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October 13, 2020

VIA EMAIL

Ms. Heather Baker
Assistant City Attorney
Office of the City Attorney
9770 Culver Boulevard
Culver City, CA 90212-0507

Re: Complaint and Request for Independent Investigation
City Council Member Thomas Small
Violations Culver City Policy Nos. 4006 ("Code of Ethics") and
4003 ("Acceptance of Gifts or Gratuities")

Dear Ms. Baker:

Receipt of the October 13, 2020 response (Response) of the Office of the City Attorney (Office) is hereby acknowledged. Please do not be so eager to "complete" the Office's response to my Complaint against City Council Member Thomas Small. On the other hand, please do not delay until after the November election in order to claim lack of jurisdiction.

Recusal

Am I correct in assuming that the Office has declined my request that it recuse itself from considering my Complaint against Council Member Small—a current and/or former client of the Office? The Response ignores the issue. My Complaint states, in part:

To conduct other[] than an independent investigation could prove problematic for the City Attorney's Office. (See, e.g., California Rules

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of Professional Conduct, Rules 1.7 [Conflict of Interest: Current Clients] and 1.9 [Duties to Former Clients].)

If the Office declined to recuse itself, please affirmatively so state, and set forth its reasoning.

"Gift" of "Operational Control"

My Complaint is not unclear as to the "gift." As quoted in my Complaint, Policy No. 4006 broadly defines "gift" as "anything of economic value, regardless of the form." My Complaint specifically states that the "gift" to Council Member Small was "operational control" over Culver City Forward, and, thus, its assets, not "salary received." The Complaint states, in part:

On June 1, 2020, Michael Hackman, former Chief Executive Officer of Culver City Forward, "funded" and formally relinquished operational control over Culver City Forward to City Council Member Small. One could reasonably assume that the economic value of operational control over a "funded" and operational tax-exempt corporation is substantially more than \$25. ... At the least, as the Chief Executive Officer of Culver City Forward, Council Member Small can determine his future salary for his services and other benefits; the present economic value of which would most likely exceed \$25.

(Emphasis added.) Potential future "salary" was mentioned as an example of what "operational control" entails.

Fair Political Practices Act

The Response states, "[A]ny salary received ... would be considered a 'source of income' for purposes of evaluating any potential conflict of interest under the Fair Political Practice Commission (FPPC) regulations." Even if that is correct, why is it relevant? My Complaint is based solely upon an alleged violation of Culver City policies. What is (are) the citation(s) of the alleged "FPPC regulations"?

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My Complaint is based upon alleged violations of Culver City's Ethics Policy and Guidelines. Policy No. 4006 specifically states, in part:

Violations of the Ethics Policy and Guidelines may expose a public official ... to a variety of consequences, including reprimand, removal from office, or termination of employment.

Policy Nos. 4003 and 4006 are self-contained. They do not depend upon, incorporate or make any reference to "FPPC regulations."

Please communicate with me if further information is desired. Now that the Office has heard from me, please do not consider the "City's response to [my] complaint ... completed."

Yours truly,

LES GREENBERG

LG:pg

cc: City Attorney Carol Schwab