

CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
New York, New York, 10007  
(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

Sheldon Oliensis  
*Chair*

Bruce A. Green

Jane W. Parver

Benito Romano

Shirley Adelson Siegel

Mark Davies  
*Executive Director  
Counsel*

Jo-Antoinette Frey  
*Deputy Director*

Hugh B. Weinberg  
*Deputy Counsel*

Laura Denman  
*Director of Training  
and Education*

Jerry Rachnowitz  
*Director of  
Financial Disclosure*

Joan R. Salzman  
*Director of Enforcement*

April 24, 1997

Laurence A. Levy, Esq.  
Deputy Counsel to the  
Mayor  
The City of New York  
Office of the Mayor  
New York, New York 10007

Re: Conflicts of Interest Board Case No. 97-127

Dear Mr. Levy:

This is in response to your letter to the Conflicts of Interest Board (the "Board") dated April 11, 1997, and telephone conferences with the Board, requesting an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, Randy L. Levine may return to City service, as a Deputy Mayor, in light of his severance arrangement with the Executive Council of major league baseball. For the reasons discussed below, the Board has determined that it would not conflict with the purposes and interests of the City for Mr. Levine to enter into a severance agreement, provided that he acts in accordance with the limitations and conditions described in this letter.<sup>1</sup>

Structure of Major League Baseball

The structure of major league baseball is, in summary, as follows: professional major league baseball currently consists of 28 major league clubs (two additional clubs are scheduled to begin play in 1998), organized in two leagues, the American League and the National League. Two of these clubs are

<sup>1</sup> All factual statements contained herein are based on representations made by you or Mr. Levine.

located in the City: the New York Yankees (the "Yankees") and the New York Mets (the "Mets"). There is, in addition, a superstructure consisting of the Office of the Commissioner and three separate entities relevant to this analysis: the Player Relations Committee (the "PRC"), chaired by Mr. Bud Selig (who also chairs the Executive Council, described below); Major League Baseball Enterprises, Inc.; and Major League Baseball Properties, Inc.<sup>2</sup> The PRC is charged with responsibility for handling major league baseball's labor relations between major league club owners and major league players. In practice, that function is largely performed by PRC staff, operating out of the Commissioner's Office and reporting to Mr. Selig.

Currently, major league baseball has no Commissioner and is operated through the Executive Council, which is ordinarily composed of the Commissioner, the two league Presidents, and, on a rotating basis, eight representatives from the ball clubs, four from each league. Club members serve four-year terms. Currently, both the Yankees and the Mets have representatives on the Executive Council. Mr. Levine's current contract and his severance arrangement require him to report, in the absence of a Commissioner, solely to the Chair of the Executive Council, and he is paid by the Office of the Commissioner.

You have advised the Board that Mr. Levine's duties have been and, under certain terms of the severance arrangement, would continue to be limited to

---

<sup>2</sup> Each of these is a separate entity. The Office of the Commissioner is an entity established pursuant to Section 501(c)(6) of the Internal Revenue Code. The PRC was organized pursuant to Section 803 of the New York State Not-For-Profit Corporation Law. Major League Baseball Enterprises, Inc. and Major League Baseball Properties, Inc. are separate, for-profit corporations through which major league baseball's business affairs, including broadcasting and marketing contracts, are handled. There are, in addition, other separate entities involved with major league baseball, but they do not engage in business dealings with New York City.

labor relations matters. He would be involved in assisting major league baseball, including the Chair of the Executive Council, the Office of the Commissioner and the PRC on labor policy issues, such as issues arising under the Basic Agreement between the Major Leagues and the Major League Baseball Players Association (the "Agreement"), issues involving the umpires' association, and issues concerning governmental authorities, except those concerning New York City authorities. All these issues involve labor relations and related matters between the players and the ball clubs.

Mr. Levine's Severance Arrangement

You have advised the Board, both in your letter and during telephone conversations with the Board, that Mr. Levine, in terminating his employment with the Executive Council, has been offered a severance arrangement which consists of three parts: a severance payment; a six-month consultant's contract; and a one-year option to return to his current position.

The severance payment is consistent with the provisions of Mr. Levine's current contract, modified to provide for periodic payments over a period of eleven months. The sum to be paid is a fixed obligation which cannot be altered and is considered remuneration due on work previously performed.

You have also advised the Board that Mr. Levine, as a consultant to the Executive Council, would, during a six-month period, assist, on an ad hoc basis, with labor issues as described above. For these services, Mr. Levine would be compensated approximately \$1,000 per month.

The third component of Mr. Levine's severance agreement is a one-year option to return to his position with the Executive Council. The option is limited to allowing Mr. Levine to return to his present position on the same terms, including the same salary.

You have further advised the Board that, as stated above, Mr. Levine's contract and proposed severance agreement are both with the Executive Council (through which major league baseball operates, as noted above).

No individual club can modify Mr. Levine's contract, compensation, option or reporting relationship.

Mr. Levine's duties, as indicated above, and as defined in both his contract and his proposed severance arrangement, have been limited to labor-related issues which arise for major league baseball. As stated above, Mr. Levine's involvement as a consultant would be limited to labor relations matters, such as issues arising under the Agreement, issues involving the umpires' association, and issues concerning governmental authorities, except those concerning New York City authorities. Mr. Levine does not and would not deal with major league baseball's marketing operations, broadcast contracts, or the supervision of individual clubs.

You have also advised the Board that the Executive Council of major league baseball, the Office of the Commissioner and the other entities described above have no business dealings with New York City, except possibly in the following circumstances: when the Yankees or the Mets appear in the World Series (as the Yankees did in 1996) to deal with the City on security and related issues;<sup>3</sup> and when a major league club, including the Yankees or the Mets, seeks to relocate.<sup>4</sup>

While the business dealings of the Executive Council of major league baseball, the Office of the Commissioner and the other entities mentioned above with New York City are minimal and sporadic, the Yankees and the Mets themselves engage in extensive business dealings with the City.

---

<sup>3</sup> The Executive Council similarly deals with cities in which major league baseball's All-Star games are played. The cities for these games have been scheduled for the next three years, and New York City is not among those cities. This three-year period would extend well beyond the terms provided in those parts of Mr. Levine's proposed severance agreement which deal with his six months' consulting work and his one-year option.

<sup>4</sup> A separately constituted owners' committee, on which neither New York City team is represented, is responsible for issues dealing with club relocation.

Without reaching the question whether the Executive Council or the Office of the Commissioner engages in business dealings with New York City which would be sufficient to implicate the provisions of Chapter 68, the Board concludes that, in light of the close relationship of the clubs, the leagues, the Executive Council and the other entities mentioned above, major league baseball, viewed as a whole, should, for the purposes of Charter Section 2601(8), be deemed to have business dealings with the City.<sup>5</sup>

The Board has received a letter from the Honorable Rudolph W. Giuliani, Mayor of the City of New York, dated April 11, 1997, in which the Mayor approves of Mr. Levine's severance arrangement with the Executive Council and states his opinion that this severance arrangement would be in furtherance of the purposes and interests of the City.

#### Discussion

Pursuant to Charter Section 2604(a)(1)(b), a public servant whose primary employment is with the City may not hold a position with a firm which is engaged in business dealings with the City.<sup>6</sup> That provision is, however, subject to Charter Section 2604(e), which provides that a public servant may properly hold such a position if the Board determines, after receiving the written approval of the public servant's agency head (or, in the case of the Deputy Mayor, the Mayor), that such position does not involve a conflict with the purposes and interests of the City.

You are advised, based on your representations and on the written approval of Mayor Giuliani, that the Board has determined that Mr. Levine's severance

---

<sup>5</sup> "Business dealings with the city" means any transaction with the City involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing.

<sup>6</sup> "Firm" means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise. See Charter Section 2601(11).

arrangement with the Executive Council, as described above, would not conflict with the purposes and interests of the City. See Charter Section 2604(e). The Board has thus concluded that, subject to the following restrictions, Mr. Levine's severance arrangement with the Executive Council, in view of all the above facts, is consistent with Chapter 68.

You are thus advised that Mr. Levine must completely recuse himself, as Deputy Mayor, from any and all dealings with major league baseball.<sup>7</sup> Further, Mr. Levine, as a consultant to the Executive Council, must recuse himself completely from dealing with issues which are specific to and only affect the Yankees, the Mets, and their players. He may, however, be involved in matters related to the application of the Agreement and generic questions, which may be applicable to major league clubs and major league players (including the Yankees and the Mets and their players), other than, as noted in the preceding sentence, those matters which are specific to and only affect the New York teams and their players.

You are further advised that Mr. Levine's work under the severance arrangement may be performed only at times when he is not required to perform services for the City; he may not use his official City position or title to obtain any private advantage for himself, the Executive Council or any major league club; he may not use City equipment, letterhead, personnel or other City resources in connection with this non-City work; and he may not disclose or use for private advantage any confidential information concerning the City. See Charter Sections 2604(b)(2), (3) and (4), respectively.

The views expressed in this letter are conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given to

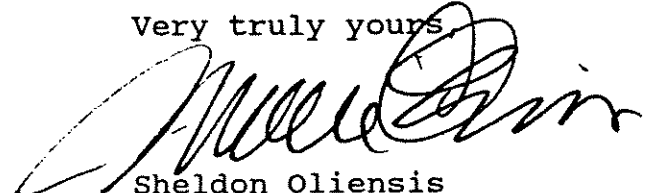
---

<sup>7</sup> Mr. Levine's complete recusal requires that he not participate in any matters which involve major league baseball, or its dealings with the City, or be otherwise involved as a City official in such dealings. This includes, but is not limited to, not participating in discussions, not attending meetings with City or major league baseball officials and others, and not receiving copies of relevant documents.

COIB Case No. 97-127  
April 21, 1997  
Page 7

you may not apply. If at any time you would like further advice based on a change of circumstances or additional information, please contact us.

Very truly yours,



Sheldon Oliensis  
Chair

Bruce A. Green  
Jane W. Parver  
Shirley Adelson Siegel

cc: Hon. Rudolph W. Giuliani  
Mayor  
City of New York

Randy L. Levine

---

Board member Benito Romano took no part in the decision of this matter.

97-127.bdl