



## **City of San Antonio Ethics Review Board Annual Report – 2012**



City Ordinance 88874, approved on November 19, 1998, created the Ethics Review Board, which met for the first time on April 30, 1999. A City Charter election held in May 2004, and the adoption of a City Campaign Finance Regulation ordinance in August 2004, necessitated the modification of the responsibilities and jurisdiction of the Ethics Review Board. A new ethics ordinance (City Ordinance 100283) was adopted by City Council on January 13, 2005. The Charter amendment formally dissolved the board created by the 1998 ordinance and established an independent board with the ability to deliver binding rulings and impose sanctions and fines. The initial members of this new board were appointed in April 2005.

In the year 2012, the Board met as a body three times. There was one Complaint and one Request for Declaratory Ruling, resulting in two Determinations/Opinions rendered by the Board (see Attachment A). The City Attorney's Office rendered six formal Advisory Opinions, the ERB none. (see Attachment B). The complete text of each Determination and/or Opinion can be obtained from the Office of the City Clerk; the extracts provided in the attachments to this document are for information purposes only.

As an element of our Annual Report, the Ethics Review Board is charged with submitting recommended changes to the Ethics Code and Campaign Finance Code. On May 9<sup>th</sup> 2013, City Council unanimously approved a significant list of proposed changes to the City's Ethics Code and Campaign Finance Code, adopting all the changes proposed by the Board, the City Attorney's Office and the Office of the City Clerk in previous reports as well as those initially included in this report. As a result, this report includes no proposed changes. We will continue to review both codes and future proposed changes will be included in subsequent Annual Reports.

A list of registered lobbyists – current as of December 10, 2012 – has been provided by the City Clerk (see Attachment D).

Ethics/Campaign Finance Training in 2012: Training sessions on the City's Ethics Code, the Municipal Campaign Finance Regulations and City's Election Campaign Finance filing system are presented by the Office of the City Clerk and Office of the City Attorney. In March of 2006, the San Antonio City Manager adopted a program of mandatory ethics training for all City employees. As part of this program, refresher training is performed biannually. Ethics training was conducted at three Municipal Leadership Institute sessions. The City Attorney's Office also made twice-monthly Ethics presentations at the mandatory new employee orientation. Additionally, other workshops and presentations on Ethics were conducted by the City Attorney's Office in 2012 (see Attachment E). This training needs to receive continued emphasis by the City and should be mandatory for all.

The members of the Board believe that the Code and the ethics review process will continue to create affirmative change in city governance and in our citizens' perception of the same. The Board also feels that the mandatory ethics training for City employees has been very beneficial in reducing ethics violations and combined with the opinions issued by the City Attorney's Office and the Ethics Review Board have resulted in increased awareness of and compliance with the City's Code of Ethics. Ethics must continue to receive emphasis and everyone involved in City government must consider the ethical implications of their actions at all times. The Board will establish a panel to assist in the selection of the new Compliance Auditor and develop the necessary rules and procedures to implement this position.

## **The Ethics Review Board Members – 2012**

The following persons were confirmed by the City Council to serve on the Ethics Review Board for the terms indicated.

<u>NAME</u>	<u>APPOINTED BY</u>	<u>DATE APPOINTED</u>	<u>DATE TERM EXPIRES</u>
Vacant	Mayor		
Steven G. Marquez	District 1	Nov. 5, 2009	Dec. 13, 2012
David A. Armendariz	District 1	Dec. 13 2012	Apr. 25, 2013
Dolores Lott	District 2	Apr. 14, 2005	Apr. 25, 2011
Michael S. Ariens**	District 3	Jun. 16, 2005	Apr. 25, 2012
August Stephen Johnson	District 4	Apr. 14, 2005	Apr. 25, 2012
Victor Guevera	District 5	Feb. 4, 2010	Apr. 25, 2013
John Salmons	District 6	Jul. 14, 2012	Apr. 25, 2014
Elizabeth Benavides Melson	District 7	Apr. 14, 2005	Apr. 25, 2012
Charles Saxer	District 8	Dec. 4, 2008	Apr. 25, 2013
Arthur J. Downey*	District 9	Apr. 14, 2005	Apr. 25, 2011
Robert W. Piatt	District 10	Mar. 1, 2012	Apr. 25, 2013

\* Chair

\*\* Vice-Chair

**Attachment A**

**Ethics Determinations – 2012**

Number	Date	Complaint & Opinion
Opinion 12-01	October 10, 2012	<p>On the 9<sup>th</sup> day of October 2012, a panel of the whole of the Ethics Review Board of the City of San Antonio convened to consider a Petition for a Declaratory Ruling requested by Pat DiGiovanni, Deputy Assistant City Manager, under Section 2-88 of the Ethics Code. Specifically, Mr. DiGiovanni requested an opinion on the following question:</p> <p>"Does a City employee violate the Ethics Code by negotiating for and accepting future employment with a not-for-profit organization if a member of the non-profit organization's governing body is an officer of an otherwise unrelated company with business before the city? Does he violate the Code by taking official action concerning the unrelated company?"</p> <p>Upon consideration of the application and of the evidence presented by Mr. DiGiovanni, the Ethics Review Board concluded by a vote of 9 to 0 that Mr. DiGiovanni had violated Section 2-43 (a) (9). The Ethics Review Board did conclude that Mr. DiGiovanni did not knowingly violate this provision or that his evaluation gave the Hunt/Zachry team any type of advantage; however, the fact that David Zachry was on Centro's Executive Committee who had interviewed him for the Centro position, and that Zachry was part of the Hunt/Zachry group who made a presentation to obtain the convention center expansion project within days of accepting the Centro CEO position, Mr. DiGiovanni should not have participated in the interview and recommendation of Hunt/Zachry and the other proposers in order to avoid the appearance of impropriety. Section 2-43 (a) (9) encompasses more than just violations with knowledge, but it also requires city employees to avoid the "<i>appearance of impropriety</i>" and recuse themselves from further participation in order to comply with this ethics provision.</p>
Opinion 12-02	December 17, 2012	<p>On the 17<sup>th</sup> day of December 2012, a panel of the whole of the Ethics Review Board ("Board") of the City of San Antonio convened to consider and conduct a hearing on a complaint filed under the City's Ethics on October 10, 2012 ("Complaint") by Michael Cuellar against eight City employees, and two unknown individuals. The Complaint was accepted with regards to City employees Jim Mery, Marc Solis and Michael Flores, and it was dismissed with regards to the remaining five City employees because the Complaint failed to provide any evidence to forward to the Ethics Review Board. The complaint was dismissed against the two unknown individuals, as the Ethics Code requires identification of individuals who are alleged to have violated the Code. The Complainant alleged that "city employees obtained gifts due/through their official position within the City by using the Alamodome suites as leverage."</p> <p>It was the opinion of the Board that Respondents Jim Mery, Marc Solis and Michael Flores did violate Section 2-45 (a) (2) (A) and Section 2-49 of the Ethics Code and the Board recommended the following:</p> <p><b><u>Disciplinary Action.</u></b> Respondents, at the time of the violations,</p>

		<p>were City employees and normally the Board would recommend the City Manager impose appropriate disciplinary action. The Board is aware that the City Manager has taken such action and therefore no further action by the City Manager is needed.</p> <p><b><u>Criminal Investigation.</u></b> The OMI report is limited to one incident and the board felt there were indications of a pattern of abuse; therefore it is recommended that either the District Attorney’s Office or San Antonio Police Department conduct a criminal investigation to determine if the Texas Penal Code was violated by any of the Respondents in the use of the Alamodome Suites.</p> <p><b><u>Policy Review.</u></b> The Board recommends that the Alamo Suite Booking policy by the Convention, Sports and Entertainment Department adopted on May 7, 2012 be reviewed and revised by city staff. It was determined by the Board that an employee could fully comply with the current policy, and the employee could still be found in violation of the Ethics Code because the policy does not specifically prohibit an Alamodome suite to be utilized for personal use.</p>
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**Attachment B**

<b>Ethics Advisory Opinions – 2012 (City Attorney’s Office)</b>		
Number	Date	Questions
12-01	January 23, 2012	<i>May a city employee accept admission to a conference, including expenses related to travel, lodging, entertainment and meals from a third party doing business with the city, if the conference is related to the employee’s official duties for the city?</i>
12-02	February 12, 2012	<i>May the business of a member of a City Commission that is more than advisory in nature have an “on-call” contract with the City?</i>
12-03	June 22, 2012	<i>May a member of an advisory board conduct business with members of other city boards and commissions?</i>
12-04	June 20, 2012	<i>May a member of an advisory board apply for and be awarded a contract or subcontract for a City-issued RFP? If so, does that create a prohibited interest in a contract for their spouse, a city employee?</i>
12-05	June 20, 2012	<i>Does a City-appointed member of the board of another governmental entity have a prohibited interest in a contract if he applies for and receives a discretionary contract from the City?</i>
12-06	December 5, 2012	<i>May a city employee engage in outside employment as a contractor for another governmental entity, providing a type of service similar to their work for the City? .</i>

**Attachment C**

**Proposed Amendments to the Ethics Code – 2012**

As an element of our annual report, the Ethics Review Board is charged to submit recommended changes to the Ethics Code and Campaign Finance Code. As noted in the Introduction section, all of the changes previously proposed by the Ethics Review Board were adopted by the City Council on May 9, 2013. As a result, there are no additional amendments proposed at this time.

**Attachment D**

**Registered Lobbyists as of December 30, 2012  
City of San Antonio**

**ALLEN BOONE HUMPHRIES ROBINSON, LLP.**

3200 SOUTHWEST FREEWAY, SUITE 2600  
HOUSTON TX 77207-  
Telephone: (713) 860-6408  
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ALLEN BOONE HUMPHRIES ROBINSON, LLP  
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HOUSTON TX 77027  
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Nature of Business: Agent Of The Registrant  
Registered: 2/4/2009  
Agent of ALLEN BOONE HUMPHRIES ROBINSON, LLP.

STEPHEN ROBINSON  
ALLEN BOONE HUMPHRIES ROBINSON, LLP  
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Registered: 2/4/2009  
Agent of ALLEN BOONE HUMPHRIES ROBINSON, LLP

**AT&T INC.**

208 S. AKARD  
DALLAS TX 75202-  
Telephone: (210) 351-2686  
Nature of Business: TELECOMMUNICATIONS  
Registered: 10/25/2010

RENEE FLORES  
208 S. AKARD  
DALLAS TX 75202  
Telephone: 210-351-2686  
Nature of Business: Telecommunications  
Registered: 10/25/2010  
Agent of AT&T INC.

**BALTAZAR R. SERNA, JR.**

120 VILLITA  
SAN ANTONIO TX 78205-  
Telephone: (210) 225-6700  
Nature of Business: Attorney at Law  
Registered: 1/10/1999

**BOBBY PEREZ**

600 NAVARRO SUITE 500  
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Nature of Business: ATTORNEYS AT LAW  
Registered: 6/1/2005

**Attachment D (Cont.)**

**BROWN & ORTIZ , P.C.**

112 E. PECAN, SUITE 1360  
SAN ANTONIO TX 78205-  
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Registered: 11/18/2004

KENNETH BROWN  
112 PECAN, STE. 1360  
SAN ANTONIO TX 78205  
Telephone: (210) 299-3704  
Nature of Business: Agent  
Registered: 2/10/2004  
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JAMES GRIFFIN  
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PAUL JUAREZ  
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Agent of BROWN & ORTIZ , P.C.

PHILIP MOSS  
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DANIEL ORTIZ  
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**CREDIT SUISSE ASSET MANAGEMENT, LLC**

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RYAN SCHLITT  
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Attachment D (Cont.)

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**GOLDEN STEVES COHEN & GORDON, LLP**

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Registered: 1/19/2006

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Nature of Business:  
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**Attachment D (Cont.)**

**HABIB H. ERKAN, JR.**

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HABIB ERKAN  
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Registered: 5/17/2011  
Agent of HABIB H. ERKAN, JR.

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**JOE A. GARCIA**

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Agent of JOE A. GARCIA

**JOSEPH R. KRIER**

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**Attachment D (Cont.)**

**KAUFMAN & KILLEN, INC.**

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Nature of Business: LAW FIRM  
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WILLIAM T. KAUFMAN  
KAUFMAN & ASSOCIATES, INC.  
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KAUFMAN & ASSOCIATES, INC.  
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Nature of Business: Agent Of The Registrant  
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**LEONHARD REAL ESTATE SERVICES, INC.**

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Nature of Business:  
Registered: 11/22/2011

ROBERT LEONHARD  
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**M. EDWARD LOPEZ**

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**Attachment D (Cont.)**

**M.R. GOVERNMENT RELATIONS & MEDIATION (MRGRM)**

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FRANK BURNEY  
MARTIN & DROUGHT, P.C.  
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SAN ANTONIO TX 78205-  
Telephone: (210) 220-1339  
Nature of Business: Agent Of The Registrant  
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Agent of MARTIN & DROUGHT, P.C.

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Agent of PAMELA MADERE

**Attachment D (Cont.)**

**PAPE-DAWSON ENGINEERS, INC.**

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Nature of Business: CIVIL ENGINEERING  
Registered: 4/5/2002

GENE DAWSON  
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Nature of Business:  
Registered: 3/30/2009  
Agent of PAPE-DAWSON ENGINEERS, INC

SAM DAWSON  
PAPE-DAWSON ENGINEERS, INC.  
555 EAST RAMSEY  
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Nature of Business: Agent Of The Registrant(lobbyist)  
Registered: 1/11/2005  
Agent of PAPE-DAWSON ENGINEERS, INC.

DENNIS RION  
PAPE-DAWSON ENGINEERS, INC.  
555 EAST RAMSEY  
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Registered: 1/11/2005  
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**PEREZ PROJECT CONSULTING, INC.**

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Registered: 4/6/2011

GABRIEL PEREZ  
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**PULLMAN CAPPUCCIO PULLEN & BENSON, LLP**

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SAN ANTONIO TX 78213-  
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BUCK BENSON  
PULLMAN, BRESNAHAN, PULLEN & CAPPUCCIO, LLP  
Telephone:  
Nature of Business:  
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Agent of PULLMAN CAPPUCCIO PULLEN & BENSON, LLP

**Attachment D (Cont.)**

**PW CHRISTENSEN, PC**

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PATRICK CHRISTENSEN  
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Agent of PW CHRISTENSEN, PC

**RUDOLPH F. RODRIGUEZ**

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RUDOLPH RODRIGUEZ  
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**THE FRANCIS LAW FIRM**

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**TUGGY ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER LLP**

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Nature of Business: Attorney At Law  
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Agent of TUGGEY ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER LLP

**Attachment D (Cont.)**

TIM TUGGEY

TUGGY ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER LLP

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Nature of Business: Attorney At Law

Registered: 3/19/2008

Agent of TUGGY ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER LLP

**WINSTEAD PC**

401 CONGRESS AVENUE, SUITE 2100

AUSTIN TX 78701-

Telephone: (512) 370-2973

Nature of Business: LAW

Registered: 10/14/2011

JOHN DONISI

401 CONGRESS AVENUE, SUITE 2100

AUSTIN TX 78701

Telephone: 512-370-2973

Nature of Business: Law

Registered: 10/14/2011

Agent of WINSTEAD PC

STEPHEN DRENNER

401 CONGRESS AVENUE, SUITE 2100

AUSTIN TX 78701

Telephone: 512-370-2973

Nature of Business: Law

Registered: 10/14/2011

Agent of WINSTEAD PC

MICHELE HAUSSMANN

401 CONGRESS AVENUE, SUITE 2100

AUSTIN TX 78701

Telephone: 512-370-2973

Nature of Business: Law

Registered: 10/14/2011

Agent of WINSTEAD PC

**ZACHRY INC.**

P. O. BOX 240130

SAN ANTONIO TX 78224-0130

Telephone: (210) 258-2662

Nature of Business: CONSTRUCTION SERVICES AND PROJECT DEVELOPMENT

Registered: 4/30/1999

TARA SNOWDEN

ZACHRY, INC.

P.O. BOX 240130

SAN ANTONIO TX 78224-0130

Telephone: (210) 258-2662

Nature of Business: Agent Of The Registrant

Registered: 1/15/2009

Agent of ZACHRY INC.

VICTORIA WADDY

ZACHRY, INC.

P.O. BOX 240130

SAN ANTONIO TX 78224-0130

Telephone: (210) 258-2662

Nature of Business: Agent To The Registrant

Registered: 1/15/2002

Agent of ZACHRY INC.

**Attachment E**

**2012 Ethics & Campaign Finance Training**

Twice monthly: Mandatory New Employee Orientation Ethics Presentation

Mandatory Ethics Refresher Training Presentation 45 sessions 02-06-12 to 07-31-12

<b>Name of Training</b>	<b>Hrs</b>	<b>General Category</b>	<b>Date</b>
Commission on Literacy Refresher	1.0	Ethics, Open Meetings	01-10-12
Planning Commission Refresher	1.0	Ethics	01-27-12
Municipal Leadership Institute	1.0	Ethics, Open Meetings, Parliamentary Procedure	02-21-12
Council Aide Lunch and Learn	1.0	Ethics, Open Records	02-22-12
Building Standards Board Training	1.0	Ethics, Open Meetings, Parliamentary Procedure	04-12-12
AIA (Architects) Ethics Workshop	1.0	Ethics in government	04-13-12
City South Management Authority	1.5	Ethics, Open Meetings,	06-11-12
Municipal Leadership Institute	1.0	Ethics, Open Meetings, Parliamentary Procedure	06-15-12
Historic Design Review Commission	1.0	Ethics, Open Meetings	06-22-12
Municipal Leadership Institute	1.0	Ethics, Open Meetings, Parliamentary Procedure	09-27-12
Head Start Parent’s Council Training	1.5	Ethics, Open Meetings, Parliamentary Procedure	10-25-12
City Council Candidate Workshop	1.5	Ethics, Campaign Finance	11-02-12
Head Start Policy Council Training	1.5	Ethics, Open Meetings, Parliamentary Procedure	11-13-12
SAWS Workshop	1.5	Ethics (jointly with SAWS, CPS)	12-05-12
Economic Development Staff Training	1.5	Ethics	11-28-12