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CITY CLERK'S OFFICE  
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June 8, 2018

**Darren Klein**

dklein@k-plaw.com

The Honorable Joseph A. Curtatone  
City Hall  
93 Highland Avenue  
Somerville, MA 02143

Hon. Katjana Ballantyne and  
Members of the Board of Aldermen  
Somerville City Hall  
93 Highland Avenue  
Somerville, MA 02143

Re: Determination and Consent Pursuant to the Massachusetts Rules of Professional Conduct,  
Rule 1.7- Representation of City of Somerville, Board of Aldermen and Powderhouse  
Studios, Inc.

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Dear Mayor Curtatone and Members of the Board of Aldermen:

We have received a request from the Powderhouse Studios ("Powderhouse") to provide legal review and advice regarding its operations, including, in relation to the opening of an in-district innovation school for the 2019-2020 school year in Somerville. As you know, KP Law, P.C. also represents the City of Somerville as Special Counsel in the matter of Michael Kiely v. City of Somerville (Docket No. I-18-018) which is currently pending with the Massachusetts Civil Service Commission, and also has advised the Somerville Board of Alderman ("Board") on two pending Open Meeting Law matters pending before the Division of Open Government.

With respect to the firm's ability to provide legal assistance and guidance to Powderhouse, as discussed above, our relationship with the City of Somerville in the Kiely matter and representation of the Board with respect to two open meeting law matters, creates an interest that requires disclosure pursuant to the Rules of Professional Conduct applicable to members of the Massachusetts Bar, and we ask that you consent to our representation in this matter. We must also obtain the express permission of Powderhouse. The purpose of this letter is to make such disclosure and to request that you determine whether to permit such representation. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not "municipal employees" pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of conflict on the firm's behalf in this matter.

#### MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if the interests of one client are directly adverse to those of another client, or if the attorney's representation of one client may be materially limited by responsibilities to another client or the attorney's own interests, unless the attorney reasonably believes that the representation will not be adversely affected, and the client consents, after consultation and disclosure of the implications of the common representation, and the advantages and risks involved.

Following our review of this matter, I do not believe that our role in providing legal guidance to Powderhouse, including in relation to any negotiations or legal advice regarding implementation

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of the in-district innovation school, will adversely affect the representation we provide to the City of Somerville in the Kiely matter or the Board on the pending open meeting law matters, or on any other matters. Moreover, I do not believe that this assistance would create a conflict since there is no direct competition between Powderhouse and the City of Somerville, since Powderhouse will be working with the Somerville Public Schools to operate the in-district innovation school. In this case, however, you must consider whether our representation of Powderhouse will be likely to adversely affect our ability to exercise independent professional judgment on behalf of the Board.

## DETERMINATION

It is my belief that the firm's representation of Powderhouse for the purposes and under the conditions described in this letter, will not affect the exercise of our independent professional judgment on behalf of the Board of Alderman as special counsel. It is, however, for you to determine whether the representation described herein will not impair the integrity of this firm's services to the Board.

Therefore, I request that you consent to KP Law, P.C.'s representation of Powderhouse regarding guidance and legal advice regarding its operations, including relative to the development and operation of a new innovation school, as outlined in this letter, notwithstanding that the firm also serves as special counsel to the City and its the Board of Aldermen. Should you so consent, I ask that you sign the enclosed determination as required by the Rules of Professional Conduct. Please sign the two originals provided, return one copy to me, and retain one copy for your records.

Thank you for your consideration. Please contact me with questions in this regard.

Very truly yours,



Darren Klein

DRK/JMA/ekh

Enc. Massachusetts Rule of Professional Conduct 1.7; Determination

cc: City Clerk

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the City of Somerville Board of Aldermen consents to KP LAW, P.C. advising Powderhouse Studios, notwithstanding that KP LAW, P.C., also serves as special counsel to the City of Somerville Board of Aldermen, as outlined in a letter dated June 8, 2018.

CITY OF SOMERVILLE

BOARD OF ALDERMEN

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Dated: \_\_\_\_\_, 2018

# Rules of Professional Conduct Rule 1.7: Conflict of interest: Current clients

ADOPTED DATE: 03/26/2015

EFFECTIVE DATE: 07/01/2015

## CONTACT

### Trial Court Law Libraries

Online

Library locations

## (a)

Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

## (b)

Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.