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City of San Diego Ethics Commission
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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

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10 In re the Matter of:) Case No.: 2008-65
11 ARTURO CASTRO,)
12 Respondent.) **AMENDED STIPULATION, DECISION,**
13) **AND ORDER**
)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

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

21 2. At all times mentioned herein, Arturo Castro was a principal of Tucker Sadler
22 Architects, successor entity to Tucker Sadler Noble Castro Architects, Inc. Castro is referred to
23 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 consultant to the Centre City Development Corporation [CCDC] because this agency was
2 providing the funding for the architectural services on the Main Library project. Specifically, in
3 calendar year 2007, the Tucker Sadler firm received over \$2.6 million in funding from CCDC in
4 compensation for architectural services provided for the Main Library project.

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

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

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

26 12. On April 2, 2007, Respondent filed his SEI for the 2006 calendar year. (April 1,
27 2007, fell on a Sunday so the filing deadline was extended to April 2, 2007.) Although
28 Respondent disclosed that he had a ten percent or greater ownership interest in Tucker Sadler

1 Architects, Respondent failed to disclose any sources of income to this entity despite the fact that
2 his pro rata share of the income received from three clients who are reportable sources of income
3 pursuant to the CCDC Conflict of Interest Code amounted to \$10,000 or more during the 2006
4 calendar year. In addition, although Respondent disclosed that he had a ten percent or greater
5 ownership interest in Noble Castro, LLC (a property management and development company
6 distinct from the Tucker Sadler architectural firm), Respondent failed to disclose a reportable
7 source of income to this entity despite the fact that his pro rata share of the income received from
8 this reportable source amounted to \$10,000 or more during the 2006 calendar year.

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

18 Counts

19 **Counts 1 and 2 – Violations of SDMC section 27.3510**

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

26 Factors in Aggravation

27 15. Respondent has a history of not complying with the City's Ethics Ordinance with
28 respect to the filing of SEIs. In particular, when Respondent served as a member of the Board of

1 Building Appeals and Advisors, he filed his SEI for calendar year 2004 approximately three
2 months late, and his SEI for calendar year 2005 approximately four months late. Respondent
3 entered into a stipulation with the Ethics Commission on November 9, 2006, and paid a fine in
4 the amount of \$400 in connection with the late filing of his 2005 annual SEI. It is also relevant
5 to note that, when he ultimately filed his SEIs as a member of the Building Appeals and Advisors
6 Board, Respondent disclosed his ownership interest in the Tucker Sadler firm as well as the
7 identity of numerous clients who were sources of income to the firm. In other words, at the time
8 of these SEI filings, Respondent was aware that he was required to disclose sources of income to
9 his architectural firm.

10 **Factors in Mitigation**

11 16. Respondent cooperated with the Ethics Commission investigation.

12 **Conclusion**

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

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

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23 DATED: _____

STACEY FULHORST, Executive Director
ETHICS COMMISSION, Petitioner

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25 DATED: _____

ARTURO CASTRO, Respondent

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DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on April 9, 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