



San Francisco Ethics Commission

25 Van Ness Avenue, STE 220
San Francisco, CA 94102-6053
ethics.commission@sfgov.org
415-252-3100 | sfethics.org

Date: June 5, 2023

To: Members of the Ethics Commission

From: Michael Canning, Acting Policy and Legislative Affairs Manager

Re: **AGENDA ITEM 08 – Discussion and possible action regarding request for waiver of post-employment restrictions for Britt Strottman.**

Summary and Action Requested

This memo provides background and analysis to assist the Commission in determining whether to grant a post-employment waiver to Britt Strottman. The Commission should evaluate Ms. Strottman's waiver request and as required by City law, consider if granting Ms. Strottman's waiver would create the potential for undue influence or unfair advantage. Based on its review of Ms. Strottman's request and applicable law, Staff recommends that the Commission not approve the waiver.

Background

On May 22, Britt Strottman sent a formal request to the Commission asking that part of the City's post-employment restrictions in the Campaign and Governmental Conduct Code (C&GCC) be waived. Ms. Strottman is a former City employee who worked in the City Attorney's Office and wishes to contact her former colleagues within that department on behalf of her current employer, Singleton Schreiber, LLP. Ms. Strottman's waiver request is included as **Attachment 1**. The facts included in this memorandum are drawn from Ms. Strottman's written request and communications between Ms. Strottman and Staff.

Applicable Law

The City has rules for all officers and employees that restrict what former City officials can do after they leave City service. These rules include a one-year restriction on communicating with the former City official's former department with the intent to influence a government decision.

These post-employment rules further the purposes of the Campaign and Governmental Conduct Code, which per [Section 3.200](#) is chiefly to "promote fairness and equity for all residents and to maintain public trust in governmental institutions." The law seeks to ensure "that public officers and employees [are] independent, impartial, and responsible to the people and that public office and employment [is] not...used for personal gain." The Code also asserts that government decisions by City officers and employees "should be, and should appear to be, made on a fair and impartial basis."

One-Year Restriction on Communicating with Former Department

[Subsection 3.234\(a\)\(2\)](#) of the C&GCC prohibits former employees from, with the intent to influence a government decision, communicating on behalf of any other person (except the City) with any officer or employee of the department for which the former employee served, for one year following the termination of their employment with the City. Ethics Commission [Regulation 3.234-2](#) outlines the scope of this restriction and provides guidance on determining whether this one-year ban applies.

This one-year post-employment communication ban furthers the goals of the Campaign and Governmental Conduct Code by ensuring that former City officers and employees cannot use their recent position with a department to unduly influence, or appear to influence, the actions of that department. Without this rule, officers and employees would be able to leave City service and immediately begin communicating with their former departments to affect decisions in favor of their new employer. This outcome would exemplify the “revolving door” issue arising from the public-to-private movement of government officials.

The one-year post-employment communication ban is designed as a modest but fundamental safeguard to support the fairness of governmental decision-making and to preserve the public’s trust in the integrity of governmental decisions. The rule contemplates that former City officers and employees, in light of their recent positions with the City, may be able to exert or appear to exert undue influence over other City officers or employees to secure favorable outcomes for their non-governmental employers or clients. This ‘revolving door’ to non-governmental service gives rise to issues of unfair advantage because former City officers and employees can have unique knowledge and access that can uniquely advantage the ability of their new employers or clients to secure beneficial outcomes in a way not available to other entities or organizations in the same field who also may seek opportunities to do business with government.

Waiver Authority of the Ethics Commission

[Subsection 3.234\(c\)\(1\)](#) of the C&GCC grants the Commission the ability to waive the one-year restriction on communicating with former department, “if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.”

Ethics Commission [Regulation 3.234-4](#) further outlines the process for submitting and potentially approving post-employment waivers. The regulation specifies that the Commission “shall not approve any request for a waiver from the one-year ban made under subsection 3.234(c)(1) unless the Commission makes a finding that granting such a waiver would not create the potential for undue influence or unfair advantage.” When determining if the granting of such a waiver would create the potential for undue influence or unfair advantage, the regulation specifies that the Commission may consider:

- the nature and scope of the communications the individual will have with his or her former department, board, commission, office, or unit of government;

- the subject matter of such communications;
- the former position held by the officer or employee;
- the type of inside knowledge that the individual may possess; and
- any other factors the Commission deems relevant.

When considering such waiver requests, the Commission should also consider whether granting a waiver would further the purposes of the Campaign and Governmental Conduct Code. The Commission may grant a waiver only if it finds that a waiver “would not create the potential for undue influence or unfair advantage.”

Waiver requests are evaluated based on the facts that are provided in the request, shared in related communications with Staff and the Commission, and found in additional documents provided to Staff and the Commission. These facts allow the Commission to evaluate whether a waiver is appropriate and must therefore be complete and accurate. Any waiver that the Commission grants is limited to the facts provided, and, should the facts change, the requestor should seek an updated waiver from the Commission.

Facts Presented

In her waiver request, Ms. Strottman describes her former work with the City, as a Deputy City Attorney in the Code Enforcement Section. Strottman states that she left City service in September of 2022 to become a Partner and lead the public entity practice group at Singleton Schreiber, LLP.

Ms. Strottman has specified that she is seeking the waiver so that she may contact the City Attorney’s Office in order to pitch the City on securing her firm’s services regarding per- and polyfluoroalkyl substances (“PFAS”) litigation. Ms. Strottman’s team has been meeting with various other cities and counties on this matter and would like San Francisco to join this group and for the City to secure the services of Singleton Schreiber, LLP.

Ms. Strottman has stated that she had no prior involvement with PFAS matters while working for the City.

Analysis

The Need for a Waiver for Ms. Strottman

Based on the facts presented in Ms. Strottman’s waiver request, Staff agrees that a waiver for the one-year post-employment communication ban would need to be acquired in order for Ms. Strottman to contact the City Attorney’s Office and carry out the activity described in her waiver request.

Based on Ethics Commission [Regulation 3.234-2](#), the one-year post-employment communication ban applies to Ms. Strottman’s desired communications with the City Attorney’s Office, since:

1. Ms. Strottman is a former City employee,
2. Less than one year elapsed since terminating her employment with the City,
3. She would be representing her new employer, Singleton Schreiber, LLP, and
4. Be communicating with the intent to influence a government decision.

In order for Ms. Strottman to be able to contact the City Attorney's Office regarding PFAS litigation, before the one-year anniversary of her leaving City service last September, she would need a waiver from the Ethics Commission for the one-year post-employment communication ban.

Considering if Granting a Post-Employment Waiver to Ms. Strottman Would Create the Potential for Undue Influence or Unfair Advantage

As the Commission considers if granting a waiver to Ms. Strottman would create the potential for undue influence or unfair advantage, [Regulation 3.234-4](#) identifies several factors for the Commission to consider. These factors include: the nature and scope of the communications the individual will have, the subject matter of such communications, the former position held by the officer or employee, the type of inside knowledge that the individual may possess, and any other factors the Commission deems relevant. These factors are discussed below.

The nature, scope, and subject matter of the desired communications and the former position held by Ms. Strottman.

The nature, scope, and subject matter of the communications described by Ms. Strottman do not appear to be similar to the work she did while a City employee. Ms. Strottman has stated that she did not work on water issues when employed by the City and had no prior involvement in PFAS matters during her period of City service. Given this, her prior work with the City and the specific matter for which she is seeking a waiver seem largely unrelated.

Inside knowledge Ms. Strottman may possess.

While Ms. Strottman did not work directly on water issues or PFAS matters when employed by the City, she may still possess inside knowledge that could create undue influence or unfair advantage. Specifically, Ms. Strottman may be able to use the knowledge of City practices she gained as a Deputy City Attorney, along with the professional relationships developed during her City service to benefit her current firm.

As a former Deputy City Attorney, Ms. Strottman has a unique background, which may grant her beneficial insights into City operations and processes. Additionally, Ms. Strottman has former colleagues at the City Attorney's Office, who may look favorably on Ms. Strottman. Ms. Strottman has told Staff that she left the City in good standing and that her former colleagues would likely be receptive to her reaching out to them, given her good standing when leaving the City.

Ms. Strottman has said that there are other firms that would likely be interested in providing legal services to the City regarding PFAS litigation. If Ms. Strottman is able to use any inside knowledge

gained during her City service or if her former colleagues at the City Attorney's Office were to give her any preferential treatment based on her being a former-City official, this would create undue influence and give her firm an unfair advantage over its competitors.

Other factors that may be relevant.

Ms. Strottman's one-year restriction extends until September of this year, which is in approximately three months. There does not appear to be any immediate harm to Ms. Strottman, her firm, or the City if she were to wait until September to begin communicating with her former department on behalf of her new firm.

Recommendation

The standard articulated for the Commission in Regulation 3.234-4 is that a waiver shall only be approved if the Commission makes a finding that granting such a waiver "would not create **the potential** for undue influence or unfair advantage [emphasis added]." Given the facts provided, Staff believes granting Ms. Strottman a waiver for this activity could create the potential for undue influence or unfair advantage, and thus recommends the Commission not approve Ms. Strottman's waiver request.

As presented above, granting Ms. Strottman a waiver could create undue influence or unfair advantage, if Ms. Strottman was able to capitalize on any inside knowledge she may have or use professional relationships with her former colleagues in the City Attorney's Office to provide a unique benefit to her new firm. Even if no actual undue influence or unfair advantage were to be created, granting this waiver could undermine City rules and create the appearance that government decisions may not be being made on a fair and impartial basis.

The City's one-year restriction on communicating with your former department is intended to serve as a cool-down period after an official leaves City service and to prevent the use, or perceived use, of the official's City position for private gain or advantage in their new role. Ms. Strottman's desire to acquire the City as a client by communicating with her former colleagues at the City Attorney's Office now, instead of three months from now, does not outweigh the City's interest in administering this rule.

Staff recommends the Commission not approve Ms. Strottman's waiver request. However, if the Commission does wish to approve Ms. Strottman's request, that approval should be limited only to communications made on behalf of Singleton Schreiber, LLP and regarding PFAS litigation.

Staff would like to thank Ms. Strottman for her cooperation through this process and her service to the City.

Attachments:

Attachment 1: Waiver Request from Britt Strottman Dated May 22, 2023

ATTACHMENT 1



San Diego Office
591 Camino de la Reina, Suite 1025, San Diego, CA 92108
(619) 771-3473 | singletonschreiber.com

May 22, 2023

City and County of San Francisco
Ethics Commission
25 Van Ness Ave, STE 220
San Francisco, CA 94102

RE: REQUEST FOR WAIVER FOR BRITT STROTTMAN FOR ONE YEAR BAN

Dear Ethics Commission,

Please allow this letter to serve as a request for a waiver from the one-year ban on communicating with former colleagues.

I was a Deputy City Attorney in the Code Enforcement Section (also known as the Resident and Safety Division) and also co-lead of the Women's Initiative. I left the office in September 2022 because of an opportunity to become a Partner and lead the public entity practice group at Singleton Schreiber, LLP. My one-year ban expires in September 2023.

The particular matter for which the waiver is sought for per- and polyfluoroalkyl substances ("PFAS" and/or "forever chemicals") litigation. Many public entities, especially public entities with airports since that is the source of the contamination, are starting to address this issue and build a plan for how to litigate against the contaminating companies and recoup for the losses to clean up the contamination. The firm and our experts are meeting (and have met) with several cities and counties to represent them in the litigation. We also spoke to the Attorney General's office to see how we can collaboratively work with them when we file on behalf of public entities.

I have had no prior involvement in PFAS matters.

Granting a waiver would not create the potential for undue influence or unfair advantage. I did not work on water issues in the office, so pitching a PFAS matter to the City would not conflict with any prior work at the City Attorney's office.

I am forwarding this request to her former supervisor, Deputy City Attorney Peter Keith. Thank you for your consideration.

Sincerely,

Britt Strottman

Cc: Peter Keith, Deputy City Attorney