



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

August 4, 2025

Brittany Brace
Assistant City Attorney
City of Brentwood
150 City Park Way
Brentwood, CA 94513

Re: Your Request for Advice
Our File No. A-25-110

Dear Ms. Brace:

This letter responds to your request for advice on behalf of Brentwood Planning Commissioner, Jeremy Jones, 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

Does Commissioner Jones have a conflict of interest prohibiting him from making, participating in making, or influencing decisions concerning the Planning Commission’s consideration of a proposed amendment to the Downtown Specific Plan (“DSP”) to authorize tattoo parlors as an allowed use, given that he is an employee of the corporate offices of Bank of America, of which there is a local branch located within the DSP planning area?

CONCLUSION

No. Provided Bank of America owns no property within the area of the DSP and merely leases the property, the Act does not prohibit Commissioner Jones from taking part in decisions

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 18104 through 18998 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.

relating to the potential amendment to the DSP to allow tattoo parlors because it is not reasonably foreseeable that those decisions would have a material financial effect on the Commissioner's source of income and business entity interests based on the facts presented.

FACTS AS PRESENTED BY REQUESTER

Brentwood is a general law city in Contra Costa County. Among the City land use documents is the DSP, which formally establishes a variety of civic, cultural, commercial, and residential uses within its planning area. The DSP is divided into seven districts: (1) the Brentwood Civic Center, (2) the Downtown Core, (3) the Civic Core, (4) Downtown General, (5) Downtown Boulevard, (6) Western Gateway Neighborhood, and (7) Residential Neighborhood. Per Brentwood Municipal Code Chapter 17.280, the DSP establishes the primary means of regulating land use and development within the specific plan area, and has been formally adopted as the zoning for that area.

Currently, tattoo parlors are explicitly prohibited within the DSP. On May 27, 2025, the Brentwood City Council provided direction to staff to amend the DSP to provide for tattoo parlors as an allowed use subject to administrative design review, on the condition of compliance with California Health and Safety Code sections 119300 et seq., the Safe Body Art Act. The Council's direction did not include drafting any restrictions on location or any other regulations specific to tattoo parlors.

As the zoning document for the specific plan area, an ordinance amending the DSP to allow for tattoo parlors will first be considered by the Planning Commission at a public hearing, which will provide a recommendation to City Council as to whether or not to adopt it. The amendment will provide for the use of tattoo parlors in all of the DSP commercial districts,² including the Downtown Core. The Downtown Core already allows for many uses, including retail sales and services, eating and drinking establishments, entertainment and recreation, banks and financial institutions, business services, personal services, parking lots and garages, civic and cultural uses, and others.

Brentwood resident Jeremy Jones was appointed as a Planning Commissioner by the Brentwood City Council on January 28, 2025, for a term that ends on December 31, 2026. Commissioner Jones is an employee of the corporate Bank of America offices and has held the title of Consumer Banking National Performance Manager since August of 2024. Prior to that, he held the titles of Consumer Banking Region Performance Manager (held from March of 2015 to June of 2021), Community Banking Region Performance Manager (held from July of 2021 to December of 2023) and Division Performance Manager (held from January 2024 to July 2024). His current role as Consumer Banking National Performance Manager does not entail him reporting to or working in any local branches. Commissioner Jones' retention and compensation are not tied to the operations of any particular branch. Under its "Responsible Growth" framework, Bank of America's goals are to achieve sustainable profitability by growing responsibly within a strong risk

² Tattoo parlors will not be allowed in the Residential Neighborhood district zone; as a residential area, there are no commercial uses.

framework, investing in its employees and operations, and contributing to the well-being of its clients and communities.³

There are two local Bank of America branches located within the City of Brentwood. One of those branches is located at 241 Oak Street, on the corner of Chestnut and First Street, within the Downtown Core area of the DSP in a retail-required zone. To the best of your knowledge, Bank of America leases this site and does not have an ownership interest in it. The street on which this local branch is located currently features a mix of restaurants and other retail businesses, including another bank, hair salons, and various service-oriented establishments. Bank of America's local branch offices are outlets of the corporation that do not constitute a separate legal entity.

In the City's analysis of the economic development impacts of allowing tattoo parlors downtown, it indicated that a studio is likely to attract both regular clients and walk-in customers, increasing foot traffic and benefiting nearby businesses such as cafes, retail shops, and salons. On average, a single studio serves between 5 and 10 clients per day per artist. As such, the allowance of tattoo parlors is not likely to meaningfully impact loan volume, deposit activity, or general customer behavior, or have any measurable impact on the bank's revenue even at the local branch level. There is no evidence known to the City that the allowance of tattoo parlors generally, or even the addition of a tattoo parlor adjacent to the bank, would create additional operational costs such as increased security, or cause the local branch to lose so many customers that it had to increase its marketing.

ANALYSIS

Under Section 87100 of the Act, "a public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official 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 specified economic interests are "[a]ny 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(a), (c)) and "any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management." (Section 87103(d).) An official with a financial interest in a business entity also has an interest in a parent or subsidiary of the business entity or an otherwise related business entity. (Regulation 18700.2(c).) Commissioner Jones has both a business entity interest and a source of income interest in Bank of America, his employer.

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, "[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the

³ See Bank of America, "Delivering responsible growth," available at: <https://about.bankofamerica.com/en/our-company/responsible-growth>

official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).⁴ Regulation 18702.2(a)(1)-(6) specifically excludes leasehold interests.

Under the facts presented, there is no indication that Planning Commissioner Jones has an economic interest in property owned or leased by Bank of America as you have not indicated any ownership interest in the company.⁴ Thus, his only interests in Bank of America are as a source of income and business entity, neither of which are explicitly involved in the governmental decision. Accordingly, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, "[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable." Based on the facts provided, Bank of America is not explicitly involved in the relevant governmental decisions.

The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business, as either a business entity or source of income, is material if the business will be financially affected under the materiality standards in Regulation 18702.1. (Regulation 18702.3(a)(4).) Under Regulation 18702.1, the Act provides that the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity, including a business entity that is a source of income, is material if:

- The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or greater than: (A) \$1,000,000; or (B) five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.
- The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or greater than: (A) \$250,000; or (B) one percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.
- The official knows or has reason to know that the entity has an interest in real property, other than a leasehold interest, and the property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6), or there is clear and convincing evidence the decision would have a substantial effect on the property.

Here, you state that the Planning Commission's consideration of a proposed amendment to the DSP to authorize tattoo parlors as an allowed use is not likely to meaningfully impact the loan volume, deposit activity, or general customer behavior, or have any measurable impact on the Bank of America's revenue even at the local branch level. Similarly, you state that Bank of America's annual gross revenues are not likely to increase or decrease by five percent as a result of the

⁴ An official has a property interest, in property owned by a business entity only if the official, or immediate family owns, directly, indirectly, or beneficially, a 10-percent or greater interest in the entity. (Section 82033.)

proposed amendment, as a company that reports annual revenues in the tens to hundreds of billions of dollars. You further state that there is no evidence that the allowance of tattoo parlors generally, or even the addition of a tattoo parlor adjacent to the bank, would create additional operational costs such as increased security, or cause the local branch to lose so many customers that it had to increase its marketing. And, even if there was, the amount would likely not exceed \$250,000 for one branch, let alone one percent of Bank of America's annual gross revenues.

You also stated that, to the best of your knowledge, Bank of America's real property interest in its downtown branch is a leasehold interest. Based on these provided facts, so long as the property is leased, it is not reasonably foreseeable that a decision to amend the DSP to allow tattoo parlors would have a material impact on Commissioner Jones' business entity interest in Bank of America. Under Regulation 18702.1(a)(2) and (3), there is no indication of a material effect on Bank of America's gross revenues, assets or liabilities, or expenses. Turning to Bank of America's interest in a leased property, Commissioner Jones is not disqualified from a decision based on a business interest's leased property under Regulation 18702.1(a)(4). However, we caution that we base this conclusion on the facts provided, and Commissioner Jones should confirm that Bank of America does, in fact, lease its property within the area of the DSP prior to taking part in the decisions. Because owned property is subject to more stringent standards under Regulation 18702.1(a)(4), we reach no conclusion in regard to Commissioner Jones' potential disqualification to the extent Bank of America owns any property within the area of the DSP.

In addition to the above-listed criteria that overlap with a business entity interest, the reasonably foreseeable financial effect on a source of income interest is also material if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official or the official's spouse receives or is promised the income for achieving the purpose or goal. (Regulation 18702.3(b).) You state that the City is unaware of any connection between the potential amendment to the DSP concerning tattoo parlors and any purpose or goal of Bank of America that would be achieved, defeated, aided, or hindered by recommending or not recommending approval of such an amendment. Moreover, because Commissioner Jones' retention and compensation are not tied to the operations of any particular branch, any effect the decision may have on a branch's operations would not translate into a personal benefit or detriment to him as an employee. Based on these provided facts, it does not appear reasonably foreseeable that a decision to amend the DSP to allow tattoo parlors would result in a material impact on Commissioner Jones' source of income interest in Bank of America under Regulation 18702.3(b).

Because the decision to amend or not amend the DSP to allow tattoo parlors would not have a material financial effect on Commissioner Jones' business entity and source of income interests in Bank of America, the Act's conflict of interest provisions do not prohibit Commissioner Jones from taking part in decisions relating to the proposed amendment to the DSP based on the information presented provided the Bank of America only leases its property and owns no other properties within the area of the DSP.

If you have other questions on this matter, please contact me at sirussell@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

A handwritten signature in black ink, appearing to be 'SR', with a long horizontal stroke extending to the right.

By: Simon Russell
Counsel, Legal Division

SR:aja