

State of California



Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement
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December 21, 1984

Thomas J. Harron
City Attorney
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010

Re: Your Request for Advice
Our File No. A-84-288

Dear Mr. Harron:

Thank you for your letter requesting advice regarding the responsibilities of Councilmember Frank Scott under the conflict of interest provisions of the Political Reform Act.^{1/} My advice is based on the facts provided in your letter of November 20, 1984.

FACTS

You stated in your letter that Councilmember Scott is a stockbroker, and he has received more than \$250 in income from stock transactions during the past 12 months from Bud Chase. Mr. Chase is the manager of Chula Vista Sanitary Services ("CVSS"). CVSS was a subsidiary of SCA, but has recently been acquired by Genstar. In our telephone conversation, you confirmed that Mr. Chase currently owns no stock in Genstar, and there is no employee stock option plan available to Mr. Chase through Genstar.

CVSS has a contract with the City to provide street sweeping services, and Mr. Chase oversees the performance under the contract. CVSS is applying to the City for a rate increase and a contract extension. CVSS is also considering the purchase of real property located in the City's redevelopment area.

^{1/} Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise noted.

QUESTIONS PRESENTED

(1) May Councilmember Scott participate in City Council decisions on the rate increase and contract extension for CVSS in view of the fact that Mr. Chase is a source of income to him?

(2) If CVSS purchases real property in the City's redevelopment area, may Councilmember Scott participate in decisions concerning the City's redevelopment plan?

CONCLUSIONS

(1) Councilmember Scott may participate in City Council decisions on the rate increase and contract extension for CVSS.

(2) Councilmember Scott may participate in decisions concerning the City's redevelopment plan.

DISCUSSION

The Political Reform Act prohibits public officials from making, participating in, or using their official positions to influence a governmental decision when it is reasonably foreseeable that the decision will have a material effect on a source of income to them. Sections 87100 and 87103(c).

Since Bud Chase is a source of income of over \$250 to Councilmember Scott through the commissions on stock transactions, Councilmember Scott must refrain from participating in any City Council decisions which could have a material financial effect on Mr. Chase. In its regulation which defines the term "material financial effect," the Commission states only that a material effect on a source of income who is an individual person is a significant effect on that person. See 2 Cal. Adm. Code Section 18702(b)(3)(D). Significant financial effects on individuals would include significant effects on the amount of income they receive or on the value of their investments or interests in real property.

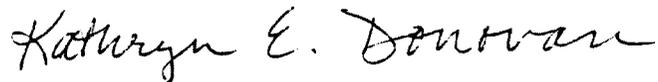
Insofar as the street sweeping contract with CVSS is concerned, it appears that a rate increase or contract extension will not have a direct effect on the amount of income Mr. Chase receives from CVSS. He receives a salary, and does not have any arrangement which provides him with additional compensation based upon an increase in income to CVSS. Further, Mr. Chase does not receive any employee stock options or other benefits from Genstar, the parent company, as a result of an increase in income to either CVSS or Genstar.

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Applying the same analysis to CVSS's proposed purchase of real property located in the City's redevelopment area, it also appears that any increase in the value of the property purchased by CVSS would have no direct effect on the amount of income Mr. Chase receives from CVSS.

If you have any additional questions concerning this matter, please feel free to contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh



The City of Chula Vista

Office of the City Attorney (619) 691-5037

November 20, 1984

Diane Fishburn
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95814

Dear Diane:

I tried calling you on November 19th to discuss another question that has arisen in the ongoing saga of Councilman Scott and Chula Vista Sanitary Service (CVSS). I spoke with Bob Leidigh and he suggested that I write to you requesting a letter opinion since you have had so much experience with this subject.

There are three new items coming up involving the City of Chula Vista and CVSS. As you know from past requests, Bud Chase, the Manager of CVSS, has been a source of income for Mr. Scott in that he uses Mr. Scott as his stockbroker. Since we last discussed this matter, Genstar has bought all of the stock of CVSS and Mr. Chase no longer owns any stock. CVSS is planning to come to the City to seek two discretionary approvals. One is a rate hike and the other is a contract extension. CVSS is also considering purchasing property in our redevelopment area and Mr. Scott is concerned this would affect his ability to participate in decisions dealing with redevelopment.

Bob Leidigh suggested that I take a closer look at Mr. Chase's employment with CVSS. He suggested that I look to see if there had been any history of benefits or salary increases associated with City approvals. He also raised the question of whether there is any profit sharing potential. I spoke to Mr. Chase and I found out that none of these existed. Mr. Chase told me that he assumes that if everything goes poorly, he eventually would expect to find himself out of a job, while if everything goes well, he expects the company to deal with him fairly, but there is no certainty that any one decision or group of decisions affect him in any certain way.

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He also told me that his responsibilities go beyond the City of Chula Vista. His title is Pacific Region Manager, which covers eleven western states with operations in three of them, Colorado, Arizona and California. The majority of the business is in California. The company has assets of \$57,000,000 with less than \$3,000,000 attributed to the operation in Chula Vista. Mr. Chase did say that since he lives in Chula Vista, he likes to see his company's trucks hauling the trash in his hometown. Also, his family used to own CVSS, which gives rise to some special personal feelings about the operation here but this is not necessarily shared by his employer, Genstar.

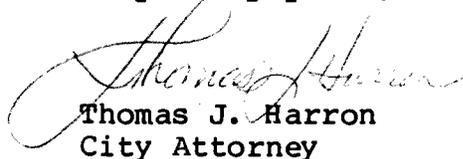
I think we can assume that both the rate hike and the contract extension would have a material financial effect on CVSS. In addition, I think that some of the decisions that the Redevelopment Agency would make would have a material effect on CVSS should they choose to purchase property within the redevelopment area. Mr. Scott has, of course, received more than \$250 in income from stock transactions with Mr. Chase.

Mr. Scott would like a letter opinion as to whether he may participate in any of these decisions which may have a material financial effect upon Chula Vista Sanitary Service. I realize that your advice letter No. A-84-244 responded to a very similar question, but your advice is very important to Mr. Scott because of his past difficulties with the District Attorney involving his vote on the grant of the City's trash franchise to CVSS. In addition, I felt this further information on Mr. Chase's employment relationship with Genstar/CVSS might be helpful to you in giving advice on this matter.

CVSS is trying to get a hearing before Council on its rate hike application on December 18th. They want the proposed new rates to go into effect on January 1. I would appreciate it if you could respond to us prior to that hearing if possible.

Thank you very much for your cooperation and courtesy in this matter.

Very truly yours,


Thomas J. Harron
City Attorney

TJH:clb