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March 10, 2008

Robert Kittle
Editorial Page Editor
The San Diego Union-Tribune
San Diego, California

Dear Mr. Kittle:

INTRODUCTION

The City Attorney is writing to you in regard to the editorial in the Union-Tribune (U-T) newspaper published 9 March 2008 entitled "Reform at last-Sanders' plan curbs runaway pension costs." The editorial was based upon inaccurate information and gave the false impression that the Mayor's proposal would resolve several critical pension debt issues.

It is not clear if you received inaccurate information from a source and repeated it believing it to be true. A reasonable person could conclude that the false information was provided by someone working for the City of San Diego and therefore attributable to the City of San Diego. This letter is written to make it clear that the false and misleading information contained in the subject editorial was not authorized by the City of San Diego.

In this regard, I would appreciate your correcting the record at your earliest opportunity. The misstatements in the editorial are set forth below. They consist of false declaratory statements, as well as misleading statements in which additional information was needed to make them not misleading.

CITY UNDER CEASE AND DESIST ORDER

On 14 November 2006, the City of San Diego was ordered by the US Securities & Exchange Commission to "cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder." Thus, the City is operating under an administrative order the violation of which could result in additional sanctions against the City.

This SEC cease and desist order was issued against San Diego after the City was found to have made false and misleading statements in connection with its bond offerings. These false statements related to the underfunding of the City's pension. The SEC found that the nature and level of under-funding raised questions about "the City's ability to repay the [city's] bonds and notes."

The SEC found City officials acted with "scienter," meaning with intent to deceive, manipulate or defraud.

The present value of future pension benefits as of June 30, 2007, was $6.8 billion (Cheiron report, p.19). On the other hand, the market value of assets on the same date was $4.6 billion. Clearly, this is a significant gap.

INACCURATE STATEMENTS

1. The U-T wrote: "City Council eliminated the notorious double-dipping DROP program for workers not already enrolled in it." Fact: The DROP program was only eliminated for new employees.

2. The U-T wrote: "City Attorney Mike Aguirre has lost multiple court cases seeking to slash pensions for current workers." Fact: The lead case to set aside pension benefits based on liability limit and conflict of interest violations is pending before the appellate court.

The status of the case to set aside the pension benefits leaves the Mayor and City Council open to take other corrective action that would reduce the pension deficit. These reforms involve not how the pension benefits were created but how they were administered.

3. The U-T wrote: "Under the changes sought by Sanders, taxpayers would save $25 million the first year..." This is not true. The savings would be a small fraction of $25 million. The inflated calculation would apply only if the pension benefits suggested by the Mayor were applied to all current employees. But the Mayor's proposal leaves the existing benefits in place for public safety and existing non-public safety employees. Thus, Mayor's plan does not accomplish the savings for taxpayers suggested in the editorial.

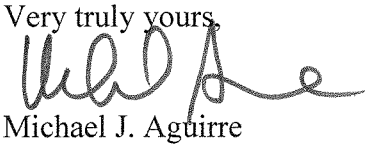
4. The U-T wrote: "Mayor Sanders deserves credit for tackling the retirement system crisis head-on." The core of the retirement system problem, however, is the benefit cost for current employees. The plan does not address those costs "head-on."

As stated above, the SEC found that the nature and level of the City's pension underfunding brought into question "the City's ability to repay the [city's] bonds and notes." The underfunding and over-benefiting problem remains. If we are to convince the bond market that we can be trusted again, we must candidly acknowledge the problem and take the necessary steps to resolve it.

Misinformation published in the City's largest newspaper does not help the City's cause or resolve the ongoing fiscal crisis.

I respectfully request you correct the record at your earliest convenience.

Very truly yours,



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