



## *Memorandum*

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** PUBLIC MEMBER APPLICANT  
FOR POLICE AND FIRE  
RETIREMENT PLAN BOARD

**DATE:** November 19, 2020

### **BACKGROUND**

This Office routinely reviews applications for appointment to City boards and commissions for conflicts of interest, appearance of bias and incompatible office. The applications generally do not provide complete information; however, they do occasionally disclose potential conflicts of interest or incompatible offices.

The purpose of this memorandum is to summarize our review of the application submitted by the individual who will be considered by the City Council for a public member trustee position on the Police and Fire Departments' Retirement Plan's Board.

### **BOARD DUTIES**

In order to analyze potential conflicts, it is necessary to consider the duties of the particular board or commission for which the applicant is seeking appointment. The Board of Trustees of the Police and Fire Departments' Retirement Plan is established under the Municipal Code to manage, administer and control the plan. The Board's scope of authority and duties include determining employee eligibility for benefits, establishing contribution rates for employees and the City based on actuarial valuations, commenting on ordinances that propose modifications to the retirement plan and investing retirement funds. The Board is expressly authorized to secure the following types of contractual services:

1. Actuarial service
2. Auditing services
3. Investment management services
4. Investment performance evaluation services
5. Proxy voting services
6. Legal services
7. Other consulting services as the Board deems necessary to carry out its duties and responsibilities under the retirement plan.

## **SUBSTANCE OF CONFLICTS REVIEW**

### ***Incompatible Office***

The doctrine of incompatible offices is contained in Government Code section 1099. To fall within the Doctrine of Incompatible Offices, two elements must be present.

- Hold two public offices simultaneously, and
- A potential conflict or overlap in the functions or responsibilities of the two offices must exist.

### ***Appearance of Bias***

There may be facts which would not amount to a legal conflict of interest, but which could require a Board trustee to recuse him or herself from a Board vote or discussion, because of an appearance of bias on the part of the Board. City Council policy requires Board members to be free from bias in their decision making, and may require a Board member to recuse him or herself if the facts could reasonably lead one to conclude that the Board member would be biased for or against a person or entity.

### ***Legal Conflicts That May Preclude Board Contracts***

Because the Board has independent contracting authority, Board member conflicts of interest preclude the Board from contracting with entities in which a trustee has a financial interest. (Government Code Section 1090) For the Police and Fire Departments' Retirement Plan's Board, it is not adequate for a trustee to recuse him or herself from participating in a Board discussion or from voting on matters coming before the Board. The trustee with the conflict must either resign, or the Board must forgo the contractual opportunity.

While this list is not complete, conflicts generally arise in one or more of the following situations:

- A trustee has "sources of income" within the 12 months preceding the start of the trustee's term or during the trustee's term, as defined under the Political Reform Act.
- A trustee's spouse or domestic partner has "sources of income" within the 12 months preceding the start of the trustee's term or during the trustee's term, as defined under the Political Reform Act.
- A trustee or trustee's spouse or domestic partner is an Officer or

Board Member of an entity other than the Retirement Board and the entity is involved in a matter coming before the Board.

## **APPLICANTS**

### **1. Vincent Sunzeri**

#### **Employer**

Morgan Stanley  
Global Wealth Management

Senior Vice President  
Certified Investment Management  
Analyst, CIMA, Certified Private  
Wealth Advisor, CPWA

#### **Spouse Employer**

N/A

#### **Conflict of Interest**

Mr. Sunzeri is a current member of the Police and Fire Retirement Board. Mr. Sunzeri indicated that he would have no financial interest to disclose other than the above employment interest.

## **LEGAL REVIEW OF POLICE AND FIRE RETIREMENT BOARD APPLICANT**


Our office reviewed the application submitted by the applicant to be considered for a public member position on the Police and Fire Retirement Board by the City Council. Our review was limited to the information provided by the applicant and was not intended to be a comprehensive investigation of potential conflicts involving the applicant. The results of our review are as follows:

- The applicant did not disclose an incompatible office.
- The applicant did not disclose an appearance of bias.
- The applicant did not disclose an existing conflict of interest, e.g. the applicant did not disclose an existing financial interest in any organization, association, or entity that has an existing contractual relationship with the Board.

Attachment A is a list of the entities with which the Police and Fire Departments' Retirement Board has a contractual relationship with as of October 30, 2020. We note that some of these are forms of entities (partnerships or private companies) in which it is unlikely that the applicants would have a financial interest if they are not employed by the firm. However, even if the applicant does not currently have a contractual relationship with any firm in which the Board has a financial

interest, the list of entities with which the Board contracts with changes from time to time and we would expect a Board member's financial interests to change over time as well. Thus, both staff and any individual appointed to this Board will need to exercise vigilance to avoid conflicts from arising in the future.

NORA FRIMANN  
City Attorney

By   
Suzanne Hutchins  
Sr. Deputy City Attorney

cc: David Sykes, City Manager  
Toni Taber, City Clerk  
Roberto Pena, Director Retirement Services

ATTACHMENT A  
Retirement Board Vendors

**POLICE AND FIRE DEPARTMENTS' RETIREMENT PLAN**

*List of Administrative and Investment Vendors as of October 30, 2020*

**Custodian Bank**

Bank of New York Mellon

**Investment Consultant**

Meketa Investment Group,

**Absolute Return Consultant**

Albourne LLC

**Governance and Joint Personnel**

Cortex

**General Counsel**

Reed Smith, LLP

**Tax Counsel**

Ice Miller, LLP

**Actuary**

Cheiron

**Disability Counsel**

Saltzman Johnson Law  
Corp.

**Auditor**

Grant Thornton

**Risk Advisory Services**

Verus Advisory, Inc.

**Portfolio Overlay Services**

Russell Investments

**Pension Administration System Project Manager**

LRWL

**Legistar Operating System**

LRS

**Medical Consultant**

Dr. Tierman

**Communication Consultant**

Communication Advantage  
Marty Boyer

**Printing Services**

PJ Graphics

**Investment Managers:**

57 Stars LLC

Arbor Lane Capital Management

Artisan Partners Limited Partnership

BlackRock

The Blackstone Group

Blue Bay Asset Management

Brookfield Asset Management

BNY Mellon Asset Management

Cross Ocean Partners

Clarion Partners

CCMP Capital Advisors

Crestline Investors

Credit Suisse Asset Management

Crescent Capital Group

Cove Street Capital

DE Shaw

Dimensional Fund Advisors

DRA Advisors, LLC  
Eagle Point  
Francisco Partners  
GEM Realty Capital  
GQG Partners  
Global Infrastructure Partners  
Harbour Vest Partners, LLC  
Hudson Bay Capital Management  
Industry Venture  
Innovation Endeavors  
Insight Investment  
JD Capital  
Kepos Capital LP  
KSL Capital Partners  
Lime Rock Partners  
Medley Capital  
Neuberger Berman  
Northern Trust  
Northern Trust Asset Management  
Oberweis Asset Management  
Octagon Credit Investors  
Och Ziff Capital Management Group  
Orion Capital  
Park Square Capital, LLP  
Pantheon Ventures (US) LP  
Pine River Capital  
Portfolio Advisors, LLC  
Russell Investments  
Shoreline Capital  
Siguler Guff & Company, LP  
TA Associates Realty  
TCW  
Torchlight Investors  
Top Tier Capital Partners  
TPG Capital  
Tristan Capital Partners  
Vanguard  
Voya Investment Management  
Warburg Pincus, LLC

Wellington Management  
White Oak Global Advisors