



Los Angeles City Ethics Commission

August 23, 2013

The Honorable City Council
c/o Holly Wolcott, Interim City Clerk
200 North Spring Street
City Hall – 3rd Floor
Los Angeles CA 90012

**Re: Council File Number 13-1077
Appointment of Michael F. Fleming to the
Board of Water and Power Commissioners**

FOR COUNCIL CONSIDERATION

Dear Councilmembers:

On August 16, 2013, the Mayor transmitted to the City Clerk a letter indicating his appointment of Mr. Michael F. Fleming to the Board of Water and Power Commissioners. The Ethics Commission received Mr. Fleming's pre-confirmation statement of economic interests (SEI) on August 21, 2013, and this letter is provided for your consideration as part of the confirmation process. A copy of this letter is also being provided to Mr. Fleming to help him avoid potential conflicts of interests that may arise in the course of his tenure as a member of Board of Water and Power Commissioners.

Mr. Fleming reports on his SEI salary income from The David Bohnett Foundation for his position as Executive Director and from The Office of David Bohnett for his position as Political Director. If a matter involving either of these interests comes before the Board of Water and Power Commissioners, Mr. Fleming should, before acting, seek the advice of the City Attorney regarding whether he should disqualify himself. We are unable to assess if or how frequently Mr. Fleming would be in a position of having to recuse himself.

Interests disclosed on an SEI are not the only interests that can give rise to a conflict of interests. For example, state law may require recusal by a board or commission member due to certain business activities of the clients of that member's employer. Additionally, recusal may be required under City Charter § 222, which states that the City Attorney may provide a written opinion concerning the obligation of a City official to refrain from acting on a matter when it may violate state law or when action may not be in the public interest.

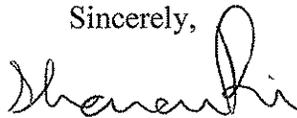
If a matter raises a potential conflict of interests, we encourage Mr. Fleming to seek the advice of the City Attorney before acting. If Mr. Fleming is required to disqualify himself from acting on a matter, Los Angeles Municipal Code § 49.5.6(J) and Executive Directive 2005-1 require him to file a Recusal Notification Form (CEC Form 51) with the Ethics Commission and the Mayor's office. If a board or commission member is disqualified from acting on three or more agenda items in a year because of a conflict caused by the same interest, the Ethics Commission is required by City Charter § 707 to review the conflict. If the Ethics Commission

determines that the member has a significant and continuing conflict of interests, it must order divestment of the interest that is causing the conflict.

In addition to reviewing a nominee's SEI, the Ethics Commission also verifies that the nominee is a registered City voter. We have received a completed Residence Verification Form for Mr. Fleming, which affirms that he is registered to vote in the City.

If you have questions, please feel free to contact me at (213) 978-1960.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Prior". The signature is fluid and cursive, with a large loop at the end.

Shannon Prior
Ethics Program Manager

cc: Mayor Eric Garcetti
Mr. Michael F. Fleming