



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Conflicts Review –
Arts Commission Applicants

DATE: November 30, 2017

BACKGROUND

This Office routinely reviews applications to City Boards and Commissions. The applications generally do not provide complete information regarding actual conflicts; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight areas of potential conflict which are disclosed by the application. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. This review is limited to the information provided on the applications and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

Pursuant to the San Jose Municipal Code, the Arts Commission advises the City Council and other City boards and commissions on matters relating to the arts and cultural life of the City, reviews and recommends funding levels for grant applications from cultural and other organizations, and monitors the City's art acquisition program.

The Commission is also responsible for formulating recommendations with respect to the City's art in public places program, in conjunction with the appropriate City departments and commissions.

Persons appointed to the Commission must have "acknowledged accomplishment" in one or more fields of art or "they must have demonstrated a deep interest and appreciation of cultural and artistic activities."

APPLICANTS

Applications listed below were reviewed by our office. No application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Arts Commission.

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting if a matter involving the entity comes before the Commission. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

- An application shows entities that are “sources of income” to a potential commissioner within the 12 months preceding the start of the commission term, as defined under the Political Reform Act.
- An application shows sources of income to a Spouse or Domestic Partner of a potential commissioner within the 12 months preceding the start of the commission term.
- An applicant or the Spouse or Domestic Partner of an applicant is an Officer or Board Member of an entity and it is foreseeable that the entity could be involved in a matter coming before the commission.

APPEARANCE OF BIAS

There may be facts which would not amount to a legal conflict of interest requiring a commissioner to recuse him or herself from a commission vote or discussion but the relationship could create an appearance of bias on the part of the commissioner. City Council policy requires commissions to be free of bias in their decision making and may require a commissioner to recuse him or herself if the facts could reasonably lead one to conclude that the applicant would be biased for or against an entity or entities.

REVIEW OF APPLICANTS

Set forth below are the applicants and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the Arts Commission in some manner, as identified on their application.

Gertrude Levy — Ms. Levy’s application indicates that both she and her spouse are retired. The application discloses neither incompatible offices nor apparent conflicts of interest.

Alayne Yellum — Ms. Yellum’s application indicates she is an artist and her spouse is a teacher for the East Side Union High School District. She is the Board Chair and

Community Representative for the San Jose Museum of Art. It is possible that the Commission could consider a matter involving the San Jose Museum of Art, which may present an actual conflict or appearance of bias. In such a case, Ms. Yellum may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Stephanie Southwick — Ms. Southwick's application indicates she is the managing partner for Greenfield, Draa & Harrington, LLP. Her spouse is the Vice President of Sales and Marketing for Sutro Vision. She is a former Trustee and former attorney for Ballet San Jose. It is possible that the Commission could consider a matter involving Ballet San Jose, which may present an actual conflict if the matter fell within the scope of her former representation of her client. In such a case, Ms. Southwick may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Tamiko Rast — Ms. Rast's application indicates she is a coffee shop manager at Roy's Station and is self-employed as a Tattooer and a Website and Graphic Designer. Her spouse is an accountant at MobileFrame. The application identifies Ms. Rast as the co-owner of Rasteriods Design, a website and graphic design company, which clients include San Jose Taiko, the San Jose Museum of Quilts & Textiles, Empire Seven Studio San Jose State, Cellista, and JAMsj. It is possible that these clients, and others, may be considered sources of income. If the Commission considers any matter involving Ms. Rast's clients, it may present an actual conflict or appearance of bias. In such a case, Ms. Rast may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Pam Kelly — Ms. Kelly's application indicates she is the Membership and Marketing Director for CreaTV San Jose. It is possible that the Commission could consider a matter involving CreaTV, which may present an actual conflict or appearance of bias. In such a case, Ms. Kelly may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Ramiro Torres — Mr. Torres' application indicates he is the Founding Principal of TOPA Architecture, and his spouse is the Financial Controller of Artik Art and

Architecture. It is possible that the Commission could consider a matter involving TOPA Architecture or Artik Art and Architecture, which may present an actual conflict or appearance of bias. In such a case, Mr. Torres may need to disqualify himself from taking part in the Commission's decision on that matter. Otherwise, his application discloses neither incompatible offices nor apparent conflicts of interest

Sarah Adeel — Ms. Adeel's application indicates she is San Jose and Peninsula Lead for Kiva, San Francisco. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Sunayana Bedi — Ms. Bedi's application indicates she is an executive at SAIR LLC, and her spouse is a dentist. The application does not identify SAIR, LLC's business activities. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Lyndsey Leong — Ms. Leong's application indicates she is a cashier at Sprouts Farmers Market and is the Host, Manager, and Promoter for HELLA Famous Productions. It is possible that the Commission could consider a matter involving HELLA Famous Productions, which may present an actual conflict or appearance of bias. In such a case, Ms. Leong may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Divya Sundaram — Ms. Sundaram's application indicates she is an IT Program Manager at Cisco Systems, and her spouse is a product manager for Walmart.com. Ms. Sundaram's application indicates that she is a part of a Dance Organization Board. It is possible that the Commission could consider a matter involving this board, which may present an actual conflict or appearance of bias. In such a case, Ms. Sundaram may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest

Jonathan Ho — Mr. Ho's application indicates he is a teacher with the East Side Union High School District. His application discloses neither incompatible offices nor apparent conflicts of interest.

Elizabeth Ruiz — Ms. Ruiz' application indicates she is the owner of Coin Toss Ventures dba Aloha Roller Pink and Casa Tortuga Yelapa. Her application does not

identify the type of work conducted by these businesses. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Steven Rubalcaba — Mr. Rubalcaba's application indicates he is employed as an Enrollment Specialist for Sourcewise. The application does not identify Sourcewise's business activities. His application discloses neither incompatible offices nor apparent conflicts of interest.

Bobbi Vie — Mr. Vie's application indicates he is employed as the Executive Director of FutureArtsNow! He also co-founded an event called "FAME", which the application identifies as an annual marketplace event. Mr. Vie's application states that he would recuse himself from reviewing or voting on grants or issues involving FAME or FutureArtsNow. Otherwise, the application discloses neither incompatible offices nor apparent conflicts of interest.

Jacob Chomicz — Mr. Chomicz' application indicates he is employed as an EMT (Emergency Medical Technician) with AMR. His spouse is a Yoga Instructor/independent contractor with Yoga Shala, Be the Change Yoga. His application states that he is co-founder of Speak San Jose. It is possible that the Commission could consider a matter involving Speak San Jose, which may present an actual conflict or appearance of bias. In such a case, Mr. Chomicz may need to disqualify himself from taking part in the Commission's decision on that matter. Otherwise, his application discloses neither incompatible offices nor apparent conflicts of interest.

Steven Mangold — Mr. Mangold's application indicates he is the Head Wrangler of Brand Cowboys. His spouse is retired. Mr. Mangold's application states he has worked professionally with several non-profit entities, including Symphony Silicon Valley, the San Jose Rep and the San Jose International Mariachi Festival. If Mr. Mangold received compensation for professional services, these entities may be sources of income to him. It is possible that the Commission could consider a matter involving Symphony Silicon Valley, San Jose Rep., or the San Jose International Mariachi Festival, which may present an actual conflict or appearance of bias. In such a case, Mr. Mangold may need to disqualify himself from taking part in the Commission's decision on those matters. Otherwise, his application discloses neither incompatible offices nor apparent conflicts of interest.

Christopher Campbell — Mr. Campbell's application indicates that he is employed as a Senior Manager with Apple, Inc. His application discloses neither incompatible offices nor apparent conflicts of interest.

Maria Bernadette Cooper — Ms. Cooper's application indicates she is employed as a Second Language Translator/Interpreter for the Berryessa Union School District and the San Jose Learning Center. Her spouse is retired. She also serves as the Chairperson for the Global Arts' Creative Collaboration for Empowerment. It is possible that the Commission may consider a matter involving the Global Arts' Creative Collaboration for Empowerment, which may present an actual conflict or appearance of bias. In such a case, Ms. Cooper may need to disqualify herself from taking part in the Commission's decision on those matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

None of the appear to have any incompatible offices or pervasive conflicts which would prevent serving on the Commission. Nonetheless, you may wish to consider the above comments in making your recommendations on appointments to the Commission.

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By: 
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cc: David Sykes, City Manager
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