



THE CITY OF SAN DIEGO

March 25, 2013

Matt Potter
Senior Editor
San Diego Reader

VIA ELECTRONIC MAIL

Subject: Public Records Act Request

Dear Matt:

I am in receipt of the Public Records Act request you submitted via email on March 24, 2013, in which you request: (1) "all records regarding the investigation and settlement described by the 4 pm March 23 story appearing on the UT San Diego website entitled "Secret anti-DeMaio Campaign Revealed," (2) "any agreements invoices, and payments to Mr. Cabrera, as well as emails, memos, advice letters, and legal opinions produced as a result of his role," and (3) records of requests and responses made under the California Public Records Act to and from the ethics commission and the Fair Political Practices commission regarding the investigation reported by the U-T."¹

The majority of the documents you have requested are contained within the investigative files maintained by the Ethics Commission. The Commission's procedures do not permit the disclosure of investigative files to the public until all of the following occurrences have taken place:

- (1) The Commission has closed the matter; and
- (2) the statute of limitations applicable to the Commission's enforcement of the alleged violation has expired; and
- (3) the statute of limitations applicable to all governmental or law enforcement agencies that have jurisdiction over the alleged violation has expired; and

¹ In your request you suggest that the Ethics Commission produced documents to UT San Diego in response to a Public Records Act request. This is not the case. It is my understanding that UT San Diego obtained documents by submitting a Public Records Act request to the Fair Political Practices Commission.

Ethics Commission

1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448



- (4) all litigation and administrative proceedings initiated by any other governmental or law enforcement agency with jurisdiction over the alleged violation have reached final conclusion.

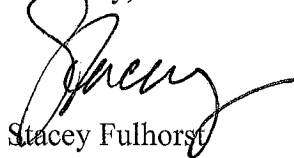
San Diego Municipal Code section 26.0455(e).

The Commission's policy regarding the disclosure of investigative records is consistent with California Government Code section 6255(a), which provides that the Ethics Commission may justify withholding any record by demonstrating that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. In particular, the release of investigative documents in a closed matter could affect the ability of other administrative or law enforcement agencies to investigate the same or similar allegations. Additionally, the Commission could decide to re-open a closed matter if new information regarding the underlying allegations were brought to its attention. In this particular case, the statutes of limitation applicable to the Commission and to other law enforcement agencies have not yet expired. Therefore, while the public has an interest in the disclosure of investigative records, we have performed the requisite balancing test and determined that the public's interest in non-disclosure clearly outweighs this interest.

The remainder of the documents you have requested concern Gil Cabrera, special counsel to the Commission. In response to this aspect of your request, I have attached copies of the account statements submitted by Mr. Cabrera in connection with the matter you specified. I have withheld those documents that concern communications between the Commission (including Commission staff) and its legal counsel, pursuant to California Government Code section 6254(k), which exempts "records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."

If you have any questions, please contact me at your convenience.

Sincerely,



Stacey Fulhorst
Executive Director

Attachments

THE CABRERA FIRM A.P.C.

501 West Broadway Suite 800
San Diego, CA 92101
Phone: (619) 500-4880 | Fax: (619) 785-3380

ACCOUNT STATEMENT		
Prepared for: San Diego Ethics Commission	Previous Balance	\$0.00
	Current Charges	\$150.00
	New Balance	\$150.00
RE: 527-01 - SDEC v. Maas, et al.	Adjustments	\$0.00
	Payments	\$(1,175.00)
	Now Due	\$150.00
Invoice No.: 10823	Trust Account	\$0.00
Date: March 06, 2013		

Appointing Authority
Approval to pay: *[Signature]*
Date: 3-6-13

Vendor #:	10027267
Purchase Order #:	4500036133
Cost Center #:	
Commitment Item #:	
Goods Receipt #:	5000235372
Invoice Document #:	5200296203
Date:	3/16/13

POSTED
3/4/13
check # 1251271

ETHICS COMMISSION



2013 JAN -3 AM @ 20 CABRERA FIRM A.P.C.
CITY OF SAN DIEGO

501 West Broadway Suite 800

San Diego, CA 92101

Phone: (619) 500-4880 | Fax: (619) 785-3380

ACCOUNT STATEMENT

Prepared for:
San Diego Ethics Commission

RE:
527-01 - SDEC v. Maas, et al.

Invoice No.:
10801

Date: Feb. 2, 2013
10801

Previous Balance	\$500.00
Current Charges	\$675.00
New Balance	\$1,175.00
Adjustments	\$0.00
Payments	\$(425.00)
Now Due	\$1,175.00
Trust Account	\$0.00

Appointing Authority
Approval to pay \$675.00
[Signature]
Date: 2-12-13

Vendor #: 10027267
Purchase Order #: 4500026133
Cost Center #:
Commitment Item #:
Goods Receipt #: 5000230498
Invoice Document #: 5200290706
Date: 2/12/13

POSTED
1/21/13
Check # 1245004

ETHICS COMMISSION
2013 JAN 15 AM 10:47
CITY OF SAN DIEGO

THE CABRERA FIRM A.P.C.

501 West Broadway Suite 800
San Diego, CA 92101
Phone: (619) 500-4880 | Fax: (619) 785-3380

Account Statement

Invoice No. 10788 Dated: January 1, 2013

Prepared for San Diego Ethics Commission

Re: 527-01 - SDEC v. Maas, et al.

Previous Balance	\$1,150.00
Current Charges	\$500.00
Payments	\$(725.00)
New Balance	\$925.00
Adjustments	\$0.00
Now Due	\$925.00
Trust Account	\$0.00

Appointing Authority
Approval to pay *\$500 only*
[Signature]
Date: *1-15-13*

Vendor #:	10027267
Purchase Order #:	4500031033
Cost Center #:	
Commitment Item #:	
Goods Receipt #:	5000223327
Invoice Document #:	52002831018
Date:	1/15/13

POSTED
12/13

check # 1239602

ETHICS COMMISSION

2012 DEC 11 PM 12:32

CITY OF SAN DIEGO

THE CABRERA FIRM A.P.C.

~~ETHICS COMMISSION~~

~~2012 NOV - PM 5:00~~

~~CITY OF SAN DIEGO~~

501 West Broadway Suite 800

San Diego, CA 92101

Phone: (619) 500-4880 | Fax: (619) 785-3380

Invoice No. 10769

Dated: December 4, 2012

Account Statement

Prepared for San Diego Ethics Commission

Re: 527-01 - SDEC v. Maas, et al.

Previous Balance	\$725.00
Current Charges	\$425.00
Payments	\$0.00
New Balance	\$1,150.00
Adjustments	\$0.00
Now Due	\$1,150.00
Trust Account	\$0.00

\$425 only

Appointing Authority
Approval to pay:

[Signature]
Date: 12-11-12

Vendor #:	10027267
Purchase Order #:	4500030133
Cost Center #:	
Commitment Item #:	
Trade Account #:	5000215997
Invoice Document #:	5200275899
Date:	12/12/12

POSTED
12/12/12

Check #: 1234434

THE CABRERA FIRM A.P.C.

501 West Broadway Suite 800
San Diego, CA 92101
Phone: (619) 500-4880 | Fax: (619) 785-3380

Account Statement

Dated: November 12, 2012 Invoice No. 10750

Prepared for San Diego Ethics Commission

Re: 527-01 - SDEC v. Maas, et al.

Previous Balance	\$725.00
Current Charges	\$725.00
Payments	\$(725.00)
New Balance	\$725.00
Adjustments	\$0.00
Now Due	\$725.00
Trust Account	\$0.00

Appointing Authority
Approval to pay
[Signature]
Date: 11-13-12

Vendor #:	10027267
Purchase Order #:	4500030133
Cost Center #:	
Commodity Item #:	
Check Amount #:	5000209383
Invoice Document #:	5200268693
Date:	11/14/2012

POSTED
10/11/12

check #: 1225329

THE CABRERA FIRM A.P.C.

Appointing Authority

Approval to pay

[Signature]
Date: 10-5-12

501 West Broadway Suite 800
San Diego, CA 92101
Phone: (619) 500-4880 | Fax: (619) 785-3380

Account Statement

Dated: October 2, 2012 Invoice No. 10730

Prepared for San Diego Ethics Commission

Re: 527-01 - SDEC v. Maas, et al.

Previous Balance	\$0.00
Current Charges	\$725.00
Payments	\$0.00
New Balance	\$725.00
Adjustments	\$0.00
Now Due	\$725.00
Trust Account	\$0.00

Vendor #:	10027267
Purchase Order #:	4500036133
Cost Center #:	
Commitment Item #:	
Goods receipt #:	5000199893
Invoice Document #:	5200258592
Date:	