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*Exempt from fees per Gov't Code § 6103  
To the benefit of the City of San Diego*

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CITY OF SAN DIEGO

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SAN DIEGO CENTRAL DIVISION**

15 CITY OF SAN DIEGO, a Municipal  
corporation;

16 Plaintiff,

17 v.

18 CCP 1200, LLC, a Delaware limited liability  
19 company; WILMINGTON TRUST,  
20 NATIONAL ASSOCIATION, an unknown  
business entity, as trustee of CGA CAPITAL  
21 CREDIT LEASE-BACKED PASS-THROUGH  
TRUST, SERIES 2017-CTL-1; CISTERRA  
22 PARTNERS, LLC, a California limited liability  
company; JASON HUGHES, an individual; and  
DOES 1 through 40, inclusive,

23 Defendants.  
24

Case No. 37-2020-00036247-CU-CO-CTL

**COMPLAINT FOR VIOLATION OF  
CALIFORNIA GOVERNMENT CODE  
SECTION 1090**

1 Comes now Plaintiff City of San Diego (the “City”) and alleges as follows:

2 **NATURE OF ACTION**

3 1. California Government Code section 1090 *et seq.* (“Section 1090”) strictly  
4 prohibits public officials from participating in the making of contracts in which they have a  
5 pecuniary interest. The conflict of interest provision prohibits private parties from providing  
6 benefits to public officials that would create a financial interest. Section 1090 penalizes any party  
7 that provides benefits to a public official through automatic disgorgement of all monies received  
8 as a result of the void contract without restoration of the benefits received or offset for the value of  
9 services provided.

10 2. “Officials make contracts in their official capacities within the meaning of section  
11 1090 if their positions afford them the opportunity to ... influence execution [of the contracts]  
12 directly or indirectly to promote [their] personal interests and they exploit those opportunities.  
13 And officials cannot hide behind labels and titles or ‘change hats’ to obscure the substance of their  
14 actions.” *People v. Sup. Ct. (Sahlolbei)* (2017) 3 Cal.5th 230, 245-246 (internal citations omitted).  
15 Under the right circumstances, an independent contractor is a public official or employee subject  
16 to the conflict of interest prohibitions of Section 1090. *Id.*

17 3. Through this action, the City requests a judicial declaration that the lease-to-own  
18 contract it entered into with respect to the Civic Center Plaza building located at 1200 Third  
19 Avenue (at times the “CCP”) and 201 A Street (at times the “King Chavez High School  
20 Building”) is void under the conflicts of interest law. The void contract resulted in certain  
21 defendants identified hereinafter as receiving compensation from the public treasury totaling in  
22 excess of \$20,000,000; public funds which the City now seeks remittance in relief.

23 **FACTUAL ALLEGATIONS**

24 **A. The City Engages Jason Hughes as a Special Volunteer for Real Estate**  
25 **Services.**

26 4. Commencing in 2013, the City engaged commercial real estate broker Jason  
27 Hughes ("Hughes") as its volunteer Special Assistant for Real Estate Services and authorized him  
28 to advise it on leasing strategies, negotiate with its potential landlords and property sellers, and

1 represent it in negotiating the terms of any contract or lease for its downtown San Diego office  
2 needs.

3 5. At all times, Hughes publicly held himself to be providing volunteer pro-bono  
4 representation and confirmed in writing that neither he nor his company, Hughes Marino, Inc.,  
5 were taking commissions for their services on behalf of the City. Hughes informed the press that  
6 his pro-bono work on behalf of the City was as a result of his sense of civic duty.

7 6. As part of his purported volunteer representation, Hughes represented the City in  
8 identifying potential locations for downtown office space, advising the City on its strategy for  
9 housing its significant number of employees, negotiating with landlords and owners, conducting  
10 due diligence, and participating in the making of contracts for its real estate needs. Hughes  
11 participated on behalf of the City in making leases for spaces located at 525 B Street, 1010 Second  
12 Avenue, 1200 Third Avenue (CCP), and eventually 101 Ash Street.

13 **B. The City Enters Into a Lease-To-Own Arrangement for CCP and Makes \$20**  
14 **Million in Rental Payments.**

15 7. CCP is a 295,000 square foot office building built in 1973. It had been occupied by  
16 City employees since 1991, when the City assumed the remaining term of a 40- year lease  
17 agreement between the building’s owners and their previous tenant.

18 8. In 2013, in anticipation of the expiration of the existing lease in July 2014, the City  
19 and CCP’s then owner entered into discussions of either selling the property to the City or entering  
20 into a new lease agreement.

21 9. In April 2014, the City entered into a non-binding Letter of Intent to purchase the  
22 CCP building and the adjacent King Chavez High School Building with an agreed upon price of  
23 \$44 million, and a hold-over rental rate of \$1.15 per square foot per month to cover the months  
24 between expiration of the existing lease and purchase of the building.

25 10. The City was not able to close on the deal for CCP.

26 11. Cisterra Partners, LLC (“Cisterra”) formed CCP 1200, LLP which then entered into  
27 an agreement with the owner of CCP and the King Chavez High School property to purchase the  
28 property for \$44 million.

1           12.     Contemporaneously, Cisterra negotiated with the City by and through its volunteer  
2 real estate broker and advisor for a lease-to-own agreement.

3           13.     The Lease Agreement between CCP 1200, LLC and the City (the “CCP Lease”)  
4 were negotiated by Hughes as the City’s representative.

5           14.     The CCP Lease contains a number of terms negotiated by Hughes including an “AS  
6 IS” clause whereby landlord CCP 1200, LLC attempts to disclaim any warranty or representation  
7 regarding the condition of the building.

8           15.     The CCP Lease is a triple-net lease, meaning the City has sole responsibility for  
9 rent, operating costs, expenses and condition.

10          16.     The CCP Lease has a duration of twenty (20) years and requires City to pay  
11 \$270,000 per month in rent.

12          17.     On the same day as the sale to Cisterra and the CCP Lease, defendant CCP 1200,  
13 LLC assigned its right, title, and interest in, to, and under the CCP Lease to defendant Wilmington  
14 Trust, National Association as the trustee of CGA Capital Credit Lease-Backed Pass-Through  
15 Trust, Series 2017-CTL-1 (“Wilmington Trust”).

16          18.     Accordingly, the City by and through the CCP Lease and the subsequent  
17 assignment have paid rents pursuant to the CCP Lease to Wilmington Trust.

18          19.     To date, the City has paid Wilmington Trust approximately seventy-five (75)  
19 months of rent from March 2015 through the date of the filing for a total in excess of twenty-  
20 million dollars (\$20,000,000).

21           **C.     Cisterra Paid Hughes Millions of Dollars Related to the CCP Transaction.**

22          20.     The City has recently discovered that Hughes received payments directly from  
23 Cisterra, CCP 1200, LLC, and/or its owners as a result of the series of CCP transactions described  
24 herein.

25          21.     On information and belief, Hughes received \$5,023,228.02 as a result of the CCP  
26 transactions.

27          22.     The payment by Cisterra, CCP 1200, LLC, and/or its owners to the City’s exclusive  
28 representative Hughes was not properly disclosed or authorized.

1           23.     California Government Code section 87200 *et seq.*, as it existed during the  
2 operative time period, required that any individual who serves in a position that makes or  
3 participates in making governmental decisions file a Form 700. The Form 700 provides necessary  
4 information to the public about the discloser's financial interests to ensure that public decisions  
5 are made in the best interest of the public and not enhancing personal finances or triggering  
6 conflicts of interest.

7           24.     Relatedly, Section 225 of the San Diego City Charter, as it existed during the  
8 operative time period, stated that

9           No right, title or interest in the City's real or personal property, nor any right, title,  
10 or interest arising out of a contract or lease, may be granted or bargained pursuant  
11 to the city's general municipal powers or otherwise... unless the person apply or  
12 bargaining therefor makes a full and complete disclosure of the name and identity  
of any and all persons directly or indirectly involved in the application or proposed  
transaction and the precise nature of all interests of all persons therein.

13           25.     None of the publicly released documents regarding the CCP Lease reflect Hughes  
14 receiving any money, commission or other payment for services.

15           26.     Hughes did not disclose his financial interest in the CCP building or transaction on  
16 any public filing or form, including a Form 700.

17           27.     Hughes did not disclose to the San Diego City Council that he received  
18 remuneration as a result of the CCP series of transactions.

19           28.     Cisterra and CCP 1200, LLC did not disclose Hughes' financial interest in the CCP  
20 building or transaction on any public filing or form. Cisterra and CCP 1200, LLC did not disclose  
21 that either entity or its owners paid Hughes directly as a result of the transaction.

22           29.     Cisterra and CCP 1200, LLC did not disclose Hughes' financial interest in the CCP  
23 building or transaction to San Diego City Council. Cisterra and CCP 1200, LLC did not disclose  
24 that either entity or its owners paid Hughes directly as a result of the transaction.

25           30.     To the contrary, publicly Hughes has touted that he was a volunteer assistant to the  
26 City while advising it to enter into deals that resulted in his receipt of millions of dollars.

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1 **PARTIES, JURISDICTION, AND VENUE**

2 31. The City asserts that jurisdiction and venue are proper before this Court as the  
3 events which underlie this lawsuit occurred within the City of San Diego and County of San  
4 Diego.

5 32. The City is, and at all times herein mentioned was, a California Charter City, duly  
6 organized and existing by virtue of the laws of the State of California.

7 33. The City is informed and believes, and thereon alleges, that defendant CCP 1200,  
8 LLC is a limited liability company existing under the laws of the State of Delaware, registered to  
9 do business in the State of California, with its principal place of business located in San Diego  
10 County, California.

11 34. The City alleges that defendant Wilmington Trust, National Association, an  
12 unknown business entity, is the trustee of CGA Capital Credit Lease-Backed Pass-Through Trust,  
13 Series 2017-CTL-1, and has a principal place of business in Baltimore, Maryland.

14 35. The City is informed and believes, and thereon alleges, that defendant Cisterra  
15 Partners, LLC is a limited liability company existing under the laws of the State of Delaware,  
16 registered to do business in the State of California, with its principal place of business located in  
17 San Diego County, California.

18 36. The City is informed and believes, and thereon alleges, that defendants CCP 1200,  
19 LLC and Cisterra have common ownership, membership, management, and control groups.

20 37. The City is informed and believes, and thereon alleges, that defendant Jason  
21 Hughes is an individual residing and providing services in San Diego County, California. The  
22 City alleges that Hughes is a licensed broker registered with the California Department of Real  
23 Estate.

24 38. The true names and capacities of Defendants named as DOES 1 through 40,  
25 inclusive, whether individual, corporate, or otherwise, are unknown to the City, which is informed  
26 and believes, and therefore alleges, that each of said fictitiously named Defendants is liable to the  
27 City on the causes of action herein alleged, and, therefore, the City sues such Defendants by said  
28

1 fictitious names. The City will move to amend this complaint when the true names and capacities  
2 of said fictitiously named Defendants have been ascertained.

3 39. The City is informed and believes, and thereon alleges, that at all times herein  
4 mentioned each of the Defendants was the agent and/or employee of each of their Co-Defendants,  
5 and in doing the things herein mentioned, was acting within the scope and course of the authority  
6 of such agency and/or employment, and with the express or implied permission and consent of  
7 their Co-Defendants.

8 **FIRST CAUSE OF ACTION**

9 **VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTION 1090**

10 **(Against Defendants CISTERRA, CCP 1200, LLC, HUGHES, and DOES 1 through 10)**

11 40. The City hereby incorporates by reference and realleges each allegation above as  
12 though fully set forth herein.

13 41. The City entered into the CCP Lease with defendant CCP 1200, LLC.

14 42. The CCP Lease was recommended, negotiated, and affirmed by Hughes such that it  
15 was made by Hughes in his official capacity subject to Section 1090.

16 43. At the time of the negotiations and implementation of the CCP Lease, Hughes had  
17 a financial interest in the contract such that he received money directly as a result of the  
18 transaction.

19 44. The financial interest in the contract was created by defendants Cisterra, CCP 1200,  
20 LLC and their representatives.

21 45. The City, and its decision-making body, did not know Hughes was to be  
22 compensated for his role in the CCP transaction and did not become aware until discovery in the  
23 related 101 Ash Street litigation.

24 46. Pursuant to Section 1090 *et seq.*, the CCP Lease is void due to the City's exclusive  
25 representative, Hughes, having a prohibited financial interest in the contract he participated in  
26 making as evidenced herein.









1 **SIXTH CAUSE OF ACTION**

2 **RESCISSION PURSUANT TO CIVIL CODE SECTION 1688 *et seq.***

3 **(Against Defendants CCP 1200, LLC, WILMINGTON TRUST and DOES 36-40)**

4 80. The City hereby incorporates by reference and realleges each allegation above as  
5 though fully set forth herein.

6 81. The City entered into the CCP Lease with defendant CCP 1200, LLC. The same  
7 day the CCP Lease was assigned to Wilmington Trust.

8 82. As described herein, the CCP Lease was obtained through mistake, fraud, undue  
9 influence and is unlawful such that it is subject to rescission pursuant to Civil Code section 1689.

10 83. The public interest will be prejudiced if the CCP Lease is permitted to stand.

11 84. The City has paid Wilmington Trust rent in excess of \$20,000,000.

12 85. Pursuant to Civil Code section 1688 *et seq.*, the City is entitled to disgorgement of  
13 monies paid pursuant to the rescinded contract. Accordingly, the City is entitled to restitution of  
14 monies had and received by Wilmington Trust.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, City prays for judgment against Defendants as follows:

17 1. On the First Cause of Action

18 a. For a judgment declaring the CCP Lease is void pursuant to California  
19 Government Code Section 1090 *et seq.*;

20 b. For restoration of benefits without offset provided by the City in an amount to  
21 be proven at trial pursuant to California Government Code Section 1090 *et seq.*;

22 2. On the Second, Third, and Fourth Causes of Action

23 a. For an award of general, special, incidental and consequential damages to be  
24 determined;

25 b. For an award of punitive damages in an amount appropriate to punish and make  
26 an example of named defendants and to deter similar conduct in the future;

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- 3. On the Fifth Cause of Action
  - a. For a judgment in the amount of money had and received, with prejudgment interest;
- 4. On the Sixth Cause of Action
  - a. For a judicial declaration that the CCP Lease is void and rescinded;
  - b. For a judgment in the amount of money had and received, with prejudgment interest;
- 5. On All Causes of Action
  - a. For costs of suit incurred herein;
  - b. For reasonable attorneys' fees incurred as provided by statute; and
  - c. For such other and further relief as the Court may deem just and proper.

Dated: June 29, 2021

**SCHWARTZ SEMERDJIAN CAULEY & EVANS LLP**

By:   
\_\_\_\_\_  
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CITY OF SAN DIEGO