



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Germond and Commissioners Cardenas, Hatch and Hayward

**From:** Dave Bainbridge, General Counsel  
Brian Lau, Assistant General Counsel

**Subject:** Advice Letter Report and Commission Review

**Date:** February 11, 2019

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The following advice letters have been issued since the January Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

### **Conflict of Interest**

**Samantha W. Zutler**

[A-18-209](#)

Vice Mayor is prohibited from making, participating in making, or using his position to influence decisions relating to a multi-parcel development of 250 acres of open area within 500 feet of the Vice Mayor's residence.

**Heather L. Stroud**

[A-18-259](#)

The Act prohibits a disqualified Councilmember or his agent, attorney, or consultant from discussing a Cannabis Ordinance or its implementing regulations with City staff or elected officials outside of a noticed public meeting. While the Act provides an exception for an "appearance as a member of the general public," this exception does not apply outside of a noticed public meeting. However, the Act does not prohibit the Councilmember from making widely available public posts on social media regarding the Cannabis Ordinance or its implementing regulations under the "public speaking" exception.

**Amy Webber**

[A-18-265](#)

Where the Councilmember's spouse owns a business along the holiday parade route and is a member of the business association hosting the parade, it is not reasonably foreseeable that the decision to designate her councilmember discretionary funds of \$2,500 to help defray a business association's television costs for the parade will materially affect the Councilmember's interest in her spouse's business. The limited amount and purpose of the funds would not cause a prudent person to find that the decision would foreseeably contribute to a change in the value of the business.

**Phaedra Norton**

[I-18-268](#)

Generally, an official with a business and source of income interest in his employer, an engineering firm, may not participate in decisions where his employer is involved because it is

reasonably foreseeable that a decision on projects prepared by official's employer will have a material financial effect on the official's interest in his employer.

**Terry J. Mollica**[I-18-270](#)

Planning Commissioner with ownership interest in cannabis retail business should not take part in the consideration of cannabis manufacturing licenses as the decision regulates an activity in which his business is engaged and it is reasonable foreseeable that the decision will affect the value of the business.

**Salvador V. Navarrete**[A-18-271](#)

Public official with a source of income interest in her employer, may not take part in a decision with a foreseeable and material effect on a separate business owned by the employer. In general, if a public official has a source of income interest in an individual, and the official knows or has reason to know that the individual has an interest in a business entity that will be financially affected by a decision, the official is disqualified from taking part in the decision.

**Benjamin J. Cantu, Jr.**[I-18-277](#)

The Act does not prohibit Mayor from continuing his land use and design consulting business, but would likely prohibit him from contacting or appearing before city staff or officials in representation of his clients and would require him to recuse himself from any decisions involving his clients' projects.

**Andrew Morris**[A-18-284](#)

The Act prohibits Councilmember from taking part in governmental decisions pertaining to the planned development of a grocery store approximately 315 feet away from the Councilmember's sporting goods store, where the grocery store is projected to attract at least 1,525 daily customers to the vicinity and would also affect nearby traffic.

**Christian M. Carmona**[A-19-005](#)

The Act does not prohibit a city employee from consulting with a former employer's company on his personal time, even if the company has an existing contract with the city, so long as the employee does not make, participate in making or attempt to use his official position to influence a decision before the city that will have a reasonably foreseeable material financial effect on the company.

**Revolving Door****Ben Hafer**[I-18-202](#)

Appearances and communications by consultant and former state technical manager before previous state agency are restricted by the Act's one-year ban. The one-year ban does not extend to other agencies the official worked with as a technical manager because the facts indicated that he did not work for, or represent, the other agencies and they had no control over the official's former agency. However, the permanent ban will apply to any proceeding involving specific parties he previously participated in as a state employee.

## Section 1090

### **Dorine Martirosian**

[A-18-262](#)

A member of an advisory board with an interest in gas company has an interest in a contract to purchase natural gas that will result in additional revenue for the gas company to transport the gas and may not take part in the contracting process. However, Section 1090 does not prohibit the rest of the advisory board from taking part in reports and recommendations regarding the purchase, so long as the interested member abstains.

### **Heather C. Mc Laughlin**

[A-18-279](#)

Director of Joint Powers Authority, who is also the City Fire Chief, is not prohibited from participating in the consideration of an RFP by the Joint Powers Authority because the director does not have a financial interest in the consideration of an RFP merely because the City may subsequently enter into a new contract with the party selected by the Joint Powers Authority to provide services under the RFP.