

# CITY OF MADISON ETHICS BOARD

## COMPLAINT FORM

1. All complaints must be made in writing. Completion of this form is not required, but this form is designed to assist you in providing the required information. For more information please refer to the Ethics Board Procedures Manual and Madison General Ordinance Section 3.35. For additional information, contact The Office of the City Attorney at (608) 266-4511.
2. Complaints shall be directed to the attention of the Ethics Board at the City of Madison, c/o City Attorney's Office, 210 Martin Luther King, Jr. Boulevard, Room 401 City-County Building, Madison, WI 53703.
3. The complaint shall be made under oath and may be made on information and belief.

### COMPLAINANT INFORMATION

<b>NAME</b> <b>Davin Pickell</b>		
<b>ADDRESS</b> <b>17 Merrill Crest Dr.</b>		
<b>CITY</b> <b>Madison</b>	<b>STATE</b> <b>WI</b>	<b>ZIP</b> <b>53705</b>
<b>HOME PHONE</b> <b>608-345-9350 (Cell)</b>		<b>BUSINESS PHONE</b> <b>608-258-4168</b>

### SUBJECT OF COMPLAINT

<b>NAME</b> <b>Tom Carto</b>		
<b>ADDRESS</b> <b>16 Cornucopia Ct.</b>		
<b>CITY</b> <b>Madison</b>	<b>STATE</b> <b>WI</b>	<b>ZIP</b> <b>53719-3083</b>
<b>POSITION/OCCUPATION</b> <b>President &amp; CEO</b> <b>Overture Center for the Arts</b>		<b>PHONE (if known)</b> <b>608-230-5713</b>

The purpose of the Ethics Board is to see that the Code of Ethics as outlined in Section 3.35 of the Madison General Ordinances is uniformly applied to all City of Madison employees and officials. The areas of responsibility include, but are not limited to: (a) Fair and Equal Treatment, (b) Conflict of Interest, (c) Incompatible Employment, (d) Disclosure of Confidential Information, (e) Gifts and Favors, (f) Political Activity, (g) Campaign Contributions, (h) Disclosure of Economic Interests, and (i) Real Estate Disclosure.

### NATURE OF COMPLAINT

<b>Section Violated</b> <b>3.35 (5) (c)</b>	<b>Outside Employment</b>

The facts constituting the alleged breach of ethics must be set forth in detail with clearness and certainty. Please reference specific sections within Madison General Ordinance 3.35 which you believe to have been violated. Please attach additional sheets as required.

**City of Madison employee and Overture Center President Tom Carto is also employed by the Private party doing business as 201 State, Inc., I believe.**

**His compensation for that job varies, but has been somewhere in the mid \$30K range over time.**

**There is no apparent Ordinance provision excepting him from the legal requirements of the Code of Ethics, barring a further search:**

### **3.09 OVERTURE CENTER DIRECTOR.**

There is hereby created the position of Director - Overture Center. This position shall be filled according to Section 3.54(6)(f) of these ordinances, and the Mayor shall be the appointing authority for the position. The Director - Overture Center shall manage and administer all work involving the planning, organization, direction and control of the activities and operations, including programming, of the Madison Overture Center. The Director shall serve as staff to the Madison Cultural Arts District Board. (Cr. by Ord. 13,379, 8-2-03; Renum. by ORD-07-00048, 4-12-07)

Per the language of the Ethics Code:

**(c) Outside Employment. No incumbent shall engage in or accept employment or render service whether compensated or uncompensated when such employment or service would impair or reasonably appear to impair her or his independence of judgment or action in the performance of official duties.**

At some point, approximately two years ago, plus or minus two years, I would assert that the two separate employers: The City of Madison, and 201 State, Inc., made an adversarial step in the wrong direction which led to a very long journey which currently pits Mr. Carto's one employer against his other employer at the negotiating table.

Notwithstanding the intrinsic value of the obvious health benefits thusly derived, any attempts by Mr. Carto to run around the table to negotiate with himself, or to advise his one bi-employers how to best to negotiate against its Siamese Twin, and quickly dart to the other side to help formulate a response would appear to be a violation of Section 3.35(5) (d) of the City of Madison Code of Ethics.

My interpretation of the subsequent language in Section 3.35 of the Madison General Ordinances would lead me to believe that possible ramifications of this violation might include any or all of the following:

- Forfeiture of any and all compensation, including benefits costs, paid by 201 State, Inc.
- Repayment to the City of any and all reimbursed expenses associated with any professional endeavours which were likely to benefit both twins.
- A statutory prohibition of any contracts or leases between the City of Madison and 201 State, Inc. for a period of no less than 12 months with such clock starting to tick upon the resignation of Mr. Carto, Ms. Garton, and all other individuals who currently have a board position on both the public half and the private half of the allegedly inner-conflicted Siamese Twin d.b.a. the Overture Center for the Arts.
- In the case of a member of a board, committee or commission, that the Mayor or other appointing authority consider removing the member from the board, committee or commission;
- In the case of an employee, that the employee's appointing authority consider disciplining or discharging the employee;

The undersigned, under oath, states that he or she has read the foregoing complaint and that the information contained in it is true and correct based on his or her personal knowledge, except for those matters alleged on information and belief and as to those matters, the undersigned believes them to be true and correct.

*[Signature]*

3-21-11

Subscribed and sworn before me

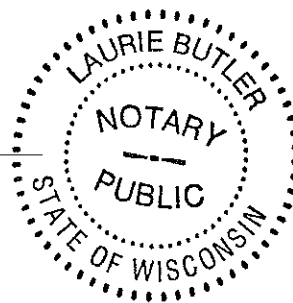
this 21<sup>st</sup> day of March 2011.

*[Signature]*

Notary Public

My Commission expires (is permanent)

10.5.2014



(seal)