

**Board of Pilot Commissioners for the Bays  
of San Francisco, San Pablo, and Suisun**

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TO: Jennifer Barton  
Assistant Director

May 19, 2022

FROM: Allen Garfinkle  
Executive Director

RE: Avoiding Conflicts of Interest

Jennifer,

As we have discussed, there are conflict-of-interest issues presented by your husband's existing or potential status as an applicant for admission to the pilot trainee training program, as a trainee in that program should he be admitted to the program, and as a pilot should he complete the training program and be licensed as a pilot. This memorandum summarizes the applicable law and sets forth guidelines and the protocol for dealing with any actual or perceived conflicts that might arise.

**Applicable Law**

Board Counsel has advised both you and the Board of the conflict-of-interest principles applicable to state officials and the application of those principles to your situation. He has provided you with a copy of the Attorney General's booklet on Conflicts of Interest and a copy of the regulations of the Fair Political Practices Commission on conflicts of interest.

In summary, as Assistant Director you must not participate in the making of a decision if it is reasonably foreseeable that the decision would have a material beneficial or negative effect, financial or otherwise, on you or your husband. The regulations of the Fair Political Practices Commission provide that a public official participates in a governmental decision "if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review."

Second, if your husband were to become a pilot, the Board's Conflict of Interest Code would require that you disclose as income to you your husband's income as a pilot.

**Areas in Which Conflicts Could Arise**

Conflict-of-interest principles do not, in any across-the-board manner, prevent you from functioning as Assistant Director. Most duties of the Assistant Director will not present potential conflicts. Duties not involving that potential include contracting for goods and services, preparation of budget materials and reports, assisting the Board and various committees by

providing informational materials, preparation of materials and reports that are required by various laws or regulations, and supervision of subordinate Board staff.

There are, however, certain decisions where your involvement would be problematic. Two of these decisions have not in the past involved the Assistant Director, but are listed here in the interest of completeness. Decisions of concern are whether the trainee stipend should be increased, whether pilot pension benefits should be increased under the authorization of section 1167 of the Code, and whether information concerning your husband's health should be referred to the Medical Review Officer under the Board's fitness regulations. In addition, there should be no participation by you in either a recommendation of the Incident Review Committee concerning an incident involving your husband or in an evaluation of your husband's performance in connection with the trainee training program. These latter two functions have not in the past involved the Assistant Director, and that non-involvement will continue during your tenure as well.

It is important to keep in mind that the "participation" that is prohibited under conflict-of-interest principles is involvement by you that is "for the purpose of affecting the decision without significant intervening substantive review." My "significant intervening substantive review" of your work on a matter will avoid any potential conflict of interest.

We will use the following protocol to avoid both actual and perceived conflicts of interest.

### **Protocol for Avoiding Conflicts of Interest**

The responsibility for avoiding conflicts interest rests jointly with you, me, and Board Counsel. If any one of us becomes aware of an upcoming decision where your involvement could present an actual or perceived conflict of interest, he or she, at the earliest possible time, must bring the matter to the attention of the other two.

The three of us will meet to discuss whether any possible beneficial or negative effect, financial or otherwise, is reasonably foreseeable and whether that effect is material. Board Counsel and I will then determine how to avoid any actual or perceived conflict. We may decide to exclude you entirely from any involvement with the decision. Alternatively, it may be possible for me to provide significant intervening substantive review of your work, thereby resolving the possible conflict in that manner.

Finally, regarding decisions which may present the possible appearance of a conflict of interest, but not an actual conflict, the nature and extent of your involvement, or lack thereof, will be made known to the Board at a public meeting.

### **Privacy Issues**

Aside from the issue of potential conflicts of interest, there is the matter of personal information concerning individual pilots, trainees, and trainee applicants that may come to your attention during the course of your work. Section 1157.1 of the Code protects as confidential the personal information of pilots, trainees, and trainee applicants. Such information may only be

shared in the ordinary course of Board business with those having a need to know. Section 1157.1 prohibits disclosure of such information to anyone without an official need for such information. You therefore may not disclose any such confidential information to your husband. Any breach of confidentiality by you concerning such personal information would subject you to disciplinary action.

Should you need clarification on any of the matters discussed above, please let me know.

Respectfully,



Allen Garfinkle  
Executive Director