

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

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

9
10 In re the Matter of:) Case No.: 2004-03
11)
11 ROGER TALAMANTEZ,) **STIPULATION, DECISION, AND**
12) **ORDER**
12 Respondent.)
13)

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 provisions of the City's Ethics Ordinance.

20 2. At all times mentioned herein, Roger Talamantez was the President and Chief
21 Executive Officer of San Diego Data Processing Corporation [SDDPC], a public corporation
22 created by the City of San Diego in 1979. Talamantez is referred to herein as "Respondent."

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

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

1 states that the prohibition applies to “any advantage, benefit, or economic gain, distinct from that
2 enjoyed by members of the public without regard to official status.”

3 10. Respondent’s personal residence is located within City Council District 2. On
4 August 11, 2003, Respondent received an email from one of his residential neighbors asking
5 Respondent to use his “connection” to Councilmember Zucchet (the former Councilmember for
6 District 2) to have the overhead utility lines on their residential street placed underground.
7 According to the California Public Utilities Commission, the aesthetic benefits of
8 undergrounding increase the value of the properties along the route. On August 12, 2003,
9 Respondent sent an email to Jearl O’Neal, his subordinate and the Director of Intergovernmental
10 Relations for SDDPC, asking O’Neal to work with the Councilmember Zucchet’s office to have
11 the utilities on his residential street placed underground. Respondent sent another email to
12 O’Neal on August 19, 2003, asking if there was any progress on the undergrounding issue.
13 O’Neal responded via email on August 20, 2003, and forwarded a response from a Council
14 Representative in District 2 indicating that Councilmember Zucchet would be prioritizing the
15 undergrounding projects in his district, and that Talamantez’s request “has been noted.” From
16 August 20, 2003, through September 5, 2003, Respondent sent several additional emails to
17 O’Neal asking him to follow-up on his undergrounding request.

18 **Counts**

19 **Count 1 – Violation of SDMC section 27.3564**

20 11. Respondent used his position and the power and authority of his office to induce
21 others to provide him with something of value, in violation of SDMC section 27.3564. In
22 particular, Respondent used his position to induce a subordinate employee to convey his
23 undergrounding request to a City Councilmember, and also used his position to induce the
24 Councilmember’s staff to prioritize his request. Because the undergrounding of utility lines
25 serves to enhance the value of residential property, Respondent’s request was intended to provide
26 him with a private economic benefit.

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28 ///

1 **Conclusion**

2 12. Respondent agrees to pay a fine in the amount of \$500.00 for violating SDMC
3 section 27.3564. This amount must be paid no later than September 16, 2005, by check or
4 money order made payable to the City Treasurer. The submitted payment will be held pending
5 Commission approval of this Stipulation and execution of the Decision and Order portion set
6 forth below.

7 DATED: _____
8 STACEY FULHORST, Executive Director
9 ETHICS COMMISSION, Petitioner

10 DATED: _____
11 ROGER TALAMANTEZ, Respondent

12
13 **DECISION AND ORDER**

14 The Ethics Commission considered the above Stipulation at its meeting on _____,
15 2005. The Ethics Commission hereby approves the Stipulation and orders that, in accordance
16 with the Stipulation, Respondent pay a fine in the amount of \$500.00.

17
18 DATED: _____
19 Dorothy Leonard, Chair
20 SAN DIEGO ETHICS COMMISSION