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August 14, 2006

Ed Rast, Chair
Sunshine Reform Task Force Commission
c/o Lee Price, City Clerk
200 East Santa Clara Street
2nd Floor (Wing)
San Jose, CA 95113

Re: Conflicts of Interest Analysis for Sunshine Task Force Commission

Dear Mr. Rast:

This firm is counsel to Metro Publishing, Inc. At the request of Dan Pulcrano, CEO of Metro Publishing, Inc., and current member of the San Jose Sunshine Reform Task Force Commission, we have been asked to review various conflict of interest provisions and advise whether his ownership interest in and affiliation with Metro Publishing, Inc., publisher of *Metro* and associated Internet services, gives rise to a conflict of interest with respect to his work on the Task Force. Specifically, I have reviewed the Draft Code of Ethics and Conduct for the San Jose Sunshine Reform Task Force and various provisions of the Fair Political Practices Act pertaining to conflicts of interest.

From this review, and based on my knowledge as to how other similarly situated individuals contribute to sunshine task forces in other cities, it is clear that absent a specific access complaint brought by one working on behalf of Metro coming before the Task Force or other similarly situated individual or entity with whom Mr. Pulcrano or Metro have a direct financial interest, Mr. Pulcrano's affiliation and/or ownership interest in Metro, standing alone, does not raise a conflict of interest with his duties and work on the Sunshine Reform Task Force. The business of disseminating news and information to the public cannot be viewed as an inherent conflict with the interests of the Task Force to ensure that the government is accountable to the people. While the media has an interest in providing information to its readers about their government,

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this interest is no greater than or different than the public's interest generally in an accountable government. Indeed, because the media's interest in an accountable government is no greater than the public's interest, courts have long recognized that the media's right of access to public records and meetings is no greater than the public's right of access. It simply cannot be said that because Mr. Pulcrano is in the business of disseminating information he has a financial conflict with serving on a commission designed to foster government accountability.

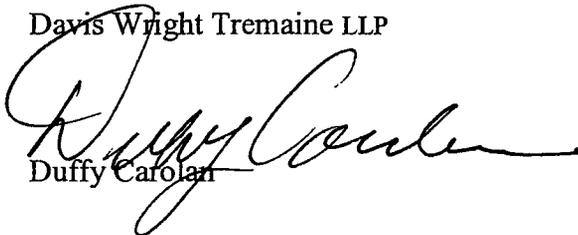
Not only does Mr. Pulcrano's affiliation with a media organization not pose an ethical, legal or financial conflict with his duties as a member of the Task Force under the code provisions reviewed, his affiliation brings with it a certain amount of experience and knowledge that will well serve the purpose for which the Task Force was formed.

Quite apart from posing a conflict of interest, other similar municipal task forces operating under the same conflict of interest provisions of the state's Fair Political Practices Act, actually require representation of the media and often media attorneys on their task forces. See San Francisco Sunshine Ordinance Section 67.30(a) ("All members must have experience and or demonstrated interest in the issues of citizen access and participation in local government." This ordinance requires that two members be appointed by the local chapter of the Society of Professional Journalists – one a local journalist and the other an attorney – and, additionally, a member be appointed by the press or electronic media.) The reason for such requirements are obvious – to draw on the knowledge and insight these particular individuals bring to bear on the issue of government accountability.

In summary, Mr. Pulcrano's ownership in or affiliation with a media organization does not pose an ethical, legal or financial conflict of interest.

Very truly yours,

Davis Wright Tremaine LLP



Duffy Carolan

DC/drr

cc: Dan Pulcrano, Vice Chair
Sunshine Reform Task Force Commission
Judy Nadler, Member,
Sunshine Reform Task Force