BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of: ) Case No.: 2008-65
ARTURO CASTRO, ) STIPULATION, DECISION, AND
Respondent. ) ORDER

THE PARTIES STIPULATE AS FOLLOWS:

1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer, implement, and enforce local governmental ethics laws contained in the San Diego Municipal Code [SDMC] relating to, among other things, the filing of Statements of Economic Interests [SEIs] as required by the City’s Ethics Ordinance.

2. At all times mentioned herein, Arturo Castro was a principal of Tucker Sadler Architects, successor entity to Tucker Sadler Noble Castro Architects, Inc. Castro is referred to herein as “Respondent.”

3. This Stipulation will be submitted for consideration by the Ethics Commission at its next scheduled meeting, and the agreements contained herein are contingent upon the approval of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

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

5. Respondent understands and knowingly and voluntarily waives any and all procedural rights under the SDMC, including, but not limited to, a determination of probable cause, the issuance and receipt of an administrative complaint, the right to appear personally in any administrative hearing held concerning this case, the right to confront and cross-examine witnesses testifying at a hearing, the right to subpoena witnesses to testify at a hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this case. Respondent agrees to hold the City of San Diego harmless from any and all claims or damages resulting from the Commission’s investigation or this stipulated agreement, or any matter reasonably related thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an order.

6. Respondent acknowledges that this Stipulation is not binding upon any other law enforcement or government agency and does not preclude the Ethics Commission from referring this case to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matters.

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

**Summary of Law and Facts**

8. Beginning in 2001, the City of San Diego entered into a series of agreements with a joint venture comprised of Rob Wellington Quigley Architects, Inc., and Tucker Sadler Noble Castro Architects, Inc., to provide architectural services in connection with the San Diego New Main Library. In June of 2006, Respondent was advised that he was required to file an SEI as a
consultant to the Centre City Development Corporation [CCDC] because this agency was providing the funding for the architectural services on the Main Library project. Specifically, in calendar year 2007, the Tucker Sadler firm received over $2.6 million in funding from CCDC in compensation for architectural services provided for the Main Library project.

9. As a consultant designated to file an SEI, Respondent is a “Local Code Filer” as that term is defined by SDMC section 27.3503, and is required to file SEIs in the time and manner set forth in SDMC section 27.3510.

10. SDMC section 27.3510 requires Local Code Filers to file an annual SEI on or before April 1 of each year, covering the period from January 1 through December 31 of the previous calendar year. In addition, SDMC section 27.3510 requires Local Code Filers to disclose their economic interests pursuant to the applicable Conflict of Interest Code adopted by the City Council. According to the Conflict of Interest Code for CCDC, Respondent is required to disclose investments in and sources of income from specific types of entities, including any person, firm, or entity that has engaged in or provided any of the following within the boundaries of the Centre City and/or Horton Plaza redevelopment project areas: land development, construction, acquisition or sale of real property, engineering, surveying, architecture, and appraisals.

11. According to SDMC section 27.3510, the information and amounts required to be disclosed by Local Code Filers with respect to each type of economic interest shall be the same as required by state law. California Government Code section 82030 states that the income of an individual includes the individual’s pro rata share of income received by any business entity in which the individual has a ten percent or greater ownership interest. In addition, California Government Code section 87207 states that SEI filers must disclose the names of sources of income to a business entity if the filer’s pro rata share of the gross income from a single source was $10,000 or more during the reporting period.

12. On April 2, 2007, Respondent filed his SEI for the 2006 calendar year. (April 1, 2007, fell on a Sunday so the filing deadline was extended to April 2, 2007.) Although Respondent disclosed that he had a ten percent or greater ownership interest in Tucker Sadler
Architects, Respondent failed to disclose any sources of income to this entity despite the fact that his pro rata share of the income received from four clients who are reportable sources of income pursuant to the CCDC Conflict of Interest Code amounted to $10,000 or more during the 2006 calendar year. In addition, although Respondent disclosed that he had a ten percent or greater ownership interest in Noble Castro, LLC (a property management and development company distinct from the Tucker Sadler architectural firm), Respondent failed to disclose a reportable source of income to this entity despite the fact that his pro rata share of the income received from this reportable source amounted to $10,000 or more during the 2006 calendar year.

13. On March 28, 2008, Respondent filed his SEI for the 2007 calendar year. Although Respondent disclosed that he had a ten percent or greater ownership interest in Tucker Sadler Architects, Respondent failed to disclose any sources of income to the firm despite the fact that his pro rata share of the income received from six clients who are reportable sources of income pursuant to the CCDC Conflict of Interest Code amounted to $10,000 or more during the 2007 calendar year. In addition, Respondent failed to disclose that he had a ten percent or greater ownership interest in Noble Castro, LLC, and failed to disclose two reportable sources of income to this entity despite the fact that his pro rata share of the income received from each of these reportable sources amounted to $10,000 or more during the 2007 calendar year.

Counts

Counts 1 and 2 – Violations of SDMC section 27.3510

14. Respondent failed to disclose his economic interests in accordance with SDMC section 27.3510. Specifically, on his 2006 SEI, Respondent failed to timely disclose income from four reportable sources to Tucker Sadler Architects, as well as income from one reportable source to Noble Castro, LLC. On his 2007 SEI, Respondent failed to timely disclose income from six reportable sources to Tucker Sadler Architects, his investment interest in Noble Castro, LLC, and income from two reportable sources to Noble Castro, LLC.

Factors in Aggravation

15. Respondent has a history of not complying with the City’s Ethics Ordinance with respect to the filing of SEIs. In particular, when Respondent served as a member of the Board of
Building Appeals and Advisors, he filed his SEI for calendar year 2004 approximately three months late, and his SEI for calendar year 2005 approximately four months late. Respondent entered into a stipulation with the Ethics Commission on November 9, 2006, and paid a fine in the amount of $400 in connection with the late filing of his 2005 annual SEI. It is also relevant to note that, when he ultimately filed his SEIs as a member of the Building Appeals and Advisors Board, Respondent disclosed his ownership interest in the Tucker Sadler firm as well as the identity of numerous clients who were sources of income to the firm. In other words, at the time of these SEI filings, Respondent was aware that he was required to disclose sources of income to his architectural firm.

**Factors in Mitigation**

16. Respondent cooperated with the Ethics Commission investigation.

**Conclusion**

17. Respondent agrees to take necessary and prudent precautions to comply with all provisions of the Ethics Ordinance in the future. In particular, Respondent agrees to fully and completely disclose his economic interests.

18. Respondent agrees to pay a fine in the amount of $3,000 for violating SDMC section 27.3510. This amount must be paid no later than March 20, 2009. Respondent acknowledges that if the fine is not timely paid in full, the Commission may refer the collection of the fine to the City Treasurer’s Collection Division, which may pursue any or all available legal remedies to recover late penalties, interest, and costs, in addition to seeking the outstanding balance owed.

DATED:__________________

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

DATED:__________________

ARTURO CASTRO, Respondent

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STIPULATION, DECISION, AND ORDER
DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on March 12, 2009. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $3,000.

DATED:__________________

Guillermo Cabrera, Chair
SAN DIEGO ETHICS COMMISSION