

Dec. 14, 2016
**PRINT
 EDITION**

EVEN THE *Untamed Spirit*
 NEEDS A PLACE TO UNWIND



**SFR
 PICKS**

Home. / Articles / News / Local News / *Future Payday*



Anson Stevens-Bollen

Future Payday

Uncovering cronyism in NM's medical cannabis license awards

December 14, 2016, 12:00 am
 By Peter St. Cyr

Two New Mexico Department of Health employees secretly pledged thousands of dollars to a Santa Fe medical cannabis producer applicant that was eventually awarded a license by their own agency last year.

SFR **reported in March** that the department's then-staff attorney Michal Hayes was listed on the board of directors for Shift Cannabis New Mexico/Keyway, Inc. A new investigation uncovered that she was not only the board secretary, but a silent investor.

The department's chief privacy officer and records custodian Daniel Jacobs also guaranteed money for the startup.

Members of the application scoring team were aware of the roles Jacobs and Hayes had in the **nonprofit's license application**, public records show, and most of them affirmed in writing that they had no qualms about their colleagues' conflicts of interest until after the firm was named a semifinalist in the competitive process.

For his part, Jacobs refused to release public documents outlining the duo's financial interests. Those records only saw daylight after the New Mexico Foundation for Open Government and this reporter **filed a lawsuit** in July 2015 and the department ultimately **changed its internal confidentiality rules** in February.

Just days before a May 1, 2015, filing deadline that drew 86 applications from across New Mexico, Jacobs, Hayes and her husband, Santa Fe attorney James Hayes, **organized**

Bootstrap Capital—a private equity investment firm—at the Secretary of State's Corporation Bureau. The trio pledged \$50,000 to fund Shift Cannabis New Mexico, a shared management company, founded by Santa Fe attorney Matthew Clarke, who is also Keyway Inc.'s executive director. The documents outlining the deal are part of 85,000 pages of redacted information the department forked over in April.

Neither Jacobs nor Hayes agreed to talk to SFR about their involvement or explain why Clarke, who also refused to return our phone calls, asked them to put up their personal money (about 12 percent of the firm's total capital) right before the application deadline.

It's also unclear why they waited to disclose their financial interests with their supervisors before Keyway's application material was evaluated, scored and eventually ranked fifth-highest by co-workers.

Health Secretary-designate Lynn Gallagher, who served on the application evaluation



Morning Word: Lawmakers Urged to Act Quickly to Fix State Budget

Morning Word The chairman of the state's Legislative Finance Committee says school days could be cancelled and teachers forced to take unpaid furloughs if lawmakers don't shore up the budget soon. ... [More](#)

Dec. 14, 2016 by Peter St. Cyr

NEWSLETTERS

The SFR FEED

Sign up and receive weekly newsletters

* indicates required

Email Address *

First Name *

Last Name *

Zip/Postal Code *

Choose your newsletter(s):

- The Weekly Feed
 SFR's Weekend Picks
 Morning Word
 The Fork



team while she was deputy secretary, tells SFR that Hayes and Jacobs told their bosses only after Keyway was **named a semifinalist**.

Their conflict, Gallagher insists, was cured when Jacobs was **ordered to divest** and Hayes transferred to the New Mexico Aging and Long-Term Services Department.

Documents also show that the pair signed affidavits swearing they took no action to influence Keyway's application score. But that justification does not sit well with other groups whose applications didn't make the final cut.

Karen DeSoto, who filed a lawsuit in state district court after her application to set up a dispensary in Grants was rejected, says Keyway should have been determined ineligible for a license.

"Keyway had an inside advantage and that undermines the integrity of the licensure process," says DeSoto. "Even if the employees didn't seek any special treatment, it is impossible for their co-workers not to give them higher marks. It's just human nature."

In fact, Andrea Sundberg, a medical cannabis program coordinator who regularly interacts with Jacobs on hundreds of public record requests, **awarded a perfect score** to Keyway for its quality assurance plan—a primary board role listed for Jacobs in the group's 1,200+ page application.

DeSoto also questions why red flags were not raised before Keyway was named a semifinalist in September 2015 since Hayes and Jacobs' names, resumes, personal statements, health department positions, state emails and work phone numbers were clearly visible to evaluators in Keyway's paperwork.

Gallagher, who was named interim cabinet secretary after Retta Ward died in March, insists the evaluation process was fair since it was open to anyone who wanted to apply. "No one reviewed the applications beforehand, so that was kept separately, and then the cabinet secretary [Ward] made her decision based on her criteria and her review."

Gov. Susana Martinez, who has publicly said that everyone in her administration "should **uphold the highest level of ethical conduct**," declined to comment for the story. A spokesman referred SFR back to the health department.

Records there show that Hayes and Jacobs dissolved Bootstrap Capital a few weeks after Keyway was named a finalist. Hayes' husband **reorganized it** under his name alone.

More than a year after being named a finalist, Keyway is still not open to registered patients.

Medical Cannabis Application Packet



Keyway's Complete Application

1 document

Story Source Documents



Clarke Letter - Oct. 20, 2015



Clarke Letter - October 5, 2015



Conflicts of Interest Certifications



Divestiture Memo

8 documents



113

Keyway's Complete Application

How This Tech Startup Is About To Disrupt The Auto Insurance Industry



MOST READ

COMMENTED



What's Next?
November 16, 2016 by
Steven Hsieh
2 Comments



A Rio Runs Through Us
November 16, 2016 by
Gwyneth Doland



Years in the Making
November 16, 2016 by
Elizabeth Miller



Dining Out Turkey Day
November 16, 2016 by
Gwyneth Doland



2016 Writing Contest
November 23, 2016 by
SFR



@SFREPORTER ON INSTAGRAM

This small team of data scientists has made an algorithm that is turning a giant \$19 billion industry upside down

[Learn More](#)

Sponsored by EverQuote

0 Comments

SFReporter

Login

Recommend
Score Sheets

Share

Sort by Newest

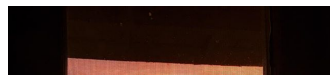
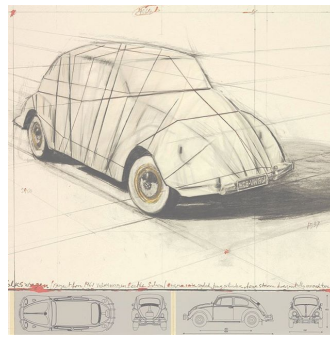
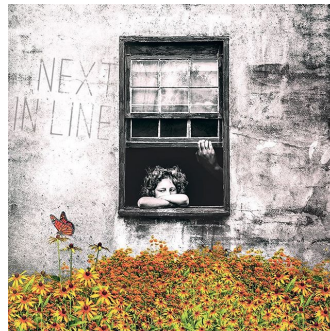


Start the discussion...

Be the first to comment.

Subscribe Add Disqus to your site Add Disqus Add Privacy

comments powered by Disqus





NEWS

NEWS HOME
COVER STORIES
LOCAL NEWS
MORNING WORD
OPINION COLUMNS
LETTERS TO THE EDITOR
7 DAYS
OVERHEARD
METROGLYPHS
GUIDES

ABOUT

CONTACT
JOBS & INTERNSHIPS
PRESS PASS CREDENTIALS

ARTS

ARTS HOME
FEATURES
POP CULTURE
SUMMER ARTS PREVIEW

MUSIC

MUSIC HOME
FEATURES

FOOD

FOOD HOME
THE FORK
FEATURES
RESTAURANTS
RESTAURANT GUIDE

MOVIES

CURRENT REVIEWS
SHOWTIMES

CALENDAR

ADVERTISING

CLASSIFIEDS
SPECS AND SIZES
OUR DEMOGRAPHICS