

VANGUARDIANS

POB 11202 Glendale, CA 91226

818 243 1502 – vanguard1@charter.net

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VIGILANCE leads to ACCOUNTABILITY

August 6, 2007

Scott Howard, City Attorney
City of Glendale
613 E Broadway
Glendale, CA 91206

RE: Complaint under GMC 2.83 – Elected official, Dave (David G.) Weaver

Dear Attorney Howard:

On behalf of the Glendale public I am filing this complaint alleging a violation of the GMC 2.83. Code of Ethics about the improper use of the official position of Council member Dave Weaver for the following involving his position on the executive committee of Virgelia Productions, Inc. of Panorama City a for-profit corporation, the producer of the Miss Asia Pageant.

Complaint against David G. Weaver, Council member, City of Glendale California for violations of the Glendale Municipal Code Section 2.83

- 1 The free use of Glendale Police officers, police cars and radios, police equipment, training and liability insurance for the Miss Asia Pageant, operated by Virgelia Productions, Inc. on whose executive committee Mr. Weaver sits, held at the Alex Theater on or about April 29, 2006, for which others must pay. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 2 Free use of the Central Library Auditorium and other space for which others are charged a set amount of money in advance for the use of the space and facilities. According to published schedules the library provided \$2540 worth of facilities for gratis. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 3 Cases of Water from the GWP that have only been available for City events and to Glendale not-for-profit agencies. Of 34 requests for sponsorship the GWP refused 1 not-for-profit community agency that received CDBG funds, granted 1 religious entity and granted only 1 for-profit, Miss Asia Pageant. . In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 4 The payment of money by Benvani Corporation for the use of the Alex Theater for the Miss Asia Pageant on whose executive committee the Council member sits within days of a \$6,000,000 payment to Benvani for the City's purchase of open space (Flint Canyon). . In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All

records (with regard to City actions) are in the care, custody and control of the City of Glendale.

- 5 The use of facilities in Pasadena (Marantha High School Auditorium) controlled by Dorn-Platz while Dorn Platz had business pending with the City and the Glendale Redevelopment Agency (240 N Brand and parking exceptions) on whose Board Council member Weaver sits for the use of the Miss Asia Pageant. . In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records (with regard to pending business before the City) are in the care, custody and control of the City of Glendale.
- 6 The use of the Royal Palace Banquet Hall for a reception while a \$40,000 façade improvement program was being approved. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records regarding façade improvement are in the care, custody and control of the City of Glendale.
- 7 Accepting funding for the Miss Asia Pageant from Gangi Development that had business before the City Council. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 8 Charter Cable, a franchise in the City of which Council member Weaver voted provided free services to the Miss Asia Pageant. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 9 Kajima Construction was a sponsor of the Miss Asia Pageant while obtaining permits and approvals for the construction of Embassy Suites. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records are in the care, custody and control of the City of Glendale.
- 10 A press release from the City of Glendale (April 4, 2006) on Weaver's appointment to the position of Mayor included the following; "...he is currently a member of the Executive Board of the Miss Asia USA Pageant". Indicating his relationship with Virgelia Productions, Inc., the producer of the Miss Asia Pageant.
- 11 Mr. Weaver is the person that received the insurance certificate for Virgelia Productions. Indicating his business relationship. Although not a part of this complaint he did receive the certificate of insurance for 2007 from a different vendor.
- 12 Supershuttle was a sponsor and was a service provider to the Glendale-Pasadena-Burbank Airport (Bob Hope) on whose Commission Mr. Weaver sat until being appointed mayor.
- 13 ABC7 provided services to Miss Asia while an Owner Participation Agreement was being prepared for the parent organization, Disney. In violation of GMC2.83.030 A & B, GMC 2.83.040, GMC 2.83.050 A, B & E, GMC 2.83.070. All records with regard to the OPA are in the care, custody and control of the City of Glendale.

The GMC sections below that are marked with ## are the applicable sections in this complaint.

A. The proper operation of local government requires that elected and appointed officials be independent, impartial and responsible to the people; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics and conduct for all elected and appointed officials whether paid or unpaid. The purpose of this chapter is to establish ethical standards of conduct for all such officials by setting forth guidelines and those acts or actions that are incompatible with the best interests of the city.

B. Public officials are bound to observe in their official acts the highest standards of performance and to discharge faithfully the duties of their office regardless of personal considerations. Recognizing that the public interest must be their primary concern, their conduct in both their official and private affairs should be beyond reproach. The provisions of this chapter are hereby declared to be in the best interest of the city and for the protection of the public health, safety and welfare of its citizens. (Ord. 5219 (part), 1999)

2.83.020 Definitions. For purposes of this chapter, the following terms shall have the meanings specified:

Boards and Commissions. The terms "boards and commissions" and "boards or commissions" includes all appointed boards or commissions under the Glendale Charter, Title 2 of the Glendale Municipal Code, 1995, and any other board, commission or committee where the members are appointed by the city council.

Official. The term "official" or "officials" shall include the members of the city council and members of all boards and commissions as set forth in the Charter, Title 2 of the Glendale Municipal Code, 1995, or any other board, commission or committee where the members are appointed by the city council.

Private Advantage/Benefit/Gain, Etc. As used in this section, the terms "private advantage," "private benefit," "private gain," or "economic gain" mean any personal advantage, benefit or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. (Ord. 5219 (part), 1999)

##2.83.030 Fair and equal treatment.

##A. No official shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of officials in the conduct of official business.

##B. No official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. (Ord. 5219 (part), 1999)

##2.83.040 Avoidance of impressions of corruptibility.

Public officials should conduct their official affairs so as not to give a reasonable basis for the impression that any such official can be improperly influenced in the performance of his/her public duties. Such officials should conduct themselves so as to maintain public confidence in their performance of the public trust and the government they represent. They should not be a source of embarrassment to city government and should avoid even the appearance of conflict in the conduct of their public duties. (Ord. 5219 (part), 1999)

##2.83.050 Improper activities. No official shall engage in any enterprise or activity which shall result in any of the following:

##A. Using the prestige of influence of the city office including board or commission membership for private gain or advantage of himself/herself or another.

##B. Using time, facilities, equipment or supplies of the city of Glendale for the private gain or advantage of himself/herself or another.

C. Using official information not available to the general public for his/her private gain or advantage or that of another.

D. Personally or through an intermediary receiving or accepting money or other consideration from any person or entity other than the city of Glendale, or agency or board of which they are a member (e.g., Alex Regional Theatre Board; Burbank, Glendale, Pasadena Airport Commission) where such receipt or acceptance is intended as consideration for the performance

of acts done in the regular course of official duty. Example: An architect who is a member of the DRB which will determine the matter, and is hired to draft plans and/or advise a client and is paid for such services, is not in violation of this section assuming the architect is not otherwise in violation of state law or other provisions of this chapter.

##E. Receiving or accepting, directly or indirectly, any gift or favor from anyone doing business with the city of Glendale under circumstances from which it could reasonably be inferred that such was intended to influence him/her in the performance of his/her official duties, or as a reward for official action. (Ord. 5219 (part), 1999)

##2.83.070 Improper use of city position or prospective position.

No official of the city, and no candidate for elective city office, shall use his/her position or prospective position, or the power or authority of his/her office or position, in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit or economic gain of the official, or of any other person. This section does not apply to campaign contributions solicited or received consistent with State and local laws. (Ord. 5219 (part), 1999)

2.83.090 Protection of employees and others against retaliation for reporting fraud, waste or misuse of office.

A. No official of the city shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any person for the purpose of or preventing such person from acting in good faith to report or otherwise bring to the attention of the city or other appropriate agency, office or department, any information which, if true, would constitute a gross waste of city funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of an official, or use of a city office or position or of city resources for personal gain.

B. No official of the city shall use or threaten to use any official authority or influence to affect or a reprisal against a city official, employee, or any other person who reports or otherwise brings to the attention of the city or other appropriate agency any information regarding the subjects set forth in subsection A, above. (Ord. 5219 (part), 1999)

2.83.110 Penalties for noncompliance-No new legal rights created.

A. In addition to any other penalty provided by law, violation of any provision of this chapter shall be a basis for disciplinary action of a board or commission member, including removal from the position to which he/she was appointed. Any elected official who violates this chapter may be subject to censure by the city council or other remedy permitted by law.

B. This chapter shall not be construed to create a cause of action or other remedy for damages against the city of Glendale or any officer or employee. It is intended solely to provide a basis for disciplinary action, censure, or removal from office as permitted by law. (Ord. 5219 (part), 1999)

2.83.120 Code of ethics supplements existing law. This chapter is intended as an addition to and supplement of federal, state and local laws relating to the subject matter addressed herein. (Ord. 5219 (part), 1999)

Should you consider that your office has a conflict of interest as you are the attorney for the Council please let me know and/or feel confident to forward this complaint to the Los Angeles County District Attorney or the Attorney General of the State of California providing me with the information as to the disposition or forwarding of this complaint by August 22, 2007

As the GMC 2.83.110 only provides for censure by the Council, it is our opinion that as these egregious acts have been previously brought to the attention of the Council and they have chosen not to place this on the agenda, and that Council member Weaver has not offered to make the City whole for its losses, that he has continued to violate this code and that he has shown no regret or remorse, that this matter be investigated under State and/or Federal law pursuant to GMC 2.83.120

This complaint is being sent by email and the exhibits are being hand delivered along with a copy of the complaint. Response by email is requested.

Sincerely,



Barry Allen
Executive Director

Exhibits:

- 1 Corporate Status Virgelia Productions owner of Miss Asia Pageant
- 2 Letter from Council member Weaver to Chief of Police Adams
- 3 Schedule for personnel and police vehicles
- 4 2 pages Email from Weaver to Library Director confirming dates for use of library facilities
- 5 GWP Event participation for Miss Asia
- 6 GWP Sponsorship guidelines
- 7 Alex Theater T & C for Virgelia Productions use of Theater
- 8 Corporate Status of Benvani Inc
- 9 City Council Minutes of Special Meeting November 9, 2005 indicating Mr. Weaver's vote on the open space purchase of Flint Canyon (3 pp)
- 10 Copies of Checks from Benvani Inc to Alex Theater for Miss Asia (3 pages indicating a total of \$12,500)
- 11 Certificate of Liability Insurance showing it was sent to Panorama City c/o Dave Weaver 2006
- 12 Certificate of Liability Insurance showing it was sent to Panorama City c/o Dave Weaver 2007