



**Date:** January 6, 2025

**To:** Civil Service Commission

**From:** Sujata Reuter, Chief Assistant City Attorney

**Subject:** Conflicts Review – Salary Setting Commission Applicants

### **Background**

The City Attorney's Office has been asked to review applications to City Boards and Commissions. The applications generally do not provide complete information regarding potential 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, *if any*, that are disclosed by the applications. 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 solely to the information provided on the applications, and information provided by elected officials on their currently available Form 700s. [Please note that the Form 700s of the newly elected council members, Mr. Gonzalez and Ms. Cox, as well as the newly elected City Clerk, Mr. O'Keefe, are not yet available for review as of the time of writing this memo.]

### **Commission Duties**

Pursuant to City Charter Section 702, as well as City Code Sections 2.20.015 and 2.80.015, the Salary Setting Commission is responsible for setting the compensation for the elected offices in the city (the positions of Mayor, Council Member, City Clerk and Chief of Police).

### **Legal Conflicts that May Preclude Vote or Participation**

A commissioner may be precluded from participating in certain matters of Commission business if the commissioner has a personal financial interest in that matter. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

- An application shows conflicted persons or 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 applicant is an officer or employee of a person or entity that could be involved in a matter coming before the commission, or
- An applicant engages in a profession serving the local market that is likely to realize financial benefits or detriments, distinguishable from the public generally, that would result from the work performed by 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, however the relationship could create an *appearance* of bias on the part of the commissioner. The City's Code of Ethics and Values requires that Commissioners "make impartial decisions, free of . . . financial and other personal interests that impair [one's] independence of judgment or action." Accordingly, a situation may arise that 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 a person or entity.

### **Review of Applications**

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 commission in some manner, as identified on the applications.

- Azizul Choudhury
  - The Applicant is employed as a Client Relationship Consultant with U.S. Bank. This business is not listed on the Form 700s reviewed by this office. The elected officials reviewed do not appear to have any financial link to the Applicant. The City and Stadium Authority do have a banking relationship with U.S. Bank, but such a relationship is far outside the subject matter jurisdiction of the Salary Setting Commission. In addition, potential future actions taken by Council regarding the banking relationship with U.S. Bank are unknown at present, and are unlikely to have any financial effect on either the company, the Applicant, or the Council Members. The Civil Service Commission may wish to confirm that the Applicant does not work on any City/SCSA accounts and will not do so during the time of his service on the Salary Setting Commission.
  - The application discloses no other areas of potential financial conflict.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.

- 
- Mihir Kakkad
  - The Applicant is not currently employed. The volunteering organizations listed on the application do not receive financial support from the City. The elected officials reviewed do not appear to have any financial link to the Applicant. The application discloses no other areas of potential financial conflict.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Vamsi Krishna Gunda
  - The Applicant is employed as a Software Engineer at Apple. Two Council Members have reported stock ownership in in the range of \$2,000-\$10,000 in Apple stock; the company has office locations within the jurisdictional boundary of the City; the City purchases equipment (such as iPhone and iPad) from Apple Inc, but generally in amounts less than the \$250,000 purchasing authority delegation to the City Manager.
  - Given the nature of the work of the Salary Setting Commission, no action items dealing with Apple will come before them for consideration. The Civil Service Commission's appointment action also does not involve Apple and the Applicant's work on the Salary Setting Commission will not have any direct bearing on the corporation. Therefore, such areas of potential conflict are highly unlikely to be implicated.
  - Given the amount of the Council Members' investment, the value of the potential purchases of Apple equipment, and the fact that such purchases rarely come to the City Council for approval, as compared with the market cap for Apple Inc. (\$3.7 Trillion), any potential future Council action is unlikely to have a material effect on the stock value.<sup>1</sup>

---

<sup>1</sup> See also CA FPPC Adv. A-17-260 (Cal.Fair.Pol.Prac.Com.), 2017 WL 11318631 ["GE's potential role as a vendor in the EPC Contract does not appear to meet this standard. Given the large value of GE's outstanding shares and its stature as a conglomerate multinational corporation, compared to the relatively miniscule nature of any possible change in GE's value resultant from GE's potential to be a vendor on the EPC Contract, it is not foreseeable that these decisions would contribute to a change in GE's stock value."]

- The application discloses no incompatible offices and, based upon the analysis above, the City Attorney’s Office does not believe there are presently any financial conflicts of interest for this Applicant.
- Jeff Holmbeck
  - Applicant is employed as Director of Sales by Ansys Inc. This company does not appear to have a location within the City, and does not appear to do business with the City. Ansys is not listed on the Form 700s reviewed by this office. The elected officials reviewed do not appear to have any financial link to the Applicant. The application discloses no other areas of potential financial conflict.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.
- David M. Kertes
  - The Applicant is employed as VP of Sales and Marketing for American Equipment. This company does not appear to have a location within the City, and does not appear to do business with the City. American Equipment is not listed on the Form 700s reviewed by this office. The elected officials reviewed do not appear to have any financial link to the Applicant. The application discloses no other areas of potential financial conflict.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Ashish Mangla
  - The Applicant is employed as an Engineer at Intel. Intel is headquartered in Santa Clara. A review of Form 700s reflects one council member having a disclosed financial interest in excess of \$2,000 in Intel stock. However, given the nature of the work of the Salary Setting Commission, it is highly unlikely that any item dealing with Intel will ever come before them. The Civil Service Commission’s appointment action does not involve Intel and the Applicant’s work on the Salary Setting Commission will not have any bearing on the corporation.
  - The Applicant has volunteered with Boy Scouts of America but such volunteer work does not implicate the subject matter jurisdiction of the Salary Setting Commission and therefore does not create any potential conflict of interest.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.

- Frank Mangini
  - The Applicant is self-employed as a System Administrator. The elected officials reviewed do not appear to have any financial link to the Applicant. The application discloses no other areas of potential financial conflict.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.

- [REDACTED]

**Conclusion**

The Civil Service Commission may wish to consider the above comments in making its appointments to the Salary Setting Commission.

**cc:** Aracely Acevedo, Director of Human Resources