the amount of \$100.00 or more. SDMC § 27.2941.  
23 By definition, the term “contribution” includes loans. SDMC §§ 27.2903.

24 7. ECCO requires candidates and committees to maintain records associated with  
25 contributions and expenditures, including bank records and vendor invoices. SDMC § 27.2925.

26 8. The Ethics Commission, in accordance with SDMC section 26.0423, authorized a formal  
27 investigation into allegations that Respondent failed to comply with various provisions of ECCO.  
28 Following the investigation, Petitioner concluded that the Respondent failed to pay twelve

1 campaign debts within 180 days, failed to disclose fourteen accrued expenses on numerous  
2 occasions, failed to disclose three contributions, failed to timely file two campaign statements,  
3 made two cash contributions to his campaign committee in excess of \$100.00, and failed to  
4 maintain records associated with contributions and expenditures.

5 **Counts**

6 **Counts 1 through 10 - Violations of SDMC sections 27.2960**

7 9. Respondent failed to pay the following 10 campaign debts totaling \$13,993.00  
8 within 180 days, in violation of SDMC section 27.2960:

9 <u>Date</u>	<u>Vendor</u>	<u>Amount Due</u>	<u>Date Paid</u>
10 11/08/05	Marketing Support Systems	\$2,500.00	04/05/07
11 11/26/05	Marketing Support Systems	\$1,342.00	06/30/06
12 12/15/05	Marketing Support Systems	\$5,000.00	04/05/07
13 12/26/05	Marketing Support Systems	\$2,500.00	Unpaid
14 12/28/05	PAC Mgmt & Consulting	\$1,000.00	Unpaid
15 01/04/06	PAC Mgmt & Consulting	\$1,000.00	Unpaid
16 01/10/06	Ann Kelsey	\$ 250.00	Unpaid
17 03/31/06	Rusanne Anthony	\$ 87.47	03/13/07
18 06/30/06	Rusanne Anthony	\$ 45.55	03/13/07
19 07/31/06	Rusanne Anthony	\$ 267.98	03/13/07

20 Pursuant to SDMC section 27.2961, each and every day a campaign debt remains unpaid beyond  
21 the 180-day period constitutes a separate violation of law.

22 **Counts 11 through 35 – Violations of SDMC section 27.2930**

23 10. Respondent did not properly disclose campaign expenditures, in violation of SDMC  
24 section 27.2930. In particular, Respondent failed to disclose 10 accrued expenses, and failed to  
25 disclose most of these expenses on multiple occasions, as follows:

26 (a) an invoice received from Marketing Support Systems in the amount of  
27 \$2,500.00 on November 8, 2005, was not disclosed as an accrued expense on two campaign  
28 statements covering the periods ending on June 30, 2006, and December 31, 2006;

1 (b) an invoice received from Marketing Support Systems in the amount of  
2 \$5,000.00 on December 15, 2005, was not disclosed as an accrued expense on two campaign  
3 statements covering the periods ending on June 30, 2006, and December 31, 2006;

4 (c) a debt owed to Marketing Support Systems in the amount of \$2,500.00 on  
5 December 26, 2005, was not disclosed as an accrued expense on three campaign statements  
6 covering the periods ending on June 30, 2006, December 31, 2006, and June 30, 2007;

7 (d) an invoice received from PAC Management & Consulting, Inc. in the amount of  
8 \$1,000.00 on December 28, 2005, was not disclosed as an accrued expense on three campaign  
9 statements covering the periods ending on June 30, 2006, December 31, 2006, and June 30,  
10 2007;

11 (e) a debt owed to PAC Management & Consulting, Inc. in the amount of  
12 \$1,000.00 on January 4, 2006, was not disclosed as an accrued expense on three campaign  
13 statements covering the periods ending on June 30, 2006, December 31, 2006, and June 30,  
14 2007;

15 (f) an invoice received from Ann Kelsey in the amount of \$250.00 on January 10,  
16 2006, was not disclosed as an accrued expense on three campaign statements covering the  
17 periods ending on June 30, 2006, December 31, 2006, and June 30, 2007;

18 (g) two invoices received from Rusanne Anthony on March 31, 2006, and June 30,  
19 2006, totaling \$133.02 were not disclosed as an aggregated accrued expense on the campaign  
20 statement covering the period ending on June 30, 2006; and

21 (h) the two invoices referenced above in subparagraph (k), as well as two additional  
22 invoices received from Rusanne Anthony on July 31, 2006, and October 31, 2006, totaling  
23 \$334.48, were not disclosed as an aggregated accrued expense on the campaign statement  
24 covering the period ending on December 31, 2006.

25 Each failure to disclose an accrued expense on a campaign statement constitutes a  
26 separate count, for a total of 22 counts.

27 11. Respondent did not properly disclose several campaign contributions, in violation of  
28 SDMC section 27.2930. Specifically, Respondent failed to disclose contributions received from

1 Kenneth Williams and Doreen Williams on or about January 5, 2006, in the amount of \$250  
2 each, as well as a non-monetary contribution in the amount of \$146 received from John Gordon  
3 in June of 2006.

4 **Counts 36 through 39 – Violations of SDMC sections 27.2930 and 27.2931**

5 12. Respondent failed to timely file campaign statements in violation of SDMC sections  
6 27.2930 and 27.2931. In particular, Respondent did not electronically file a campaign statement  
7 for the period ending December 31, 2006, until March 7, 2007, approximately five weeks late,  
8 and did not file an original signed statement until March 21, 2007, approximately six weeks late.  
9 In addition, Respondent did not electronically file a campaign statement for the period ending  
10 June 30, 2007, until August 15, 2007, approximately two weeks late. Respondent has not yet  
11 filed an original signed statement for the period ending June 30, 2007, although this statement  
12 was due on July 31, 2007.

13 **Counts 40 and 41 – Violations of SDMC section 27.2941**

14 13. Respondent made two cash contributions to the Committee in excess of \$100.00 in  
15 violation of SDMC section 27.2941. Specifically, Respondent made a cash contribution in the  
16 form of a loan to the Committee in the amount of \$500.00 on January 3, 2006. Respondent made  
17 a second cash contribution in the form of a loan to the Committee in the amount of \$500.00 on  
18 March 13, 2007.

19 **Count 42 – Violation of SDMC section 27.2925**

20 14. Respondent failed to retain copies of campaign-related records, in violation of  
21 SDMC section 27.2925. Specifically, Respondent failed to maintain copies of bank statements  
22 or supportive documentation for payments to numerous vendors. In addition, Respondent failed  
23 to maintain copies of records associated with the loans he made to the Committee.

24 **WHEREFORE**, Petitioner prays as follows:

- 25 1. That the Ethics Commission find that Respondent violated the San Diego Municipal  
26 Code as alleged herein;
- 27 2. That the Ethics Commission order Respondent to pay a monetary penalty to the General  
28 Fund of the City of up to five thousand dollars (\$5,000.00) for each violation; and

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3. That the Ethics Commission grant such other relief as it deems just and proper.

Dated: February 14, 2008

CITY OF SAN DIEGO ETHICS COMMISSION

By \_\_\_\_\_  
Stacey Fulhorst, Executive Director