STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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Petitioner

BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:  )  Case No.:  2017-31
CHRIS CATE,  )  STIPULATION, DECISION, AND

                       ) ORDER

                       Respondent.

STIPULATION

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 provisions of the City of San Diego Ethics
Ordinance [Ethics Ordinance], SDMC section 27.3501, et seq.

2. At all times mentioned herein, Chris Cate was the Councilmember elected to
represent City Council District 6. Councilmember Cate 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 matter 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 in this matter, the right to confront and cross-examine witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this matter. Respondent 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 agrees to hold the City of San Diego and the Ethics Commission harmless from any and all claims or damages resulting from the Commission’s investigation, this stipulated agreement, or any matter reasonably related thereto.

7. 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 matter to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matter.

8. 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

9. The Ethics Ordinance prohibits City Officials from disclosing confidential information acquired in the course of their official duties. SDMC § 27.3564(e). SDMC section 27.3503 defines “confidential information” as follows:
(a) At the time of the use or disclosure of the information, the disclosure is prohibited by a statute, regulation, or rule which applies to the City; or

(b) the information is not general public knowledge and will have, or could 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

(c) the information pertains to pending contract, labor, or real property negotiations and disclosing the information could reasonably be expected to compromise the bargaining position of the City; or

(d) the information pertains to pending or anticipated litigation and disclosing the information could reasonably be expected to compromise the ability of the City to successfully defend, prevail in, or resolve the litigation.

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

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

Counts

Count 1 - Violation of SDMC section 27.3564

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

Conclusion

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

14. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City’s Ethics Ordinance.
15. Respondent agrees to pay a fine in the amount of $5,000. This amount must be paid no later than December 8, 2017, by check or money order payable to the City Treasurer. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order portion set forth below.

[REDACTED]

DATED: __________________  ______________________________________________

Stacey Fulhorst, Petitioner
SAN DIEGO ETHICS COMMISSION

[REDACTED]

DATED: __________________  ______________________________________________

Chris Cate, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on December 14, 2017. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $5,000.

[REDACTED]

DATED: __________________  ______________________________________________

Deborah Cochran, Chair
SAN DIEGO ETHICS COMMISSION