

Subject: Re: Request Responses to Trumpets RFI and Related Documents

From: "Robert E. Frank" <BobFrank@Cox.Net>

Date: Sat, 23 Feb 2008 13:53:50 -0800

To: Mike Dixon <mikedixon70@earthlink.net>

CC: Kay Dwyer <kaycd@cox.net>, Bob Berman <rrberman@cox.net>, laniex@cox.net, barrandmare@yahoo.com, Roz Berman <rozberman@cox.net>, patti.shock@unlv.edu, Terry DaSilva <terry.dasilva@scacai.com>

Dear Mr. Dixon,

You seem to be seriously mistaken in a number of areas, and my comments are inserted below, as appropriate.

Mike Dixon wrote:

- > Bob
- >
- > A couple of points in response to your email.

Since you included non-board members in your email, I have to believe you are writing in your role as liaison to the An Hoc Trumpets Working Committee, and not as Board President.

> First, the board established the Trumpets Working Group as an advisory group of experts pursuant to NAC 116.400.6, to assist us in gathering information, and to recommend potential lessees for our restaurant space. This group qualifies as professional since it includes a Professor at the Harrah's School of Hotel and Restaurant Management, a retired attorney, several former restaurant owners, a former McDonalds executive, a commercial realtor, and, as an advisor, a restaurant broker who also owned a restaurant. We also included a cross section of our community. This group qualifies as professional in every sense of the word.

Unfortunately, you are wrong. NAC 116.400.6 says:

"6. Ensure that the executive board consults with the appropriate professionals as necessary before making major decisions affecting the association;"

With all due respect to the committee participants who are qualified to be considered professionals in a very wide variety of disciplines, the entire group does not qualify as a group of "professionals". Anyone living in SCA could have joined and become a voting member. There are no published professional qualifications for membership or sub-group leadership on the committee, and I know of no process to verify the professional qualifications of those who claim such expertise. I am not aware that any of the professionals are currently licensed to practice under Nevada statutes. Perhaps most importantly, the decision-making process used by the ad hoc committee does not ensure that any appropriate professionals within the group have control over the work product.

Also, after listening to the conversations of committee meetings, it is clear that while the majority of volunteer committee members are well-intentioned in trying to help get a good restaurant operator, only a few express themselves in ways that reflect they are professionally qualified in the restaurant management and/or contracting disciplines. In other words, the committee can not be considered to be providing "professional services".

Ms. Shock's online statement of her qualifications say:

"Patti has been at UNLV since 1988. She served as Chair of the Tourism and Convention Administration Department for almost 20 years before stepping down to take the distance learning position. Prior to joining the faculty at UNLV, she chaired the Hotel, Restaurant & Travel Administration Department at Georgia State University in Atlanta for almost 10 years. She currently teaches on-premise catering online."

This says that while Ms. Shock is appropriately respected in convention administration and catering operations, it does not claim that she is professionally qualified in restaurant management and/or contracting disciplines. Moreover, the work product and activities of the committee under her supervision does not reflect that those who are producing the contracting products are well qualified in conducting competitive procurements for multi-million-dollar awards.

The fact that Ms. Shock has allowed selection as one of the final three bidders a new company composed of a group of her students and other UNLV associates, who do not current own and operate a current restaurant in this Southern NV area, and who are depending on grants and loans to get into business, is reason enough to seriously question her knowledge of competitive purchasing practices and credibility to effectively serve our community's interests.

Some committee members insist that such a high-risk bidder should not have been placed among the final three competitors, and you should be sharing my interest in the reviewing all of the proposals and related correspondence to verify that inappropriate conflicts of interest have not been a factor in the down-selection process.

In addition, the so-called "retired attorney" you have mentioned is not a professional in terms of contracts and he has not previously demonstrated he has good judgment when it comes to business management. For example, he is well-known to have been an active participant as a community leader and Vice President of the Board when the last restaurant contract was grossly mismanaged during 2002 to 2007. And, in my opinion, a large part of the past restaurant lease failure was due to his sustained poor advice and mis-management. He was a participant on the 2005 Board that caused this community to lose hundreds of thousands of dollars of homeowner equity. In my opinion, that individual is not someone who could be considered to be a "professional" when it comes to contracting and/or business management, and he

would be one of the last community individuals we would look to for how to do better in the future.

So, while the efforts of the volunteer group are appreciated, the work products to date have not been up to the levels we need. All of the reasons for the problems are not entirely clear, but I am not willing to wait until it is too late to delve into the basic issues to see how to get the Committee's results re-focused on the intended objectives of the Board and the homeowners.

> Among the requests made by this group was that the Board allow them their independence until they made their recommendation to us. In return, they agreed to recommend at least 3 qualified bidders on the space. They also requested that the applicants for the restaurant remain confidential until all documentation was submitted to the board. It was their argument, and I agree, that we would get a better set of applicants if their initial anonymity was assured. We should respect their requests.

The time has passed for such early "protections" for the committee's formative work. We are in the middle of the source selection process, and there are very serious questions being asked by many ad hoc committee members about the appropriateness of the results from the down selection process. There are serious, unresolved questions about conflicts of interest by the committee chair, and they have to be dealt with--now.

As you know, as a Director, I am entitled by law to have full and unhindered access to all purchasing and contracting materials and I find it necessary to request they be delivered immediately. I am aware that most, if not all, of such materials are being managed online, and there will be no difficulty in providing them to me. Many, if not most, of the committee members have access. It is outrageous to try to claim that a Director can not have unrestricted access to them too.

> Unfortunately, Bob, you have a history and practice of disseminating working papers and discussions before they are accepted by the Board as Association records. For example, one board candidate claims to have a copy of the documents provided to the Board at the "Assessment Scenarios Workshop," and is presenting this as "Board Policy." This particular document described some "what ifs" for the board to consider, but it is now being presented, incorrectly, as an issue already decided by the board. I have been unable to determine who provided the documents to this candidate, but you have a closer relationship to him than any other board member. The "Assessment Scenarios Workshop" document is not board policy, nor has it ever been voted on by the board.

Unfortunately, Mike, you have a history and terrible reputation for being arrogant, dictatorial, and for violating statutes by hiding information from SCA homeowners, and for conducting illegal secret board meetings. Your latest public insults and unsubstantiated allegations are typical of your methods to attempt to intimidate others to do your bidding. This latest example is a particularly disappointing display as your comments are personally insulting and they clearly have nothing to do with my official request for the contracting materials.

> Likewise, the Trumpets Working Group documents are working papers and not Association records. Very soon, the working group will submit their recommendations and all working papers, to the board so that the board can consider their findings and make some decisions on our restaurant space. Until then, they are the papers of the Trumpets Working Group, not the Association, and I respect their right to the requested confidentiality. As a result, the papers will not be made available to any board member, including me, until the work of the group is complete and their recommendations are made.

Once again, you are shockingly incorrect. The companies were solicited by the SCA CAI on behalf of the Board's interest to consider leasing community facilities. The responses were submitted to SCA CAI. The ad hoc committee is nothing more than an advisory group to assist the Board with this leasing function. Every single document and email handled by the working group is SCA CAI property, and all Directors are entitled by law to every such record--whenever they wish to review them. No board member or committee member can legally block my access to such documents, records and correspondence. Please do not continue to do so.

With all due respect for the honorable work being done by most of the committee members, I recommend that you and Ms. Shock deliver the requested records, documents and associated email correspondence to me immediately. I have been patiently waiting a week, and I require the materials be provided via email not later than noon Monday, Feb 25. Otherwise, I will be forced to initiate public actions that can require compliance with the statutes and SCA governing rules. Those actions would best be avoided as they could lead to disruptions of committee work and to reductions in committee morale.

Sincerely,

**Bob Frank
Director**

> Terry doesn't have the documents, either.
>
> FYI, Monday is the President's Day holiday and our offices are closed.
>
>
>
> Mike
>
> ----- Original Message -----
> From: Robert E. Frank
> To: Roz Berman ; barrandmare@yahoo.com ; mikedixon70@earthlink.net ;
> lanix@cox.net ; Bob Berman ; Kay Dwyer ; Robert E. Frank
> Cc: Terry DaSilva
> Sent: Friday, February 15, 2008 10:19 PM
> Subject: Request Responses to Trumpets RFI and Related Documents

>

> Mike,

>

> As you will recall from the Roger Grant Seminar, all board members are entitled to see procurement-related items--whenever they wish.

>

> Accordingly, I would like to review all of the responses to the RFI, and related evaluation materials, on Monday, February 18 at 10 AM. I believe there are 11 or 12 respondents, and I trust they are all securely stored in Anthem Center?

>

> I also would like to review the criteria used to select the final four candidates, and the letter sent (or proposed to be sent) to the non-selectees.

>

> Please advise Ms. Shock and/or Terry/Caren to make all such materials available to me as requested.

>

> Thank you.

>

> Bob Frank

> Director

>