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July 6, 2015

To Whom It May Concern:

The Mental Health Oversight and Accountability Commission (“MHSOAC”) has issued a 15 day Notice that attempts to foreclose all further comments on changes to their Conflict of Code by suggesting that the FPPC has pre– approved the proposed language. (See last half of the third paragraph found here: [http://www.mhsoac.ca.gov/Laws\\_Regs/docs/15daynoticeWAppendxA\\_B%20June%2025\\_2015.pdf](http://www.mhsoac.ca.gov/Laws_Regs/docs/15daynoticeWAppendxA_B%20June%2025_2015.pdf), which reads as follows: “The new language for the disclosure categories that was written and approved by the FPPC is shown in Appendix B of the Conflict of Interest Code by underlined (new language) and ~~strikeout (deleted language).~~”)

Nonetheless, I do object to the proposed changes to the original Code. If the FPPC truly approved them, then something is drastically wrong with California law, because the “approved” changes allow the agency to hide fundamental conflicts of interest:

**I. COMMISSIONERS SHOULD NOT BE ALLOWED TO HIDE THEIR REAL ESTATE INVESTMENTS**

The Commission seems determined to hide real estate investments, something a properly constituted Conflict of Interest statute would never allow (though home addresses should be made non–public, an easy fix).

The existing Conflict of Interest Code reads as follows:

**Disclosure Category 1**

A person holding a position designated in this category must report all interests in **real property**, all sources of income (including gifts, loans, and travel payments) and investments and business positions in business entities of the type that contract with or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health systems.

However, the proposed language in the 45 and 15 day Notices dropped the reference to real property, requiring only disclosure of investments in “business entities”:

#### Disclosure Category 1

A person holding a position designated in Disclosure Category 1 must report all investments and business positions in business entities, and all income (including gifts, loans, and travel payments) from sources, that operate a program of the type approved by the MHSOAC including any program of the type providing mental health services to a local agency such as voluntary and outpatient services under a plan approved by the MHSOAC.

As demonstrated in my initial Comment at pp 9–10(attached for reference), the statutory responsibilities of the Commission now have significant potential impact on real estate values. Here are links to two examples of how these types of decisions create controversies that can drastically affect such values, one recent from California and one older that I could easily find because I was involved: [http://www.sanluisobispo.com/2015/06/27/3699422\\_on-proposed-mental-health-facility.html?rh=1](http://www.sanluisobispo.com/2015/06/27/3699422_on-proposed-mental-health-facility.html?rh=1) [http://www.leagle.com/decision/19841116352NW2d764\\_11029.xml/NORTHWEST%20RESIDENCE%20v.%20CITY%20OF%20BROOKLYN%20CTR](http://www.leagle.com/decision/19841116352NW2d764_11029.xml/NORTHWEST%20RESIDENCE%20v.%20CITY%20OF%20BROOKLYN%20CTR). FPPC should not be allowing the Commission to hide investments that its subject matter jurisdiction so directly affects.

## **II. COMMISSIONERS AND KEY STAFF SHOULD NOT BE PERMITTED TO HIDE THEIR PAID CONSULTANT RELATIONSHIPS**

MHSOAC’s former Conflict of Interest Code required Commissioners and key staff to disclose their paid consultant relationships with counties (though the one Commissioner who apparently had such a relationship did not do so, see p. 6 of the Attachment):

Here is the original language, according to the 45 day Notice:

#### Disclosure Category 1

A person holding a position designated in this category must report all interests in real property, all sources of income (including gifts, loans, and travel payments) and investments and business positions in business entities of the type that contract with or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health systems.

#### Disclosure Category 2

A person holding a position designated in this category must report all sources of income, including gifts, loans, and travel payments, and investments and business positions in business entities of the type that contract or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health system.

The proposed changes in the 15 day Notice exclude this language:

Disclosure Category 1 A person holding a position designated in Disclosure Category 1 must report all investments and business positions in business entities, and all income (including gifts, loans, and travel payments) from sources, that operate a program of the type approved by the MHSOAC including any program of the type providing mental health services to a local agency such as voluntary and outpatient services under a plan approved by the MHSOAC.

Disclosure Category 2 A person holding a position designated in Disclosure Category 2 must report all investments, and business positions in business entities, and all income (including gifts, loans, and travel payments) from sources of the type that provide services, equipment, materials, vehicles, supplies, to the MHSOAC including but not limited to:

- Contracts to evaluate the outcomes and performance of the Mental Health Services Act and the community mental health system
- Contracts related to Commission and Committee meetings and community forums such as court reporters/transcribers, interpreters, leased facilities, and public relations
- Contracts related to training, consulting, or stakeholder involvement
- ~~• Interagency agreements with other state entities such as CalHR, University Enterprises Inc. (student assistants)~~

Permitting this change allows Commissioners and key staff to hide fundamental conflicts of interest. Counties compete for funds from the Commission, which can constitute a huge portion of county Mental Health budgets. In May, for example, MHSOAC gave over \$103 million to five counties, see [http://www.mhsoac.ca.gov/Meetings/docs/Meetings/2015/May/OAC/OAC\\_052815\\_Agenda\\_1.pdf](http://www.mhsoac.ca.gov/Meetings/docs/Meetings/2015/May/OAC/OAC_052815_Agenda_1.pdf) and attachments. The more Innovation funds that one county gets, the less there is for others. Commissioners should at minimum be forced to disclose and recuse themselves in situations where they have been acting as paid consultants to counties that come before them asking for huge sums of money.

### CONCLUSION

MHSOAC Commissioners and key staff should not be permitted to change their Conflict of Interest Code to hide their real estate investments or paid consultant relationships with counties.

Respectfully submitted,

Mary Ann Bernard

cc: Lynda Cassady  
Attachment: Initial Comment



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January 22, 2015

**Re: MHSOAC Proposed Changes to its Conflict of Interest Code**

To Whom It May Concern:

I am a retired attorney, and as the Mental Health Oversight and Accountability Commission ("MHSOAC") is aware, I volunteer on behalf of an organization that advocates for the severely mentally ill, MentalIllnessPolicy.org ("MIPO"). I am, however, filing this comment solely on my own behalf as a California citizen. While MIPO is deeply concerned about the ethics of MHSOAC, it has limited resources, and issues under the California Political Reform Act ("PRA") are far beyond the scope of its mission.

As a retired attorney, I have neither the need nor the desire to familiarize myself with all the intricacies of agency Conflict of Interest Codes or their relationship, if any, to the PRA. Further, the fact that I filled out analogous disclosures as an Assistant Attorney General in another state for eighteen years may confuse my analysis. However, I have educated myself enough to have serious concerns about MHSOAC's interpretation of its present Conflict of Interest Code, and what may happen in the future.

As shown below, this is an unusual agency with a history of scandal that controls or has a hand in controlling the allocation of billions of California tax dollars. Moreover, while its current Code of Ethics is ambiguous, it appears that many of its Commissioners and employees are not following it, however it is interpreted. This needs not only to be rectified, but also considered as relevant background to the agency's proposal to change this Code.

My opinion as an attorney with 25 years of experience in public practice is that MHSOAC should be required keep and slightly expand its Conflict of Interest Code, rather than narrowing it as proposed. Further, the FPPC should review past disclosures, and provide assistance to MHSOAC as necessary so that they will follow their Code in the future.

## I. Agency History and Duties

The Mental Health Service Oversight and Accountability Commission was created by the voters in Proposition 63, now the Mental Health Services Act, in 2004. It consists of 16 voting Commissioners, preferably “with personal or family experience with mental illness,” all of whom serve without compensation. See W.I.C. Section 5845. Five are what the FPPC refers to as “multiagency filers” i.e., a county sheriff, a school superintendent, and two legislators. Three are required to come from the industry they regulate, i.e., a health insurer representative, a physician specializing in alcohol and drug treatment, and a “mental health professional.” The rest tend to come from that industry or related ones, though it is not required.

The monies generated by the Mental Health Services Act vary with income tax receipts but the amount is huge, estimated at 1.8 billion for 2014–2015 in the Governor’s 2015 budget.<sup>1</sup> Historically, MHSOAC had to review and approve county plans for expenditures of 25% of that budget, allocated for Prevention and Early Intervention and Innovation, and to review and comment on county plans as a whole, prior to separate approval by the Department of Mental Health, see former 5846(a) and (b) (2009). 25% of 1.8 billion is 450 million dollars, in this fiscal year.

MHSOAC came under considerable criticism from MIPO, among others, for the expenditures it was authorizing. Essentially, MHSOAC took the statutory floor for Prevention and Early Intervention expenditures, “mental illness,” and made it into a statutory ceiling, refusing to allow the mentally ill even to apply.<sup>2</sup> It approved a wide variety of expenditures on people who are not and will never be mentally ill, for things such as yoga, line dancing and drumming circles, a farming webinar for dairy farmers experiencing a downturn in milk prices, Hmong Gardens and an African American Cultural Center, a hip hop carwash, a homework club, programs to help the elderly with or without mental illness, programs to help students improve grades, a Native American Health Center, various Lesbian, Gay and Transgender programs not limited to people with mental health diagnoses, a Halloween event at Yosemite Lake, a Multicultural Celebration, a Thanksgiving Lunch, a Winter Celebration, Cinco de Mayo Celebration, Black History Month, and a Hmong Harvest Celebration.<sup>3</sup> There was also evidence of potential self-dealing by Commissioners<sup>4</sup>.

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<sup>1</sup> See National Alliance for the Mentally Ill (“NAMI”) newsletter dated 1/15/15 p. 1.

<sup>2</sup> This assertion is fully documented in MIPO’s Comment No. 1 to MHSOAC’s current proposed PEI regulations, which will be provided on specific request.

<sup>3</sup> *Ibid*; see also . <http://mentalillnesspolicy.org/states/california/mhsa/mhsa.prop63.baitswitch.fullreport.pdf> pp. 13- 18.

<sup>4</sup> *Id.* at p. 21.

Public criticism was loud enough that the Legislative Auditor reviewed not only the activities of MHSOAC but of other related agencies, and issued a critical report. See <http://mentalillnesspolicy.org/states/california/mhsa/state-auditor-mhsa-report>.

The legislature took away MHSOAC's authority to oversee county plans, replacing it with authority to issue regulations in the area where MHSOAC has had the greatest historical responsibility, Prevention/Early Intervention, and Innovation. See current WIC Section 5846(a). Thus the Commission still has regulatory authority over 25% of the huge MHSA budget, amounting to approximately \$450 million in 2014–2015.

MHSOAC also received additional responsibilities in a new area, the development of centers for crisis intervention, stabilization, and residential treatment of severely mentally ill persons. Specifically, MHSOAC is now charged with overseeing grants for crisis intervention triage personnel, and "notwithstanding any other law, the commission, without taking any further regulatory action, may implement, interpret, or make specific *this section* by means of informational letters, bulletins, or similar instructions." WIC Section 5848.5(e)(6)(emphasis added).

MHSOAC is now promulgating regulations pursuant to its new authority, which are still in the notice and comment stage. MIPO has strongly opposed many aspects of the proposed Prevention and Early Intervention regulations, which ignore statutory mandates (*ie*, provisions using the term, "shall") requiring programs for the severely mentally ill. Instead, MHSOAC is attempting to continue funding programs for people who are not and will never be mentally ill, contrary to the terms of the MHSA.<sup>5</sup> (MIPO has not reviewed the proposed Innovation regulations.)

In general, MHSOAC, composed largely of private sector individuals advised by a private sector attorney, treats MHSA and the California Administrative Procedure Act as if they were inspirational corporate mission statements, rather than laws the agency is actually required to follow and enforce. Not surprisingly, the agency appears to take the same approach toward the Political Reform Act. Though I cannot pretend a thorough understanding of this statute, it appears that many Commissioners are not adhering even to the narrowest interpretation of its current Conflict of Interest Code. This issue needs to be rectified before the agency is permitted to amend it.

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<sup>5</sup> This assertion is fully documented in MIPO's comments to the proposed PEI regulations, which will be provided, with appropriate citations, on specific request.

### **III. The Current MHSOAC Conflict of Interest Code: Ambiguities and Interpretation**

According to the agency's Notice of Proposed Amendments, the current MHSOAC Conflict of Interest Code relating to its high level personnel reads as follows:

#### **Disclosure Category 1**

A person holding a position designated in this category must report all interests in real property, all sources of income (including gifts, loans, and travel payments) and investments and business positions in business entities of the type that contract with or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health systems.

#### **Disclosure Category 2**

A person holding a position designated in this category must report all sources of income, including gifts, loans, and travel payments, and investments and business positions in business entities of the type that contract or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health system.

These are ambiguous provisions. As I read them, and perhaps as FPPC reads them, they require Disclosure Category 1 personnel to disclose "all interests in real property" and both Category 1 and 2 to disclose "all sources of income." This seems consistent with the PRA. As interpreted in FPPC regulations, "all sources of income" seems to include spousal income, which makes sense because governmental actions that impinge on spousal income can create severe conflicts of interest for government officials. It is possible, however, to read the above-quoted language as requiring only disclosure of income and real estate investments "of the type that contract or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health system."

### **IV. Potential Noncompliance by Commissioners and High Level Employees**

It appears that some Commissioners are not adhering to even the narrowest reading of the agency's current Conflict of Interest Code. I did a Public Records Act request for the disclosure forms of three high level staff and all 16 Commissioners for a four year period, responses to

which I am forwarding with this e-mail comment. (Scroll down to see them.) What I found, in essence, is that some Commissioners read the above-identified ambiguities both ways, but many others ignored the requirements entirely, no matter how you read them.

I am aware that the Government Code Section 82030(b)(2) excludes government salaries from the definition of "income" and Section 87206(f) excludes personal residences from the definition of "real estate." MHSOAC may be reading these statutory exclusions into its present Code. This would explain why, despite its wording, none of the government employees disclose any income, and only 2 people disclosed ownership of a home.<sup>6</sup> Because these exclusions are not explicitly acknowledged in the Conflict of Interest Code, this indicates that Commissioners and staff are receiving legal advice in filling out these forms. Well and good.

What is puzzling is how much else is not being reported.<sup>7</sup> The vast majority of the Category 1 and 2 filings at MHSOAC check the "none" box in the Schedule Summary, indicating they had nothing to disclose. This may be understandable for some staff who receive government salaries. Perhaps they have no spouses and no outside income or investments, even though all are older professionals. But it makes no sense for unpaid Commissioners, virtually all of whom are highly educated private sector employees working in the industry they regulate, and no longer young. Collectively these individuals have been responsible over the years for the allocation and (MIPO argues) misallocation of many billions of dollars. It is therefore worrisome that from their filings, many of them appear to be single people without homes, income or investments, apparently surviving on air. This is simply not credible, particularly in light of their published biographies. For example:

- The current Chair, Dr. Victor Carrion, is a Professor at Stanford University School of Medicine who practices at the Lucile Packard Children's Hospital at Stanford, according to his online bio. He is obviously receiving considerable income from "business entities of the type that contract or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health system." He also likely has substantial investments, a pension plan through Stanford Children's Hospital, and so forth. However, he consistently checks the "none" box. (See Carrion disclosures dated 5/26/11, 3/2/12, 5/2/13, and 1/22/14).

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<sup>6</sup> One former Commissioner disclosed income from sale of a home, though he had not disclosed ownership earlier. A few others disclose non-specific real property ownership. Only one or two disclosed mortgages or loans of any kind, even when disclosing real property ownership.

<sup>7</sup> A small number of filings disclosed nothing, not even a checkmark in the "none" box. See Dr. Deborah Lee 2/4/14, Andrea Jackson 2/3/14, Sherri Gauger 4/9/10, Commissioner Howard Kahn 6/23/11 and Commissioner Eduardo Vega 1/11/13. This was probably inadvertent, but needs to be rectified.

- Commissioner John Buck was formerly CEO and is currently VP for Operations and Personnel of Turning Point, according to his bio and online sources. (Turning Point, according to online sources, is a large private entity that serves mentally ill individuals in a variety of facilities in Northern California and as far south as Merced County.) While he has disclosed a trust and a variety of investments with no obvious connection to mental health, he fails to disclose his income from Turning Point. (See disclosures dated 2/12/14 and 7/1/13).

Of even more concern, because of a higher potential for a conflict of interest, is failure to disclose consulting relationships with entities funded through MHSOAC:

- According to his online MHSOAC biography, Commissioner Larry Poaster “has served as a private consultant to government agencies in the field of health care delivery by public entities since 2002. “ Counties are the direct recipients of all MHSOAC funds. Yet Poaster consistently filed a “none” disclosure for the four year period of my public records act request.
- Commissioner Andrew Poat, who apparently has not had a bio up on the MHSOAC website since 2012, was Vice President, Policy, San Diego Regional Economic Development Corporation at that time. (According to online sources, this is a private entity that promotes businesses and has investors.) He admitted to no income from this entity, which seems improbable. However, in his 2013 and 2014 disclosures he admits to consultant income of \$10,000–\$100,000 from a sole proprietorship.
- Poat is the only Commissioner who admits to having a 401K, though several Commissioners are retired.
- Only three individuals disclosed spousal income, though the FPPC form seems to require it.

I could go on, but you get the idea. I recommend that the FPPC examine the accompanying disclosure forms, determine whether there are missing filings (which I did not do) and make its own determination concerning current compliance.

## **V. Argument: FPPC Should Not Allow MHSOAC To Narrow Its Conflict of Interest Code**

### **A. The Proposed Changes in the MHSOAC Conflict of Interest Code**

MHSOAC is proposing to narrow its Conflict of Interest Code beyond the narrowest possible reading of its present Code. The proposed revisions eliminate all real property disclosures and all disclosures of income, unless related to “programs of the type that are submitted to MHSOAC for approval.” This would exclude, among other things, disclosures of income from

private health care consulting businesses being run by the Commissioners, and all disclosures related to the agency's regulatory and policymaking authority.

Here is the relevant language:

Disclosure Category 1 (former provision):

~~A person holding a position designated in this category must report all interests in real property, all sources of income (including gifts, loans, and travel payments) and investments and business positions in business entities of the type that contract with or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health systems~~

Disclosure Category 1 (proposed provision):

A person holding a position designated in Disclosure Category 1 must report all investments and business positions in business entities, and all sources of income including receipt of loans, gifts, and travel payments in programs of the type that are submitted to the MHSOAC for approval.

Disclosure Category 2 (former provision):

~~Disclosure Category 2~~

~~A person holding a position designated in this category must report all sources of income, including gifts, loans, and travel payments, and investments and business positions in business entities of the type that contract or receive grants or other monies from or through the state or local mental health systems, or that are licensed by, permitted by, regulated by, or provide consultant services to the state or local mental health systems~~

Disclosure Category 2 (Proposed Provision):

A person holding a position designated in Disclosure Category 2 must report all investments, business positions in, and any income, including gifts, loans, and travel payments, from sources of the type that provide services, equipment, materials, vehicles, supplies, to the MHSOAC including but not limited to:

- Contracts to evaluate the outcomes and performance

- of the Mental Health Services Act and the community mental health system
- Contracts related to Commission and Committee meetings and community forums such as court reporters/transcribers , interpreters, leased facilities, and public relations
- Contracts related to training, consulting, or stakeholder involvement
- Interagency agreements with other state entities such as CalHR, University Enterprises Inc. (student assistants)

## **B. MHSOAC Category 1 and 2 Disclosures Should Include All Earned Income**

A cursory examination of PRA led me to believe that, with some exceptions, the PRA requires high level government employees to disclose all sources of earned income including spousal income, but excluding governmental salaries (which are matters of record). Assuming this is a correct reading of PRA, MHSOAC's attempt to narrow its Conflict of Interest Code is impermissible. If the proposed change is permitted, Category 1 and 2 employees (many of whom are not now reporting earned income, though they should be under the present Conflict of Interest Code ) will no longer be required to do so, unless the income is from "programs of the type that are submitted to the MHSOAC for approval."

Even assuming it is legally permissible for MHSOAC to exclude disclosure of some sources of earned income, the proposed Conflict of Interest Code is too narrow. High level MHSOAC employees should disclose income sources that have the potential for creating conflicts of interest. There are many such sources, because MHSOAC has very broad regulatory and policy-making authority:

- Its Prevention and Early Intervention regulatory authority touches on virtually every aspect of health care and policy for mentally ill and severely mentally ill individuals, *ie*, "a program designed to prevent mental illnesses from becoming severe and disabling. . . [including programs] effective in preventing mental illnesses from becoming severe [and] . . .in reducing the duration of untreated severe mental illnesses and assisting people in quickly regaining productive lives" as well as programs fighting "stigma and discrimination." See WIC Section 5840(a), (b) and (c).
- Its Innovation regulatory authority is similarly broad, aimed at "[i]ntroducing new mental health practices or approaches" to support a wide variety of statutory goals, see WIC Section 5830.
- As shown in the discussion on real estate disclosures below, MHSOAC has also received new policymaking authority that creates tremendous potential for conflicts of interest in the area of real estate transactions.

Given its broad regulatory and policymaking authority, MHSOAC should not be taking “regulated by” out of its Conflict of Interest Code. MHSOAC regulations and future amendments to them will govern allocation of hundreds of millions of dollars every year. There is an obvious potential for conflicts of interest and downright graft in this situation. Indeed, the Public Records Act request discussed above was prompted by unusual, possibly questionable conduct in the context of the current proposed regulations: changes that were made by MHSOAC at the 9<sup>th</sup> hour that did not appear to be based on public comments, which redirected millions of dollars to a narrow set of programs arguably outside the scope of the MHSA.<sup>8</sup>

It is also disturbing that the proposed changes eliminate the phrase, “or provide consultant services to the state or local mental health systems.” As shown above, it appears that there are at least two Commissioners running consulting businesses on the side, only one of whom has disclosed income from it. There is a huge potential for conflicts of interest in such situations.

In sum, the FPPC should reject the agency’s attempt to exclude disclosures of income sources that create serious potential for conflicts of interest. Instead of narrowing the definition of “income,” the current Code should be amended to read, “all sources of income (including spousal salaries and payments for consulting services, gifts, loans, and travel payments but not government salaries)” to clarify Commissioner and staff obligations with respect to earned income.

### **C. MHSOAC Category 1 and 2 Employees Should Disclose All Real Estate Ownership.**

MHSOAC proposes to eliminate all disclosures of real estate ownership from its Conflict of Interest Code, which historically required it only of Category 1 employees. While MHSOAC activities historically had little to do with real estate, the opposite is true now. By virtue of recent statutory amendments, MHSOAC now oversees policy in an area that has tremendous ramifications for real property values. Thus its Code should be strengthened rather than weakened in this area.

By virtue of recent statutory amendments, MHSOAC has policymaking authority over the development of “services to address crisis intervention, crisis stabilization, and crisis residential treatment needs” for severely mentally ill people, see WIC Section 5848.5. Specifically:

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<sup>8</sup> A recent MIPO Comment to the proposed PEI regulations, documenting and commenting on this issue, will be made available on specific request.

{N}otwithstanding any other law, the commission, without taking any further regulatory action, may implement, interpret, or make specific *this section* by means of informational letters, bulletins, or similar instructions.” WIC Section 5848.5(e)(6)(emphasis added).

MHSOAC’s new statutory responsibilities create a potential for serious conflicts of interests among Commissioners and high level employees based on their real property investments, because crisis intervention centers and residential treatment centers will occupy real property. From personal experience litigating cases on this subject matter, I can say with confidence that proposals to create crisis intervention centers or residential treatment centers for the severely mentally ill in a particular geographic location create a tremendous public furor and concern about real property values. The need for Commissioners who will proceed bravely in this area is therefore particularly acute.

MHSOAC’s attempt to narrow its Conflict of Interest Code to include only income from “*programs* of the type that are submitted to the MHSOAC for approval” ignores this serious potential conflict of interest. Essentially, the agency wants to limit disclosures to income from programs like the grants it oversees in this area, which are only for triage personnel, see WIC Section 5848.5(e). This is far too narrow, because of its overarching responsibility for policy, a responsibility it has historically abused.<sup>9</sup>

Rather than being narrowed, the present Conflict of Interest Code should be expanded to require both Category 1 and Category 2 decisionmakers to disclose *all* their interests in real property. While home addresses should certainly be kept confidential, home ownership near a property that could become a mental institution creates the potential for a serious conflict of interest. Ideally, home addresses would be filed with the FPPC and made available to members of the press or public for good cause shown. If California law precludes this, the agency Conflict of Interest Code should at least require disclosure of “all real property ownership other than home residence” so that the obligations of Commissioners and staff are clear. If the law requires high level employees to disclose leasehold interests as some PRA regulations seem to indicate, this should be clarified as well.

### **Conclusion**

Rather than being narrowed, the MHSOAC Conflict of Interest Code should be clarified and expanded. All Category 1 and 2 employees should be required to disclose all their earned income, including spousal income, other than government salaries. They should also disclose

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<sup>9</sup> MIPO’s Comments in the present regulatory proceeding document past violations of MHSA and the California Administrative Procedure Act by MHSOAC.. These Comments will be provided on specific request.

all investments in real property, excluding only home residences if that is the California rule. The FPPC should also review the accompanying disclosures and any others it deems appropriate, and provide appropriate advice to the Commission if past filings are not in compliance with statute.

Respectfully submitted,

Mary Ann Bernard  
SBN 211417 (inactive)

Attachment (by e-mail which I follows):

MHSOAC response to PRA request: Commissioner and enumerated high level staff PRA disclosures for the past four years

