

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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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.: 2017-31
11 CHRIS CATE,)
12 Respondent.) **STIPULATION, DECISION, AND**
13) **ORDER**
_____)

14
15 **STIPULATION**

16 **THE PARTIES STIPULATE AS FOLLOWS:**

17 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
18 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
19 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
20 Code [SDMC] relating to, among other things, the provisions of the City of San Diego Ethics
21 Ordinance [Ethics Ordinance], SDMC section 27.3501, *et seq.*

22 2. At all times mentioned herein, Chris Cate was the Councilmember elected to
23 represent City Council District 6. Councilmember Cate is referred to herein as “Respondent.”

24 3. This Stipulation will be submitted for consideration by the Ethics Commission at its
25 next scheduled meeting, and the agreements contained herein are contingent upon the approval
26 of the Stipulation and the accompanying 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
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 an impartial hearing officer hear this matter. Respondent agrees
10 that the terms of this Stipulation constitute compliance with the provisions of SDMC section
11 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an
12 order.

13 6. Respondent agrees to hold the City of San Diego and the Ethics Commission
14 harmless from any and all claims or damages resulting from the Commission’s investigation, this
15 stipulated agreement, or any matter reasonably related thereto.

16 7. Respondent acknowledges that this Stipulation is not binding upon any other law
17 enforcement or government agency and does not preclude the Ethics Commission from referring
18 this matter to, cooperating with, or assisting any other law enforcement or government agency
19 with regard to this or any other related matter.

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

25 **Summary of Law and Facts**

26 9. The Ethics Ordinance prohibits City Officials from disclosing confidential
27 information acquired in the course of their official duties. SDMC § 27.3564(e). SDMC section
28 27.3503 defines “confidential information” as follows:

- 1 (a) At the time of the use or disclosure of the information, the disclosure is prohibited
2 by a statute, regulation, or rule which applies to the City; or
- 3 (b) the information is not general public knowledge and will have, or could
4 reasonably be expected to have, a material financial effect on any source of
income, investment, or interest in the real property of a City Official; or
- 5 (c) the information pertains to pending contract, labor, or real property negotiations
6 and disclosing the information could reasonably be expected to compromise the
bargaining position of the City; or
- 7 (d) the information pertains to pending or anticipated litigation and disclosing the
8 information could reasonably be expected to compromise the ability of the City to
successfully defend, prevail in, or resolve the litigation.

9 10. On June 15, 2017, City Attorney Mara Elliott issued a memorandum to the Mayor
10 and City Council concerning the San Diego River Park and Soccer City Initiative [Soccer City],
11 a citizen's initiative that would allow the development of a mixed-use project, including a
12 professional soccer stadium, on real property currently owned by the City at and around SDCCU
13 Stadium (formerly Qualcomm Stadium). The memo was labeled "Attorney to Client
14 Correspondence – For Confidential Use Only."

15 11. On June 16, 2017, Respondent provided a copy of the City Attorney memorandum
16 to Craig Benedetto, a principal of California Strategies, LLC, a consulting firm retained by
17 MLS SD Pursuit LLC (previously FS Investors), which is the sponsor of the committee formed
18 to support the Soccer City initiative.

19 **Counts**

20 **Count 1 - Violation of SDMC section 27.3564**

21 12. As described above in paragraphs 10 and 11, Respondent provided a copy of the
22 City Attorney memorandum to a third party despite the prohibition set forth in SDMC section
23 27.3564.

24 **Conclusion**

25 13. Respondent agrees to take necessary and prudent precautions to ensure compliance
26 with all provisions of the Ethics Ordinance in the future.

27 14. Respondent acknowledges that the Ethics Commission may impose increased fines
28 in connection with any future violations of the City's Ethics Ordinance.

