

*City of Oakland*  
**Public Ethics Commission**  
March 7, 2011

In The Matter of  
Sean Sullivan

) Complaint No. 10-29  
)  
) **[Proposed]** Stipulation,  
) Decision and Order

It is hereby stipulated by and between the City of Oakland Public Ethics Commission and Sean Sullivan.

A. Sean Sullivan was a candidate for office in the June 2008 municipal election for City Council District Three. At all times relevant to this complaint and stipulation, Richard Fuentes served as Mr. Sullivan's campaign treasurer. On or about May 27, 2008, Mr. Sullivan qualified to participate in the City of Oakland's program to provide public matching funds pursuant to the Limited Public Financing Act (LPFA), O.M.C. Chapter 3.13. During the course of the campaign, Mr. Sullivan received a total of \$9,839 in public matching funds.

B. On October 14, 2010, the Office of the City Auditor released its mandatory audit of Mr. Sullivan's campaign account pursuant to the LPFA. Among the relevant published findings were 1) The campaign reported \$13,173 more in contributions than was actually documented as deposited in the campaign's bank account; 2) The campaign reported approximately \$8,000 more in expenditures than could be documented by campaign bank statements; 3) The campaign could not produce original source documents and/or keep records for all its contributions and expenditures; 4) The campaign made cash withdrawals and allegedly made cash payments to vendors in amounts in excess of \$100; and 5) the campaign committee could not adequately determine whether it possessed any unencumbered matching funds as of the last day of the semi-annual reporting period following the election. A copy of the City Auditor's Report dated October 14, 2010 is incorporated into this Stipulation by reference.

C. Commission staff contends that Mr. Sullivan and his campaign failed to: 1) completely and accurately execute all pre-election and post-election campaign statements in connection with the election for which Mr. Sullivan received public matching funds, thus potentially violating LPFA Section 3.13.080(G) [Qualification Procedures]; and, 2) return to the Election Campaign Fund all unencumbered matching funds no later than 31 days from the last day of the semi-annual reporting period following the election, thus potentially violating LPFA Section 3.13.150(B) [Return Of Matching Funds].

D. Mr. Sullivan contends: 1) the reporting errors and mistakes were completely inadvertent; 2) Mr. Sullivan was a first-time candidate; 3) his treasurer was a first-time volunteer treasurer; and 4) his campaign was a grassroots, volunteer led

effort. Mr. Sullivan and the campaign take full responsibility for these errors and mistakes.

E. Pursuant to Commission General Complaint Procedures Section XII(F), Commission staff recommends that the contentions stated in paragraphs C and D be resolved as follows:

1) Within thirty (30) calendar days after this Stipulation, Decision and Order ("Stipulation") is approved by the Commission, Mr. Sullivan shall (a) make a settlement payment of \$5,000 and (b) return to the Election Campaign Fund the amount of \$9,839, in the form of separate checks made payable to "The City of Oakland" and delivered to the offices of the Public Ethics Commission, and

2) Nothing in this Stipulation shall be interpreted as an admission of wrongdoing by Mr. Sullivan; he has entered into this Stipulation to avoid any further proceedings before the Commission.

3) Mr. Sullivan knowingly and voluntarily waives all rights to a hearing before the Commission on the merits of the contentions contained in paragraph C.

4) Mr. Sullivan understands and acknowledges that this Stipulation a) will not be effective until it is approved by the Commission; b) is not binding on any other law enforcement agency and does not preclude the Commission or Commission staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the subject matter of this Stipulation; and c) will become null and void if the Commission refuses to approve it. Notwithstanding the foregoing, the Commission shall, by approving this proposed Stipulation, dismiss Complaint No. 10-29 [In the Matter Of Sean Sullivan] and take no further action to refer this matter to any other governmental agency. If the Commission refuses to approve this Stipulation and a full evidentiary hearing before the Commission becomes necessary, the Commission's prior consideration of this Stipulation will not constitute grounds for the disqualification of any member of the Commission or Commission staff.

F) Mr. Sullivan hereby agrees to the terms set forth in paragraph E above.

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_  
Sean Sullivan

**CERTIFICATION RE: APPROVAL OF STIPULATION  
DECISION AND ORDER**

The foregoing Stipulation, Decision and Order ("Stipulation") was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission

("Commission") held on \_\_\_\_\_, 2011. A quorum of the membership of the Commission was present at the meeting. A motion approving the Stipulation was duly made and seconded, and the motion was adopted by a majority of said quorum.

I hereby certify that the foregoing is true and correct.

Dated: \_\_\_\_\_, 2011

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Daniel D. Purnell, Executive Director  
Oakland Public Ethics Commission