



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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May 27, 2020

Robert Fabela
City Attorney
City of Anaheim
200 S. Anaheim Blvd, Suite 356
Anaheim CA, 92805

Re: Your Request for Advice
Our File No. A-20-068

Dear Mr. Fabela:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Under the Act, may Anaheim Mayor Harry S. Sidhu take part in upcoming City Council decisions related to the proposed regulation of cannabis distribution, manufacturing, cultivation, and retail sales within the City, given that his adult son, who lives in the same household, works as a consultant in the Orange County cannabis industry?

CONCLUSION

The Act does not prohibit Mayor Sidhu from taking part in the cannabis-related decisions because his adult son’s economic interests do not implicate the Act’s conflict of interest provisions—that is, Mayor Sidhu does not share his son’s economic interests for purposes of the Act. However, we caution that our advice is limited to the provisions of the Act. We cannot provide any advice regarding other conflict of interest provisions that may apply, including common law

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

conflict of interest, which may extend to family members other than “immediate” family members as defined under the Act.

FACTS AS PRESENTED BY REQUESTER

Harry S. Sidhu is the Mayor of the City of Anaheim (“City”). Mayor Sidhu’s son, Rohan Sidhu, is 23 years old and lives in the same household as Mayor Sidhu, who claims Rohan as a dependent. Mayor Sidhu pays for food, utilities, and other amenities for the entire household, and does not receive any rent or other payment in return.

In 2018, Rohan started a small business to provide “engineering consulting” to individuals and businesses working in the cannabis industry. In general, he provides guidance on starting and operating cannabis businesses, with a specialization in consulting on the process of obtaining state licenses issued by the Manufactured Cannabis Safety Branch and the Bureau of Cannabis Control, among other licensing agencies. He does not manufacture or distribute cannabis himself, nor does he profit directly from the manufacturing and distribution of cannabis by his consulting clients. Rohan also has no intent to provide any consulting guidance to cannabis businesses which may at any time be authorized to legally operate in the City of Anaheim. Mayor Sidhu has never held any ownership interest in his son’s business. He has not invested in the business or made loans or gifts of money to his son that were used in the business.

Cannabis is currently banned in the City for all purposes. The Anaheim City Council will soon face two decisions that could result in the regulation and taxation of cannabis manufacturing, distribution, cultivation and retail sales within the City. The first is an ordinance that would repeal existing Anaheim Municipal Code chapters banning cannabis use and adding chapters regulating cannabis distribution, manufacturing, cultivation and sales. The second is a City Council Resolution approving a ballot measure that would place a cannabis tax before the voters at the next general election, which requires a two-thirds vote of the City Council under the City’s Charter. If passed, the first item (the regulation ordinance) will only take effect if the voters actually approve a cannabis tax at the November 2020 general election.

ANALYSIS

Under Section 87100 of the Act, “[n]o public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family,” or on certain specified economic interests. (Section 87103.) Among those economic interests is any source of income aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)

Section 82029 defines the term “immediate family” to include an official’s “spouse and dependent children.” The term “dependent children,” in turn, is defined by Regulation 18229.1 to mean “a child . . . of a public official who is under 18 years old and whom the official is entitled to

claim as a dependent on his or her federal tax return.” Although Mayor Sidhu claims his son Rohan as a dependent for tax purposes, Rohan is over the age of 18 years old and, thus, is not considered a “dependent child” or “immediate family” for conflict of interest purposes under the Act. Additionally, given that Rohan has not made rent payments or similar payments to Mayor Sidhu, he also does not qualify as a source of Mayor Sidhu’s income.

Accordingly, the provided facts do not indicate that Mayor Sidhu has any economic interest implicated under the Act, and he may take part in the upcoming City Council decisions related to the regulation of cannabis distribution, manufacturing, cultivation, and retail sales within the City. We note, however, that the above advice is based on the current facts presented and, in the future, if Rohan were to qualify as a source of income, such as by making rent payments, Mayor Sidhu would have an economic interest in him. In such a scenario, Mayor Sidhu would generally be prohibited under the Act from taking part in governmental decisions that would have a reasonably foreseeable, material financial effect on Rohan.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

Kevin Cornwall
By: Kevin Cornwall
Counsel, Legal Division

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