



**Date:** October 19, 2020

**To:** Civil Service Commission

**From:** Sujata Reuter, 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 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 to the information provided on the applications and is not intended to be comprehensive investigation of potential conflicts involving the applicants.

**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 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 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 commission in some manner, as identified on the applications.

- **Ram Misra**
  - The Applicant is a software engineer at Lockheed. No other sources of income are disclosed on the application.
  - The Applicant currently volunteers to serve on the “Chief’s Advisory Committee” (CAC) which is a somewhat informal group of 15 community members who advise the Chief of Police on issues and public policies which influence or impact the ongoing relationship between SCPD and the community it serves. The CAC does not have power or authority to investigate, review or otherwise participate in matters involving specific personnel or play a role in civil or criminal litigation. It is a non-compensated volunteer position. The CAC is not an official Board or Commission of the City of Santa Clara – it was not established by action of the City Council, by Ordinance, or Charter. The members of the CAC are not appointed by the City Council or any other official legislative body of the City. Service on the CAC and Salary Setting Commission do not appear to be incompatible offices. Furthermore, because CAC is not an official Board or Commission of the City, the City’s policy stating that an individual may not serve concurrently on two City Boards or Commissions would not apply to require the Applicant to resign from the CAC. However, as the Applicant notes, there may be the appearance of bias in that service on the CAC may be viewed as creating a “personal interest” in the matter of the Police Chief’s compensation. If the Applicant recuses himself from discussion and votes dealing with the Chief of Police, that has the potential of negatively impacting the Commission’s business (as any vacancy would).
  - The application discloses neither incompatible offices nor apparent conflicts of interest.
  
- **Eric Chu**
  - The Applicant is a realtor employed by Intero but provides no details about the types of real estate deals the applicant handles. The application references being a “small business owner” and it is presumed that refers to the real estate business. No other sources of income are disclosed on the application.
  - The Applicant currently serves as a member/supporter of the Intero Foundation, whose mission to positively impact the growth and well-being of children and elderly by taking donations from Intero agents and employees and passing those donations on to organizations that focus on supporting and assisting children and the elderly in the areas of education, health services, and personal development. A review of the Foundation’s website did not reveal any apparent conflicts of interest.
  - The application discloses neither incompatible offices nor apparent conflicts of interest.
  
- **Saira Lari**
  - The application discloses neither incompatible offices nor apparent conflicts of interest.

**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