

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Monday, January 6, 2020
Hearing Room 1
6:30 p.m.



Commissioners: Jodie Smith (Chair), James E.T. Jackson (Vice-Chair), Jill M. Butler, Gail Kong, Joseph Tuman, Nayeli Maxson Velázquez, and Jerett Yan

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

City Attorney Staff: Trish Hynes, Deputy City Attorney

PUBLIC ETHICS COMMISSION (PEC or COMMISSION)
REGULAR MEETING AGENDA

1. **Roll Call and Determination of Quorum.**
2. **Staff and Commission Announcements.**
3. **Open Forum.**

ACTION ITEMS

4. **Approval of Commission Meeting Draft Minutes.**
 - a. December 2, 2019 Regular Meeting Minutes ([Attachment 1 – Minutes](#))
5. **Election of Officers (Chair and Vice-Chair) of the Commission.** Commissioners will have an opportunity to nominate any Commissioner to serve as Chair and Vice Chair for 2020. If more than one Commissioner is nominated for an office, each nominee may speak regarding their qualifications and interest in serving and may answer questions of Commissioners or the public (Public Ethics Commission Operations Policies, Article IV). The Commission may discuss the nominations and, when the vote is called, each Commissioner may cast a single vote for each office. ([Attachment 2 – PEC Operations Policies](#))
6. **New Commissioner Selection.** The Commission’s ad-hoc recruitment subcommittee met in November to interview Commissioner applicants for one PEC-appointed vacancy. The subcommittee received 15 applications, interviewed 14 (one applicant was disqualified because of City employment), and selected six finalists to appear before the full Commission for a public interview. Each candidate will be given four minutes to introduce themselves to the Commission, followed by questions from Commissioners. After all candidates have presented and answered questions, the Commission will vote

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to select the new member, whose term begins on January 22, 2020. Attached are the application materials for each of the following finalists:

- a. Sam Ferguson ([Attachment 3 – Ferguson Application](#))
 - b. Rimi Koka ([Attachment 4 – Koka Application](#))
 - c. Michael MacDonald ([Attachment 5 – MacDonald Application](#))
 - d. Arvon Perteet ([Attachment 6 – Perteet Application](#))
 - e. Janani Ramachandran ([Attachment 7 – Ramachandran Application](#))
 - f. Steven Selna ([Attachment 8 – Selna Application](#))
7. ***In the Matter of Michael Colbruno; Case No. 16-01.*** On January 12, 2016, Commission staff received a complaint alleging that Michael Colbruno failed to register as a lobbyist in 2012 and 2014, Commission Staff completed an investigation into the allegations and found that Mr. Colbruno failed to timely file lobbyist registration forms and quarterly reports in 2012, 2013, 2014 and 2015 in violation of the Oakland Lobbyist Registration Act. Commission staff brought a proposed stipulation to the Commission in April 2018; however, the Commission rejected the \$2,500 proposed fine and later referred the matter to an administrative hearing, with Vice-Chair James Jackson assigned as the hearing officer. The hearing occurred on November 18, 2019, after which the hearing officer drafted the attached findings of facts and conclusions and proposed decision, which includes a recommended penalty of \$5,250. ([Attachment 9 – Staff Memorandum](#); [Attachment 10 – Proposed Decision](#))
8. **Proposed Amendments to the PEC Ordinance (OMC Chapter 2.25).** Commission staff presents draft amendments to the Commission’s enabling ordinance (Chapter 2.25) to update the ordinance in alignment with the City Charter changes of 2014 and to add details regarding the collections process for administrative enforcement of the laws within the Commission’s jurisdiction. ([Attachment 11 – Staff Memorandum](#); [Attachment 12 – Draft Proposed Amendments to the PEC Ordinance](#); [Attachment 13 – City Charter Section 603](#))

DISCUSSION ITEMS

9. **OCRA Limits adjustment Oakland Campaign Reform Act Contribution Limit and Expenditure Ceiling Annual Adjustment for 2020.** Commission staff provides a report regarding the annual adjustment to Oakland’s campaign contribution limits and expenditure ceiling amounts according to the increase in the Consumer Price Index as



required by the Oakland Campaign Reform Act. Staff provides information regarding the method of calculating the adjustment to the Commission, and, once the CPI increase is published by the Bureau of Labor Statistics, staff will subsequently make the adjustment and publish the 2020 limits for the public. ([Attachment 14 – Memorandum](#))

- 10. Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission’s last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission’s work. Current or recent subcommittees include the following:
- a. **Limited Public Finance Policy Development Subcommittee** (ad hoc) – Nayeli Maxson Velázquez (Chair), Jill M. Butler and James Jackson
 - b. **Subcommittee on Partnerships** (ad hoc) – Gail Kong and Jodie Smith
 - c. **Commissioner Recruitment Subcommittee** (ad hoc) – James Jackson, Gail Kong, and Jodie Smith

INFORMATION ITEMS

- 11. Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a report of recent education, outreach, disclosure and data illumination activities. ([Attachment 15 – Disclosure Report](#))
- 12. Enforcement Program.** Enforcement Chief Kellie Johnson reports on the Commission’s enforcement work since the last regular Commission meeting. ([Attachment 16 – Enforcement Report](#))
- 13. Executive Director’s Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission’s last meeting. ([Attachment 17 – Executive Director’s Report](#))
- 14. Commissioner Farewell.** January 21, 2020, marks the end of each term for Commissioner Gail Kong and Chair Jodie Smith. The Commission will celebrate the service of each outgoing Commissioner at the close of this meeting.

The meeting will adjourn upon the completion of the Commission’s business.

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A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandca.gov/pec.



12/27/19

Approved for Distribution

Date



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DRAFT



Commissioners: Jodie Smith (Chair), James E.T. Jackson (Vice-Chair), Jill M. Butler, Gail Kong, Joseph Tuman, Nayeli Maxson Velázquez, and Jerett Yan

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

City Attorney Staff: Trish Hynes, Deputy City Attorney

PUBLIC ETHICS COMMISSION (PEC or COMMISSION) **REGULAR MEETING MINUTES**

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:32 p.m.

Members present: Commissioners Smith, Jackson, Butler, Kong, and Tuman.
Commissioner Maxson Velázquez arrived at 6:35 p.m. Commissioner Yan was absent.

Staff present: Whitney Barazoto, Suzanne Doran, Kellie Johnson, and Simon Russell.

City Attorney Staff: Ravi Patel, Deputy City Attorney (substituting for Trish Hynes)

2. Staff and Commission Announcements.

There were no announcements.

3. Open Forum.

There were four public speakers.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. November 4, 2019 Regular Meeting Minutes

Commissioner Jackson moved and Commissioner Tuman seconded to approve the minutes.

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There were no public speakers.

The motion passed 6-0.

5. In the Matter of Shotspotter, Inc.; Complaint No. 14-29.

Kellie Johnson, Enforcement Chief, presented the case and recommended approval of the stipulation.

Commissioner Jackson recused himself from this matter.

Commissioners had follow up questions.

There was one public speaker.

Commissioner Kong moved and Commissioner Tuman seconded to accept the staff recommendation. Commissioner Jackson abstained.

The motion passed 5-0.

6. In the Matter of Jumoke Hinton Hodge; Complaint No. 17-07.

Ms. Johnson presented the case and recommended Commission approval of the streamline stipulation, which includes a \$500 fine.

There were no public speakers.

Commissioner Tuman moved and Commissioner Jackson seconded to approve the recommendation.

The motion passed 6-0.

7. In the Matter of Joseph Betesh; Complaint No. 19-07.

Ms. Johnson presented the matter and recommended Commission approval of the streamline stipulation, which includes a \$2,000 fine.

There was one public speaker.

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Commissioner Maxson Velázquez moved and Commissioner Kong seconded to approve the staff recommendation.

The motion passed 6-0.

8. In the Matter of Mayor Libby Schaff; Case No. M2019-02.

Ms. Johnson recommended that the Commission close the mediation without further action.

Ralph Kanz, the complainant, addressed the Commission.

There was one public speaker.

Commissioner Maxson Velázquez moved and Commissioner Tuman seconded to approve the staff recommendation.

The motion passed 6-0.

9. In the Matter of the City of Oakland Planning and Building Department; Case No. M2019-06.

Ms. Johnson recommended that the mediation be closed without further action because the responsive documents have been received and the request is closed.

There was one public speaker.

Commissioner Maxson Velázquez moved and Commissioner Jackson seconded to approve the staff recommendation.

The motion passed 6-0.

10. In the Matter of Councilmember Dan Kalb and the City of Oakland Department of Transportation; Case No. M2019-11.

Ms. Johnson recommended that the Commission close the mediation without further action because the responsive documents have been received and the request is closed.

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There were no public speakers.

Commissioner Jackson moved and Commissioner Tuman seconded to approve the staff recommendation.

The motion passed 6-0.

DISCUSSION ITEMS

11. Boards and Commissions Agenda Posting Compliance.

Whitney Barazoto, Executive Director, presented a report by staff summarizing a proactive compliance review of online agenda postings by City boards and commissions.

There were no public speakers.

12. Reports on Subcommittees and Commissioner Assignments.

- a. **Limited Public Finance Policy Development Subcommittee** (ad hoc) – Nayeli Maxson Velázquez (Chair), Jill M. Butler and James Jackson

Commissioner Maxson Velázquez shared that PEC staff and herself facilitated a community meeting regarding public engagement in the campaign process.

- b. **Subcommittee on Partnerships** (ad hoc) – Gail Kong and Jodie Smith

There were no updates.

- c. **Commissioner Recruitment Subcommittee** (ad hoc) – James Jackson, Gail Kong, and Jodie Smith

Commissioner Smith shared that the 1st interviews were held, and that the subcommittee selected six finalists to interview at the January meeting before the full commission.

There were no public speakers.

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INFORMATION ITEMS

13. Disclosure and Engagement.

Suzanne Doran, Lead Analyst, provided a report of recent education, outreach, disclosure and data illumination activities.

14. Enforcement Program.

Ms. Johnson reported on the Commission's enforcement work since the last regular Commission meeting. She shared that all of 2014's complaints have been closed.

15. Executive Director's Report.

Ms. Barazoto reported on overall projects, priorities, and significant activities since the Commission's last meeting. She added that the Commission will select its Chair and Vice-Chair for 2020 at the upcoming January meeting.

The meeting adjourned at 8:40 p.m.



CITY OF OAKLAND PUBLIC ETHICS COMMISSION

OPERATIONS POLICIES *Effective January 1, 2016*

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ATTACHMENT 2

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ATTACHMENT 2

ARTICLE I - MISSION STATEMENT

The Public Ethics Commission (Commission) ensures compliance with the City of Oakland's government ethics, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government. To fulfill its mission, the Commission conducts the following activities:

- A. **Lead/Collaborate** – Lead by example and facilitate city policy, management, and technological changes to further the Commission's mission.
- B. **Educate/Engage** – Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the city's campaign finance, ethics, and transparency laws.
- C. **Disclose/Illuminate** – Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.
- D. **Detect/Deter** – Conduct investigations and audits to monitor compliance with the laws within the Commission's jurisdiction.
- E. **Prosecute** – Enforce violations of the laws within the Commission's jurisdiction through administrative or civil remedies.

ARTICLE II - JURISDICTION, APPLICABLE LAW

The Commission was created by City Charter in 1996 (Section 202), which was amended in November 2014 (Section 202, 603) to strengthen the Commission's authority, independence and staffing. The Commission oversees compliance with the following laws:

- A. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25);
- B. The City of Oakland Campaign Reform Act (O.M.C. chapter 3.12);
- C. Limited Public Financing Act of the City of Oakland (O.M.C. chapter 3.13);
- D. Oakland Sunshine Ordinance (O.M.C. chapter 2.20);
- E. The City of Oakland Lobbyist Registration Act (O.M.C. chapter 3.20); and
- F. Oakland False Endorsement in Campaign Literature act (O.M.C. chapter 3.14).

The Commission must comply with all applicable laws, including but not limited to:

- A. Oakland City Charter, including but not limited to Sections 202 and 603;
- B. Public Ethics Commission Operations Ordinance (O.M.C. chapter 2.24);
- C. Oakland Sunshine Ordinance, the California Ralph M. Brown Act (Gov. Code sections 54950, *et seq.*) and the California Public Records Act (Gov. Code sections 6250, *et seq.*);
- D. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25); and
- E. These Operations Policies and other policies adopted by the Commission.

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ARTICLE III - COMMISSION STRUCTURE AND SUPPORT

Section 1: Commission

The Public Ethics Commission is a seven-member board of Oakland residents responsible for establishing Commission policies and priorities, promoting government transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by staff.

Acceptance of the Oath of Public Office constitutes a commissioner's sworn responsibility to the public trust. Commissioners must collectively and individually respect and honor their appointed role and strive to maintain public confidence in the Commission's role in the government of the city of Oakland.

Section 2: Executive Director

The Executive Director reports to the Chair and to the Commission and is responsible for establishing staff priorities in consultation with the Chair and consistent with policy direction provided by the Commission.

The Chair or designee must prepare a periodic, written performance review of the Executive Director subject to the review and approval by the Commission in closed session. At any time, at the request of one or more commissioners, the Chair may call and notice a closed session of the Commission to discuss the performance of the Executive Director.

Section 3: Commission Staff

The Executive Director leads and supervises Commission staff and has the authority to hire and remove employees within constraints set by the Civil Service Commission, the Personnel Department, and the Commission's budget.

Section 4: Legal Advisor

The City Attorney is the Commission's legal advisor. Any commissioner may consult informally with an attorney assigned to the Commission on any matter related to Commission business. However, a request from a commissioner for assistance requiring significant legal research, a substantial amount of time and attention, or a written response must be authorized by the Executive Director, the Chair, or by a majority vote of the Commission or one of its Committees.

Section 5: Commission Spokesperson

The spokesperson for the Commission is the Executive Director or designee, the Chair, or the Vice Chair if the Chair is unavailable.

ARTICLE IV – OFFICERS

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Section 1: Election of Officers

The officers of the Commission are the Chair and Vice Chair. At the first regular meeting of each year, commissioners must elect a Chair and Vice Chair. At the meeting, a commissioner may nominate any commissioner to serve in the office of Chair or Vice Chair. If more than one commissioner is nominated for an office, each nominee may speak regarding their qualifications and willingness to serve and answer questions of commissioners or the public. The Commission may discuss the nominations and, when the vote is called, each commissioner may cast a single vote for each office.

Section 2: Chair

The Chair presides at all meetings of the Commission and is an ex-officio member of all standing committees. The Chair is accountable to the Commission as a whole in setting policy.

Section 3: Vice Chair

The Vice Chair performs the duties and responsibilities that may be delegated by the Chair. In the absence or disability of the Chair, the Vice Chair will perform the duties and responsibilities of the Chair.

ARTICLE V - COMMITTEES

Section 1: Standing and Ad Hoc Committees

It is the policy of the Commission to appoint individual commissioners to perform specific tasks or functions by serving on standing or ad hoc committees. Thus, as necessary, the Chair may create a standing or ad hoc committee, identify its purpose, appoint commissioners as members, and designate a Committee Chair.

Terms of ad hoc committees may not exceed one year. Membership on ad hoc committees may not exceed three commissioners.

Commission staff will post a list of the Commission's current committees and committee membership on the Commission's website.

Section 2: Committee Meetings

Committee meetings may be called by the Chair, the committee's chair, or by majority vote of members of the committee.

Meetings of standing committees follow the same procedures provided under Article VI, sections 3 through 7 of these Operations Policies.

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Section 3: Committee Quorum

A majority of the members of a committee constitutes a quorum.

ARTICLE VI - COMMISSION MEETINGS

Section 1: Meetings: Time, Public Location, Notice

The Commission must hold regular meetings at an established time and place suitable for its purposes, and consistent with the requirements of the Brown Act and Sunshine Ordinance. Generally, regular Commission meetings are held on the first Monday of each month at 6:30 p.m., or as otherwise set forth in the published calendar and posted on the Commission's website with the proper notice. Regular meetings are held in Oakland City Hall, One Frank Ogawa Plaza in the city of Oakland, California.

Meetings scheduled for a time or place other than for regular meetings are designated as special meetings.

Written notice of regular meetings and special meetings must be provided at least 10 days or 72 hours in advance, respectively, in the manner required by Charter section 1205, the Oakland Sunshine Ordinance, and the Brown Act.

Section 2: Quorum

At all meetings of the full Commission, the presence of four (4) commissioners constitutes a quorum. (Charter section 603(d)(4).) No action can be taken on an agenda item unless at least four (4) commissioners are present. If ever during a meeting there is less than a quorum present, a motion to adjourn is appropriate; absent objection, debate can be continued, but no vote taken, except to adjourn. When a quorum exists, official action requires a majority vote of those commissioners present when the vote is called, unless otherwise provided by the Charter (e.g., for certain enforcement matters and for removal of the Executive Director).

Section 3: Public Engagement

The Commission values and encourages public input and, regarding public participation in Commission proceedings, will liberally construe the public's rights under the Brown Act and Sunshine Ordinance. The Commission proactively develops and promotes new channels for public participation in local government beyond the minimum legal requirements, for example, by utilizing new technology and social media tools to facilitate greater public access to government information and proceedings; conducting special meetings and hearings on relevant issues; collaborating with civic groups on issues and projects within the Commission's jurisdiction; and engaging in affirmative public outreach through non-traditional means.

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All interested persons are encouraged to provide input or request information regarding Commission business by contacting Commission staff at (510) 238-3593 or ethicscommission@oaklandnet.com, or view information online at www.oaklandnet.com/pec.

At each regular Commission meeting, all interested persons may express their views regarding a matter within the jurisdiction of the Commission. This opportunity for comment, called “Open Forum,” will appear on each agenda. Ordinarily, each speaker may speak for up to three minutes, but the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied. The Commission may also limit the time for public comment under Open Forum to a total of 15 minutes.

At regular and special Commission or Committee meetings, all interested persons must also be allowed to express their views on any agenda item upon the Commission’s review of the item. Before taking action on any agenda item, the Commission (or Committee) must provide the opportunity for public comment on that item. Each person wishing to speak on an agenda item is permitted to speak once, for a minimum of two minutes; however, the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied.

The Commission urges the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since the public disclosure of such complaints or requests may undermine any subsequent investigation undertaken.

Section 4: Public Participation at Meetings

The agenda for each meeting must provide instructions for public participation. To encourage public participation, the Commission will employ the least formal, least restrictive procedures for public comment, so long as order is maintained.

In the event that the complexity of the issues, number of anticipated participants, or other factors suggest that greater formality is required to maintain order or protect the public’s right to participate, the Commission may utilize a more formal process (such as the “speaker card” procedure set forth in City Council Procedures Rule 12). In that case, the agenda will describe the process, including any special requirements, for public participation.

If during the course of a meeting it becomes apparent that the existing procedure for public comment is inadequate or inappropriate, the Chair may exercise his or her discretion to modify the procedure during the meeting. In that case, the Chair must state the reasons justifying the change in procedure, clearly explain how members of the public may provide comment as to each agenda item, and apply the modified process uniformly to all speakers.

Section 5: Chair

The Chair must maintain order in the chamber, has authority to refuse the floor to any person, and may limit or extend the time allocated to any speaker.

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The Chair may rule a public speaker out of order if:

- A. the speaker is speaking beyond the allocated time limit;
- B. the speaker's remarks are not relevant to the agenda item or are repetitious; or,
- C. the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), attack the character of individuals or are abusive (vulgar or obscene language).

The public has the right to criticize policies, procedures, programs, or services of the city, the Commission or of any other aspect of the city's or Commission's proposals or activities, or the acts or omissions of the Commission or its staff or other public employees. The Commission will not abridge or prohibit public criticism on the basis that the performance of one or more public employees is implicated. Nothing in this section confers any privilege or protection beyond that which is otherwise provided by law.

Section 6: Meeting Minutes

Commission staff will draft minutes after every regular and special Commission meeting, and every standing committee meeting, subject to approval by majority vote of the Commission or respective committee. The minutes must reflect meeting start and end time, commissioner attendance (including the absence of any commissioner for any votes taken), summary of each item, and vote (if applicable) for each item considered.

Section 7: Closed Sessions

Upon the determination by a legal advisor from the City Attorney's Office that a closed session is both authorized and appropriate under the circumstances, the Commission may call for a closed session. Appropriate notice must be given of all closed sessions.

Section 8: Recess

The Commission recesses for a period of one month each year. During this annual recess, the Chair may convene the Commission for special meetings, and the chair of a standing or ad hoc committee may convene a committee meeting.

ARTICLE VII - AGENDA REQUIREMENTS

Section 1: Agenda Preparation

Commission staff will work with the Commission Chair or standing Committee chair(s) to develop the agenda for all meetings. The agenda must be approved by the appropriate Chair and must contain a meaningful description of each item to be transacted or discussed at the Commission or committee meeting so that a person can reasonably determine if the item may affect his or her interests. The agenda also will provide instructions for public participation.

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Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda that lists routine matters that are expected to be non-controversial and on which there are no scheduled speakers. There will be no separate discussions on a consent calendar item unless, prior to its adoption, a request is made by a commissioner or the public, and accepted by the Commission, to remove the item from consent and consider it as a separate item.

ARTICLE VIII - VOTING

Section 1: Voting, Abstention, and Recusal

Each commissioner present at a Commission or committee meeting must vote on all matters put to a vote, unless the commissioner abstains or recuses him- or herself from a particular matter.

A commissioner wishing to abstain from a vote must state publicly the reason for abstention and move for Commission approval. If the motion passes, the abstaining commissioner must refrain from further discussion of the item and will not vote on the item.

A commissioner who has been advised by the City Attorney to recuse himself or herself from voting on an item due to a conflict of interest must recuse him or herself and leave the dais during discussion and voting on the item. A commissioner who recuses as to a particular item is not present for purposes of determining the existence of a quorum in Article VI, section 2, above.

Section 2: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE IX - TREATMENT OF CONFIDENTIAL INFORMATION

In the course of their duties, commissioners may be exposed to privileged, confidential, or other information protected by law. While commissioners enjoy the full protection of the First Amendment and the public is entitled full access to public information, misuse of confidential information may have significant adverse consequences to the city, the Commission, city employees, or other individuals.

Section 1: Confidential Information

Generally, "Confidential Information," includes the following:

- A. Any information concerning a complaint that is still under preliminary review;
- B. Any communication or information provided to commissioners in preparation for, or during, a duly authorized closed session;

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- C. Any communications by or from the City Attorney or any legal advisor to the Commission that reflect the legal advisor's work on behalf of the Commission, including the advisor's mental impressions, legal strategy, analysis, advice or conclusions;
- D. Non-public materials concerning pending or past litigation to which the Commission is/was a party;
- E. Information concerning Commission personnel matters, including but not limited to those concerning the hiring, performance, counseling, discipline or termination of any member or prospective member of Commission staff; or
- F. Other sensitive personal or financial information of third parties (including respondents to complaints) that would otherwise be protected by law.

Confidential Information does not include information generally available to the public or previously disclosed to members of the public, including at a Commission meeting. Nor does it include information that is required by law to be reported out of closed session.

The fact that Commission staff shares confidential information with another enforcement agency such as a District Attorney's Office, the California Fair Political Practices Commission, or the Federal Bureau of Investigation, does not render the information non-confidential.

Section 2: Prohibitions on Disclosure or Misuse of Confidential Information

Absent express authorization by the Executive Director, Chair, the Commission's legal advisor, or court order, a commissioner is prohibited from disclosing Confidential Information to any person who is not currently serving as a commissioner.

Commissioners are prohibited from using, directly or indirectly, Confidential Information for purposes other than the official business of the Commission.

If a commissioner has any doubt about a person's authorization to access Commission confidential information or is uncertain whether a particular use could constitute "misuse," the commissioner must, before disclosing or using the information, consult the Executive Director.

Section 3: Affirmative Duty to Safeguard Confidential Information

Commissioners must actively protect and safeguard Confidential Information through the use of physical and technical safeguards (e.g., strong passwords for access to electronically stored information) and secure methods of destruction, once materials are no longer needed.

A commissioner who discovers an unauthorized disclosure or misuse (potential or actual) of Commission confidential information must promptly notify the Executive Director. Similarly, a commissioner who receives a request, subpoena, or court order for disclosure of Commission confidential information must immediately notify the Executive Director.

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Section 4: Term of Obligation

A commissioner's obligations pursuant to this Article do not terminate with the end of the commissioner's term of office.

ARTICLE X - PARLIAMENTARY PROCEDURE

Section 1: Robert's Rules of Order (Newly Revised) for Small Boards

The business of the Commission and its standing committees must be conducted, so far as it is practical in accordance with parliamentary rules as contained in Robert's Rules of Order Newly Revised, for Small Boards, except as modified by these rules and in accordance with the Brown Act and the Sunshine Ordinance. The City Attorney, or other person designated by the Chair and approved by the Commission, shall serve as the official parliamentarian for meetings of the Commission.

ARTICLE XI - STANDARDS OF CONDUCT

In addition to complying with the foregoing policies, each commissioner should aspire to:

A. **Actively and diligently support the mission, goals and objectives of the Commission**, for example, by thoroughly preparing for and attending Commission meetings; serving on committees; working cooperatively with Commission staff on officially-sanctioned projects; and attending civic events relevant to the Commission's purpose and jurisdiction.

B. **Preserve public confidence in commissioners' conduct, intentions, and impartiality**, for example, by fairly and objectively enforcing laws and regulations within the Commission's jurisdiction; refraining from conduct or statements that suggest personal bias; avoiding personal involvement in the investigation and prosecution of complaints (absent a recusal); and avoiding inappropriate political activity (endorsing, supporting, opposing, or working on behalf of a candidate or measure in an Oakland election).

C. **Protect the independence and integrity of the Commission**, for example, by working for the public good and not private interest in all matters related to city government; refraining from using their official positions to secure special advantages or benefits for self or others; declining to accept benefits or to participate in activities that might influence or undermine their ability to fairly and objectively discharge their Commission duties; and, if speaking to the press or public about a Commission matter, clearly explaining that the commissioner's statements reflect the personal view of the commissioner and not the view of the Commission.

D. **Set the highest example civil and efficient conduct of city government**, for example, by recommending and adopting rules and procedures that promote transparency and fair process in city government; treating the public, Commission staff, Commission legal advisors, and fellow

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commissioners with dignity and fairness; and conducting the Commission's business in an efficient and timely manner.

ARTICLE XII - OPERATIONS POLICIES AMENDMENTS

As necessary, the Commission will review and amend these Operations Policies as provided by the Operations Ordinance. (O.M.C. section 2.24.070.) In so doing, the Commission must provide notice of any amendments to the City Council as required by the Public Ethics Commission Operations Ordinance.

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

Commissioner Application



Name: Sam Ferguson

Mailing Address: [REDACTED]

Daytime Phone: [REDACTED] Evening Phone: Same

Email: [REDACTED] City Council District: 3

Are you an Oakland resident? Yes No Years of Residency in Oakland: 2.5

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

N/A

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? _____
6. List any languages other than English that you speak fluently. Spanish
7. How did you hear about this vacancy? Saw a posting online and heard from several commissioners and campaign finance advocates

List the names, addresses and telephone numbers of two references:

1. Name: Dan Newman, President, MapLight.org
Address: [REDACTED]
Phone: [REDACTED]
2. Name: Tyler Meade
Address: [REDACTED]
Phone: [REDACTED]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: [REDACTED]

Date: 10/31/2019

See Supplemental Questions on next page →

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Supplemental Questions

On a separate page, please answer the following four questions:

1. **Why do you want to serve on the Public Ethics Commission?**
2. **What skills and experience will you bring to the Commission?** (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)
3. **What issues, projects, or goals would you like to pursue while serving on the Commission?**
4. **What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?**
5. **What else would you like the subcommittee to know as your application is considered?**

Applications are due by 5:00 p.m. on **Friday, November 1, 2019**, and must include the following materials:

1. Signed Application.
2. Answers to the Supplemental Questions
3. Your resume

Applications may be submitted by mail, email or fax to PEC staff:

Public Ethics Commission
Attn: Whitney Barazoto
1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
ethicscommission@oaklandca.gov
Fax: (510) 238-3315

For questions, please call (510) 238-3593.
Web: www.oaklandca.gov/pec

ATTACHMENT 3

PEC
October 31, 2019

- 1 -

Responses of Sam Ferguson to Supplemental Questions for Application to Oakland Public Ethics Commission

To whom it may concern:

Thank you for considering my application to become a volunteer commissioner on the Oakland Public Ethics Commission. I have been involved in initiatives for good government and transparency since I was a student at UC Berkeley in the early 2000s, nearly 20 years ago. As a student, I founded the Berkeley Fair Elections Coalition, which pushed for and eventually succeeded in bringing public financing of elections to the City of Berkeley. Additionally, I am a practicing attorney and former law clerk to a federal judge, and am familiar with adjudication, analyzing legal matters and considering policy proposals. I moved to Oakland about 2.5 years ago, where I now live with my wife and young daughter. Though I'm new to Oakland, my family has deep roots in Oakland and the East Bay. I was born and raised in Berkeley, and my mother and grandmother were both raised in Oakland.

Below please find my responses to the Commission's supplemental questions. I look forward to the opportunity to serve should you find my background appropriate for the commission.

Why do you want to serve on the Public Ethics Commission?

Since I was an undergraduate at UC Berkeley, I have been interested in government transparency and fair campaign financing for elections. Together with Dan Newman (who subsequently founded MapLight.org, a government transparency group), I started the Berkeley Fair Elections Coalition in 2003 to push for the city to adopt public financing of elections. While we were initially unsuccessful with a ballot initiative in 2004, we went back to the voters in 2016 and Berkeley is now one of the few cities in the country with a successful public financing of elections model. Our coalition included a broad base of citizen and neighborhood groups, including Maplight, common cause, the ACLU, and numerous neighborhood organizations and elected officials.

While I was born and raised in Berkeley, I moved to Oakland a few years ago and want to make sure that I remain an engaged citizen in my new town. Our democracy is increasingly under assault from the pernicious influence of big contributions and dark money. As political advertising dominates our elections and becomes ever more unmoored from truth, citizens increasingly turn pessimistic of our most sacred institutions. It is up to ordinary citizens to protect both the integrity and legitimacy of our institutions, and I believe there is no better place to start than on the local level. Serving on the commission would be my small contribution to ensuring the integrity of our government and electoral process.

In addition to my experience with public financing of elections, I am a California-barred attorney. In law school, I took a number of courses on the First Amendment, Media Law and Election Law. I continue to attend seminars and trainings on these topics as part of my continuing education requirements and personal interest. I think my background as an attorney with familiarity in the areas in which the commission works would be a significant contribution.

PEC
October 31, 2019

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What skills and experience will you bring to the Commission?

As noted above, I have long experience with campaign finance reform, having formed a group in the early 2000s to bring campaign finance reform to the City of Berkeley. In addition, my skills as an attorney — honed both as a former clerk to a federal judge on the Ninth Circuit Court of Appeals as well as a practicing litigator — are presumably valuable skills to have as a commissioner, given that the commission is focused on both enforcing Oakland's campaign finance and ethics laws (including adjudicating complaints) as well as recommending new policy initiatives to improve the city's campaign finance regime and transparency.

What issues, projects, or goals would you like to pursue while serving on the commission?

I would have two priorities as a commissioner. First, continuing on the work of former president Jonathan Stein, I would try to push forward the commission's consideration of whether the city should adopt public financing of elections, and, if so, what form such a program would take (i.e. a block-grant model, a democracy voucher model, or a matching funds model). I hope that my experience with this issue in the City of Berkeley — including helping to draft and negotiate legislation with relevant stakeholders, as well as work with city staff to implement the program — would be valuable to the commission as it considers adopting its own program for the City of Oakland. Second, I would make government transparency a priority of my tenure. Oakland already has excellent transparency measures in place, but sunshine on government can never shine bright enough.

What do you think are the city's most pressing ethics, campaign finance, or transparency challenges?

Money in politics is a major issue in the city of Oakland that is likely to get worse with rapid development and gentrification. I believe the city must ensure that elections are contested, that each election has a robust field of candidates, and that all candidates with community support have the resources they need to run a campaign, regardless of their policy positions.

What else would you like the subcommittee to know as your application is considered?

In the interest of full disclosure, I have been peripherally involved with a group of citizens in Oakland who have begun discussions about bringing an initiative to the ballot to bring public financing of elections to the City of Oakland. I am not on the steering committee and have no formal role in the campaign, but have attended a few meetings and provided recommendations and advice to some of the campaign's leaders.

Please let me know if you have any additional questions.

Best regards,

-Sam Ferguson


Sam Ferguson

EDUCATION

Yale Law School, New Haven, CT
Juris Doctorate, 2009

University of California at Berkeley, Berkeley, CA
Bachelor of Arts, Philosophy with Highest Honors, 2004 (Phi Beta Kappa)

EXPERIENCE

Jan. 2017-
Present **The Meade Firm p.c., Senior Associate**, San Francisco, California
Senior Associate at a plaintiffs-side law firm specializing in high-stakes contingency cases on behalf of consumers and individuals. Representative matters include *Base Village Metropolitan District No. 2 v. Related Co., et al.*, a \$150 mil. racketeering case against one of the nation's largest real estate developers for abusive management of a special utility district; *Bugsby Property v. Alexandria Real Estate Equities*, an 8-figure quantum meruit action related to father's appropriation of his son's strategic business advice; and *LC Investments 2010 v. La Costa Investments*, concerning Omni La Costa's unlawful steering of customers into their own rooms at the expense of condo owners at the property who contract with Omni for brokerage services.

2016-
Present **Berkeley Fair Elections Coalition, Co-Chair**, Berkeley, California
Co-chaired campaign in support of Measure XI to adopt public financing of elections. Coalition included ACLU (Nor. Cal.), Common Cause and MapLight. Ongoing monitoring of program after 2018 election cycle, including testimony at Fair Campaign Practices Commission and City Council. Follow on campaign to Measure H in 2004.

2009 –
Dec. 2016 **Author**, New York, NY and Buenos Aires, Argentina
Author of *Remnants of a Dirty War* (forthcoming, Potomac Books) on transitional justice in Argentina. Book considers law's capacity to confront atrocity. Narrative centers on the 2009-2011 prosecution of military officers from the Naval Mechanics School (ESMA) responsible for the forced disappearances of approximately 5000 people during the 1970s. Fellowships awarded from Yale Law School and the Fulbright Foundation. Conducted hundreds of interviews with prosecutors, defense attorneys, judges, victims, military officers, and human rights activists. Obtained access to 200,000+ page secret case file from anonymous sources. Wrote articles for *The Christian Science Monitor*, *New Republic* and the *Boston Review*. Interviewed several torturers in prison and under house arrest.

Sept. 2011 -
Sept. 2013 **Wiggin and Dana, LLP, Contract Attorney**, New Haven, CT
Assisted complex federal litigation department. Representative projects include research on foreign sovereign immunity, *forum non conveniens* and long-arm jurisdiction.

Sept. 2010 -
Sept. 2011 **Law Clerk to the Honorable William A. Fletcher**, San Francisco, CA
U.S. Court of Appeals for the Ninth Circuit

Summer 2008 **Altshuler Berzon, LLP, Summer Associate**, San Francisco, CA

BAR ADMISSIONS

California; U.S. Court of Appeals for the Ninth Circuit; All Federal Districts in California.

MISCELLANEOUS

Spanish Fluency; devotee of mid-century design; former sportscaster and DJ at KALX, 90.7 fm.

PUBLICATIONS

"Judging Memory," LASA Forum, Volume XLIV, Issue 3, Summer 2013: 21-23.

Pope Francis and the "Dirty War": The Video Testimony. The New Republic, Mar. 18, 2013 (publishing previously non-public video testimony of then-Archbishop Bergoglio at the ESMA trial obtained from anonymous source).

When Pope Francis Testified About the Dirty War. The New Republic, Mar. 14, 2013.

The Unending War: Argentina's Quest for Justice. Boston Review, May/June 2008.

Argentina's 'Blond angel of death' convicted for role in dirty war. The Christian Science Monitor, Oct. 27, 2011.

Argentina Fans who Doubted Diego Maradona: 'Please Forgive Us!' The Christian Science Monitor. July 2, 2010.

Children of Argentine Media Magnate Forced To Undergo DNA testing. The Christian Science Monitor. June 7, 2010.

Argentina's 'Disappeared:' Justice at Last or Reneging on Amnesty. The Christian Science Monitor. Dec. 24, 2009.

Correspondent and Reporter for Truthout (www.truth-out.org) (2007-2010). Articles:

Civilian Face of Argentine Dictatorship Arrested. May 6, 2010.

Is Sotomayor, a Tough on Crime Nominee, Becoming a Defendant's Rights Justice? Apr. 8, 2010.

Supreme Court Shreds Campaign-Finance Laws. Jan. 21, 2010.

Unrepentant 'Blond Angel' 18 others from the ESMA Stand Trial. Dec. 15, 2009.

The America Where They Do Prosecute Torture, Dec. 11, 2009.

Argentine Dirty War Victims Cautiously Embrace Trials, Hope for More. Nov. 28, 2009.

Two Sentenced, Three Absolved in Argentine 'Dirty War' Trial, Angering Activists. Nov. 3, 2009.

Uruguayan Voters Reject Chance to Prosecute Dictators. Oct. 28, 2009.

In Pursuing Human Rights, Argentina Displays a Broken Justice System. Oct. 18, 2009.

Argentina's Dirty War: How to Defend an Accused Mass Murderer? Oct. 5, 2009.

Justice for Latin America's Disappeared? Sept. 18, 2009.

Beating Up Thurgood Marshall. Sept. 14, 2009.

Former Argentine President, Human Rights Champion Raul Alfonsin Dies. Apr. 1, 2009.

State Court Hears Challenge to Proposition 8. Mar. 6, 2009.

The Fatima Massacre. July 30, 2008.

'Worst Massacre in Argentine History' Goes to Trial. June 15, 2008.

Seven Murders Probed in "Dirty War" Tribunal. Aug. 21, 2007.

Priest May Walk in Argentina's "Dirty War" Tribunal. Aug. 16, 2007.

Argentine "Dirty War" Trial Focuses on Priest. Aug. 2, 2007.

Argentina's "Dirty War" Pardon Overturned. July 24, 2007.

Argentina's "Dirty War" Trials Continue, Families Testify. July 20, 2007.

Argentina's "Dirty War" Trials Continue. July 13, 2007.

Argentina's Struggle to Restore the Rule of Law. July 9, 2007.

Framing vs. Spin: Rockridge as Opposed to Luntz. RockridgeInstitute.org. July 2006. (With George Lakoff)

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Bush is NOT Incompetent. RockridgeInstitute.org. June 2006. (With George Lakoff and Marc Ettlinger)

The Framing of Immigration. RockridgeInstitute.org. May 2006. (With George Lakoff)

PRESENTATIONS

Lecturer, “Por Memoria, Verdad y Justicia?,” Universidad de San Andres, Buenos Aires, Aug. 22, 2015 (in Spanish).

Lecturer, Seminario Global de Derecho, “Memoria, Verdad y Justicia: Juzgado a la Dictadura,” Universidad de San Andres, Buenos Aires, Aug. 20, 2015 (in Spanish).

Presenter, “Derechos Humanos y Castigo: Las Discusiones Pendientes,” Universidad de San Andres, Buenos Aires, Aug. 19, 2015 (in Spanish).

Lecturer, Fried-Gal Colloquia on Transitional Justice, “Trials in Latin America: Transitional Justice Revisited in an age of Human Rights,” The Minerva Center for Human Rights, Hebrew University of Jerusalem Faculty of Law, December 19, 2013.

Presenter, “Judging Human Rights Violations: Pondering Past, Present and Future after *Kiobel*,” Tel Aviv University, The Bachmann Faculty of Law, The Minerva Center for Human Rights, Dec. 15-16, 2013.

Lecturer, “For Memory, Truth and Justice? Prosecuting Crimes Against Humanity in Argentina,” Yale Law School Schell Center for Human Rights, Dec. 6, 2012.

Lecturer, “Reconstruir Verdad, Memoria y Justicia: Desafíos del caso ESMA,” Universidad de Palermo, Buenos Aires, Nov. 1, 2011 (in Spanish)

Lecturer, Seminario Global de Derecho, “Memoria, Verdad y Justicia,” Universidad de San Andres, Buenos Aires, Aug 2010 (in Spanish).

SELECTED RADIO APPEARANCES

Background Briefing with Ian Masters, “The New Pope and the ‘Dirty War,’” NPR, Mar. 17, 2013.

Saturday Morning Extra, ABC Radio National (Australia). Appearances:

“Pope Francis and the Dirty War,” Mar. 16, 2013.

“Argentina’s ‘Angel of Death’ gets life,” Oct. 28, 2011.

“Argentina’s Stolen Babies Trial,” Mar. 19, 2011.

The Peter Collin’s Show, Overview of ESMA trial, (Podcast), Dec. 22, 2009.

KALX Radio, Sports Broadcaster and Disc Jockey, Berkeley, CA (1995-2004).

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CITY OF OAKLAND PUBLIC ETHICS COMMISSION



Commissioner Application

Name: Rimi Vikram Sai Koka

Mailing Address: [REDACTED]

Daytime Phone: [REDACTED]

Email: [REDACTED] City Council District: 6.

Are you an Oakland resident? Yes No Years of Residency in Oakland: 1yr. 3months

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

n/a

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? _____
6. List any languages other than English that you speak fluently, Hindi; Telugu; French
7. How did you hear about this vacancy? Oakland city website.

List the names, addresses and telephone numbers of two references:

1. Name: Cecilia chung.
Address: [REDACTED]
Phone: [REDACTED]
2. Name: Sanjeev chahal
Address: [REDACTED]
Phone: [REDACTED]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: [REDACTED]

Date: 10/30/19

See Supplemental Questions on next page →

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Why do you want to serve on the Public Ethics Commission?

I want to serve on the public commission to ensure Oakland residents understand and value the ethics and their need to exist in their jurisdiction. As a commissioner, I aim to be responsible to uphold the ethics of the community. I want to serve on the commission to provide clarity and community building in an ethical and strategic manner. As a person of high values and authentic sincerity, I aim to serve to provide my constituent responsibility, competency in driving and building public safety, inclusion and bringing community safety. As a person who prevails with highest respect for the individual, I want to ensure that the representation of the marginalized communities in Oakland is present on the commission. As an immigrant, a person of color, a transgender woman, I aim to bring these voices to the forefront and be treated ethically by city officials, services and its citizens. I want to uplift the growing and sensitive relationship between city servants, elected officials and the people of Oakland. More so is the divide more apparent and contentious between city officials especially law enforcements and my communities of color and transgender lives. I have always prevailed with logic and peace and will bring the same to the commission to bring about collaboration and togetherness providing my very authentic perspective to help both parties to work and exist in the best ways possible in the city of Oakland.

2. What skills and experience will you bring to the Commission? (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner)

With an MBA and over 15+ years of experience as a professional executive, I bring extensive skills of bookkeeping, business operations, financial planning and compliance management. These are competencies that can applied to ensuring sound decisions are made in managing and executing ethics. Additionally, as a board member on many LGBT organizations including San Francisco Pride and as a community leader who founded a non-profit in Oakland, I bring about a great sense of empathy, leadership, thoughtfulness and inclusion to the commission. I am effective team player and bringing me on the commissions will bring the intersectional uplifting of my identity and ensuring there is balanced representation on the commission, thereby reflecting the diversity of Oakland. I am a social and business leader who has existed nationally and internationally in various cities and have made Oakland my final stop. This city provides such diversity, care and services that always need to be managed and powerfully sustained with strong ethics prevailing. As a business leader that leads large teams and deliver on multi-million-dollar portfolios, I aim to build business competency on the commission. Every organization and service, and the city needs to be looked at and administered as a business. I bring these skills of ensuring that the city can be looked at and run as a business. As a public speaker and leader that has trust and respect in the communities that I serve, I aim to bring greater public awareness of commission and the

ATTACHMENT 4

effective work undertaken to bring about greater engagement, dialogue and better lives of Oakland residents.

3. What issues, projects, or goals would you like to pursue while serving on the Commission?

I would like to accelerate the existing projects around transparency and accountability that the commission has been able to effectively share and show progress with the community. One of my passionate goals would be bring utmost transparency and deliberation journeys of every complaint, grievance and concern submitted by a citizen of Oakland. This would be scaled to create a system of tracking, transparency and a solutions-based approach to solving the issue at hand. A project in this direction would be review and understand the operational, communication and review guidelines in this process.

Another key issue to address and solve for me would be build trust, respect and confidence between the marginalized communities of color especially in East Oakland and public servant agencies of the city. This is required to be addressed as Oakland continues to grow and become home for many walks of life. The approach in solving this issue would include building competency and capability for city officials to work with varied diversity of residents devoid of any language barriers, income standings, sexual orientations, gender identities and incarnated biases. It would equally include learning and responding to the overall framework of employing ethics within citizens of Oakland in an easy and accessible manner. Another issue to tackle for me is to build the future generations of Oakland with ensuring that the public education systems are working collaboratively with the parents and teachers under the ethics umbrella and maximizing relationships. Another project of mine would be roll out accountability metric scorecards for direct services or non-profit agencies in the city of Oakland to ensure there are resources and centers of support for everyone in Oakland and ensuring that they are functioning in an ethical manner in conducting their business and prevent an exploitation of vulnerable populations. Overall, I aim to build public commitment towards the commission and the city at large rather than forcibly employing compliance to follow rules and guidelines in place.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

The city has been growing faster than the resources planned for support can handle. This has caused the city to react and at times, become very tactical in approaching issues. In doing so, the element of ethics has not always been followed. These ethics are not only legal and compliance needed but also not socially responsible. The need to for transparency is the highest now that ever before. The need to build trust and buy in with the people of Oakland is paramount. Where it exists, it is important to maintain and improve credibility for city and its governing bodies. Another pressing need for the city is to hold accountability parameters in place to ensure that we are moving together as one

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city. There is a huge divide and disparity of wealth, health and housing between East Oakland and West Oakland. This needs to be addressed. Resources and centers of care need to be made available across the city. As a resident of East Oakland, I find the pressing need to serve the further suppressed populations here than anywhere else in this city rather than further criminalizing or minimizing their lives out here.

5. What else would you like the subcommittee to know as your application is considered.

I am a trans woman of color who is successful, intelligent and have been serving my communities. I find it to be my responsibility to ensure every human on this earth has a bettered life and is treated with respect and dignity. As a competent business leader, I come to serve the people with passion, performance and progress. I am at an intersectional identity that is quite rare to come together. Though a trans woman of color and an immigrant, I am quiet educated, successful in my career in corporate America and a community leader. I chose to make Oakland my home as being a proud home owner in east Oakland because there is work to done here. I am committed to do this work.

As I share my extensive experience further here, I wish to thank you for considering my application to serve on the commission. I gather it is a volunteer role yet very impactful in changing the way of living far greater than any monetary compensation

Rimi(Koka)(Pronouns:She/They) thrives in community showing up as a leader driving accountability for Trans Justice. Keeping connected to her South Asian roots, she co-founded Parivar, South Asian Trans and GNC-centered Queer Trans Social collective. While leading community in organizing, supporting and rising together, Rimi sits on the boards for San Francisco Pride and TGI Justice Project. Rimi is a trans activist that was instrumental in starting the first TransMarch during Pride in Toronto, collaborating with health care department to include findings from Transpulse, Canada's largest trans-focussed needs assessment survey. She organized many women led motorcycle rides across the country.

Rimi prevails as North America's development manager for Aravani Art Project(based in India) along with facilitating a peer support group.

Rimi holds an MBA specializing in business operations, accounting and management with undergraduate degrees in Accounting and Culinary arts. She has been in Corporate America for over 20 years in various operations and financial planning leadership roles with fortune 50 companies. As a diversity champion at her workplaces, Rimi has driven accountability for true inclusion and goals including Trans Gender Non-Conforming (TGNC) employee hiring, retention and development in a work environment.

Rimi is an effective facilitator and a consultant with DiversityJourneys holding workshops to focus on Gender Identity, Queer Trans People of Color, Trans at Workplace, Racial Equity, Color Intersectionality, Beyond Cisness, Gender Equality and many other topics. She is a social awareness performer of dance, poetry and spoken word. She is fluent in English, Telugu, Hindi and Urdu while proficient in French. Rimi

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has vast international experience of cultural and regional norms having lived in over 11 cities across India, Canada and America.

Rimi has extensive experience in holding workshops, training sessions and speaking engagements that stand authentic to her living experience as A Brown Trans Woman of Color, A South Asian person, A rape survivor, An immigrant, A diversity leader and A daughter. They brim of her articulate style of speaking filled with sense of humor, learning content and building capability for the listener. She has chaired many workshops at various institutional agencies such as schools, colleges, universities, large workplaces, social festivals. She has been on various panels related to health care, trans inclusion, workplace competency and community organization including at SouthBySouthWest(SXSW); Gender Spectrum; Gender Infinity; Out and Equal Summit; NQAPIA leadership summit; Oakland Museum and many more.

Her undeterred ask is to accept Trans identities as equal individuals, capable of holding jobs, degrees, relationships and dignified lives. Support and turn up for Trans lives.

Rimi Koka

E-Commerce Operations | Retail Supply Chain | Planning and Operations | LGBT Community Leader

Operations expert recognized by leadership for outstanding performance. Known for scaling businesses and enhancing social responsibility, while driving change in diversity and inclusion and preparing for the next generation global market.

Career Walmart E-Commerce

Senior Manager II — Supply Chain and Operations July 2017- Present

12 Direct Reports, including 2 managers

- Charged with delivering on the supply chain vision for \$4B Entertainment Portfolio of Electronics; Video Games; Office Supplies; Arts and Crafts; Musical Instruments; Gift Cards and Services categories.
- Increased SKU selection and availability online by +4600 bps thru orderability checks and disciplines, supply chain optimization, inventory management and flow while improving instock by 2000 bps YOY.
- Designed the organizational vision, delivered scaled growth and revamped hiring strategy to onboard over 40 supply chain associates.

Senior Manager II, Category Retail Operations Jan 2017- June 2017

6 Direct Reports

- Charged with category management of grocery and chocolate categories with annual revenue of \$50M.
- Drove assortment growth across 17 categories, partnering with +1500 vendor partners and 6 distributors.
- Grew SKU count by 122% Yoy building lasting partnerships and venturing into premium candy and new products.

Senior Manager I, Planning and Analytics July 2016- December 2016

9 Direct Reports, including 3 managers

- Charged with planning and replenishment job for grocery categories with annual revenue of over 500M.
- Worked directly with VP in building strategy, developing financial plans and execute set replenishment strategies.
- Achieved 98.2% accuracy in OTB forecasts, by leading the planning team with effective validations.

Sears Holdings

Regional Operations Manager April, 2015 - May, 2016

26 direct reports, including 2 analysts

- Deliver apparel vision in the field working with 26 frontline managers within sales, delivery and logistic scopes.
- Charged with delivering the P&L targets set for apparel including e-commerce platform and distribution hubs.
- Exceeded annual revenue target of \$84M by additional \$1M

Amazon

Senior In-stock Manager, Supply Chain and Demand Planning September 2013- April 2015

13 shared reports, with senior vendor manager

- Delivered detailed SKU level planning across 36 categories, working with cross functional teams.
- Built premium planning suite for business planning, Open-to-buy and vendor management.
- Achieved 97% in stock rates thru improved processes, driving \$3M revenue with on-boarding ~300 new vendors.

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Hudson Bay Company

Planning and Replenishment Manager

July 2010- August 2013

4 direct reports

- Charged with planning for Men's clothing around OTB management, budget planning and managing vendors.
- Delivered improved margin rates above 50% across 18 categories by better commodity insights and cost cuts.
- Increased annual revenue by \$20M thru new brand launch and categories.

Walmart Canada

Demand Planning and Allocation Manager

July 2006- June 2010

6 direct reports, including assistant manager

- Charged with financial planning and supply chain initiatives for \$360M fashion business.
- Delivered on effective stock to sales balancing across all store locations thru allocation strategies.

Skills and Proficiencies

Platforms: JDA- Size Scaling, JDA Allocation, SAS OTB, CPFR, S&OP (Capacity Planning),) and Forecasting portal.

Operating systems: MS Excel, Power Point, Word and Project super user and Vendor Central (AMZN)

Reporting: Anaplan, Retail Link, MicroStrategy-BIS and BIT, Essbase Finance suit, Thoughtspot, and Looker.

Education

- Master's in Business Administration, Operations and Marketing — Boise State University
- *Entrepreneurship; Internet Marketing and Business Law*
- Bachelor of Hospitality Management — Institute of Hotel Management and Catering Technology
- *Advanced Food and Beverage Operations, Accommodation Operations, Business Accounting.*
- Bachelor of Commerce — B.R. Ambedkar Open University
- *Statistics, Economics, Financial Accounting and bookkeeping*

Community Engagement

- Board of Directors, **San Francisco Pride**; Duties: Employ and Conform to Board Policies and regulations.
- Board of Directors, **Oakland LGBTQ Center**; Duties: Supervision of staff and mission statement delivery.
- Board of Directors, **TGI (Transgender Gender Variant Intersex)** Justice Project; Duties: Financial and Human Resource committee chair.

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

Commissioner Application



Name: Michael MacDonald

Mailing Address: [Redacted]
Daytime Phone: [Redacted]

Email: [Redacted] City Council District: 3

Are you an Oakland resident? Yes No Years of Residency in Oakland: 2 years

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? May 6, 2019
6. List any languages other than English that you speak fluently. _____
7. How did you hear about this vacancy? Commission Webpage

List the names, addresses and telephone numbers of two references:

1. Name: Thai Nam Pham
Address: [Redacted]
Phone: [Redacted]

2. Name: Frances Johnson
Address: [Redacted]
Phone: [Redacted]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: Michael MacDonald

Date: 10/29/2019

See Supplemental Questions on next page →

ATTACHMENT 5

MICHAEL B. MACDONALD

1. Why do you want to serve on the Public Ethics commission?

I learned from a very young age, while joining my grandmother to work as a poll worker for every election, that participation in political systems is the foundation of a democratic society. But I also learned quickly, the reason my grandmother participated, was because she trusted the political systems and those that were in power in her community and felt empowered to help carry out those systems. She trusted in those systems because of the relationship she had with local elected leaders, like the mayor and district ward leaders. She had a personal relationship with them and felt like her voice could be heard and the concerns of her community, which they lived, were heard. But this isn't the experience of everyone. After completing my bachelor's degree in political science, I too felt this desire to serve my community and joined the public sector, first as a District Representative in the California State Legislature, and then as an Assistant City Clerk, which I currently serve.

I started in the legislature to continue my passion for policy. This passion grew stronger and stronger when I was completing my capstone research on oil and gas severance tax policy in California. This project allowed me to hone my skills in qualitative analysis of state policy. It didn't take long to come to the conclusion that the reason why California, the third-largest oil-producing state in the country, is the only state without an oil and gas severance tax policy, was because of the large monetary contributions made by the oil and gas industry to political parties, candidates and those elected to represent the best interest of the community as a whole. The same policy question came up under both a democratic governor and a republican. But one thing was always the same every time the legislation died, a few big donors, who could contribute millions of dollars to defeat the measure always won, not the low-income communities fighting for better air quality, where the oil refineries were located. This caused me to question those same institutions that my grandmother had fought so hard to preserve.

After several years working for state government, I decided to shift to local government, where the daily quality of life is determined by those who we elect to represent us, more so than on a state level. Joining the local government, I could now see the effects first hand of policy decisions. The experience also opened my eyes to issues such as low voter turnout, or seeing the same dozen or so people at city council meetings every time and not the voice of the entire community being heard. As Assistant City Clerk, I serve as the frontline for the community and the political institutions. It's here that I hear every day, the mistrust in political systems from residents calling in. The challenges they have with interacting with local government and bureaucratic systems and the lack of trust prevents them from participating.

Trust in government is one of the most important foundations upon which our political systems are built. A high level of trust in government increases the efficiency and effectiveness of government operations. At a time where trust in government is low, its cities that can be innovators

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City of Oakland Public Ethics Commission Commissioner Application

of change that can foster good governance policies to help grow community-wide trust in political systems. When trust is low in government, participation and voter turnout declines, which is the foundational aspect of American Democracy. Given the implications for democracy, as well as social justice, when too few people elect leaders, more attention is paid to the interests of small groups of people rather than to community-wide, pressing issues of equity and good governance. This is why I want to serve on the Public Ethics Commission, to bring my experience, education, and values to the community that I live in and help ensure that everyone in the community has access to an ethical government that works for them. And I believe that the ethics commission serves a vital role in a democratic government and represents the public's interest and work to maintain public trust.

2. What skills and experience will you bring to the Commission?

I am dedicated to public service and serving communities, specifically those that are most marginalized. I am confident that the combination of my education, professional experience, and commitment to volunteer work and dedication to the community will allow me to be an ideal fit for the Public Ethics Commission. This experience is where I have learned the importance of organizations that work effortlessly to improve the lives of those in their community by fighting for inclusivity, integrity, diversity, and fairness.

While serving as a District Representative in the California Legislature, I was first exposed to ethical standards and what it meant to be a Form 700, Statement of Economic Interests filer. I attended multiple ethics training to ensure that I was aware of the provisions of the ethics code but also to ensure that the Senator I worked for was also aware of these standards. Additionally, in this role, a primary function of my duties was to cultivate beneficial partnerships for a lasting relationship with community partners during my tenure as a liaison between the Senator, neighborhood groups, residents, civic and business organizations and state agencies.

As a community liaison, I would meet with community groups to hear their concerns, assess the impact of legislation the community, and develop a set of policy recommendations for how best to address the concerns of the community. This required holding town hall events, where I would speak and represent the Senator in front of varying sizes of groups. This is when I was able to hone in on my public speaking skills and continue to develop my interpersonal skills while working collaboratively with a multitude of different groups. I have been able to continue my skills of working with community groups and interpreting different laws and policies at state level but also at a local level as an Assistant City Clerk.

After the 2016 presidential election, I looked for ways on how best I could serve my community. This led me to the City Clerk Department, where I currently serve as an Assistant City Clerk in the City of Berkeley. I chose the City Clerk Department because I saw this as an opportunity to serve as a compliance officer for good governance and to ensure that the local government was fair and open to all. In this role, I supervise a variety of functions within the department with a focus on municipal elections, campaign filings, conflict of interest requirements, and regulations for City advisory commissions. As a local filing officer, I have had extensive training from the

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City of Oakland Public Ethics Commission Commissioner Application

state Fair Political Practices Commission regarding campaign finance laws and as well serve as the AB 1234 ethics coordinator for the City. These duties include reviewing all campaign related filings, identifying potential conflict of interests and serve as support staff for city appointed and elected officials and city staff.

My unit works directly with the combination of good governance ordinances like the Public Financing Program, the Berkeley Election Reform Act, the City Conflict of Interest Code, and have been tasked with implementing the Lobbyist Registration Act, which will go into effect on January 1, 2020. I have been fortunate to attend multiple trainings on project management, which has allowed me to apply those techniques as the project manager for the implementation of the Lobbyist Registration Act. With this project, I have been able to plan, organize, assign, direct, review and evaluate the work of assigned staff while analyzing and interpreting administrative procedures and regulations, legal documents, and local and state law to assist in the development and implementation of policies, procedures and work standards.

In addition to my employment, I have devoted my time to volunteer opportunities. In 2015, while living in Ventura County, I saw a lack of services for the LGBTQ community. This encouraged me to cofound Diversity Collective Ventura County, a nonpartisan community resource center that advocates for the rights of LGBTQ residents. As Co-Founder, Vice-President, and Board Secretary of the Center, I oversaw the development and implementation of grassroots community organizing through a coalition of community partners; spoke at city council meetings; drafted proposed policy to advocate for LGBTQ rights; and spearheaded an LGBTQ youth development program. I have always strived for better health services for the LGBTQ community, specifically LGBTQ youth. As Vice-President of the Center, I worked closely with Ventura County Board of Supervisors and staff to create a community- based Free Confidential and Anonymous Rapid HIV/AIDS Education and Prevention Program. Since relocating to Oakland, I have continued those efforts by working with groups like east Bay for Everyone, East Bay Young democrats and other groups with a focus on improving our community.

3. What issues, projects, or goals would you like to pursue while serving on the Commission?

I believe that community involvement plays a critical role in the development of new policy and should be used to generate not only ideas for innovative expansion projects and their implementation, but also ideas to further improve existing programs. The Public Ethics Commission is charged with ensuring fairness, openness, honesty, and integrity and without an increase of public participation, those key elements don't apply to everyone. I am specifically interested in campaign finance laws and I have been able to see the effects on local government after the first successful election in Berkeley, since the Public Financing Program was implemented. By removing money from politics, participation has increased. Candidates are now forced out into the community because the program applies very strict rules on contribution limits and who may contribute to a candidate.

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City of Oakland Public Ethics Commission Commissioner Application

I also feel that most government systems operate as one way feed, meaning that they provide the information to the community but don't allow for certain communication back from the community. Government happens in the background of daily life and with the increase of technology, there needs to be a fundamental shift in the way that government interacts with the people. New technology, like the Open Disclosure portal to simplify and visualize Oakland campaign finance data is an example. While it's a step in the right direction and great tool to increase transparency, it doesn't allow for feedback or open dialogue with our elected officials and those contributing to campaigns.

Also, I believe that regulating not only the contribution limits is important but also regulating who can contribute. For example, in Berkeley, a candidate is not able to accept contributions for any business or union. When we define a business entity the same we define an individual, we reduce the trust that those individuals have when deciding whether or not to participate in the process. There are ways of working around the Citizens United decision, and again, I feel that local city government has to be innovator on new systems. In Oakland, when there is a political action committee who can spend unlimited money, the voluntary spending limits for the campaign are suspended. This is unfair to the general public. Well-funded groups can have a bigger influence on the outcome of the election, leaving the average resident out of the equation. Individual donors should have the same amount of access or influence as PACs, and therefore contribution limits should apply.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

The most pressing ethics challenges from within the City, I believe is within compliance with the City's Conflict of Interest Code. I recently read that there are large numbers of employees who fall into a category of needing to file a Form 700 but the City has not been able to accomplish 100 percent compliance. As with many policies, the enforcement piece needs to be strong. By implementing policies, such as suspending employees without pay until there is compliance, the City would be able to be more transparent. City staff and elected officials should be held accountable regarding their conflict of interest filing requirements. An internal hotline for staff to call anonymously regarding potential violations of conflict of interest can also be an effective way of increasing compliance and increasing trust.

For campaign finance and transparency issues, I believe that contributions limits and campaign finance reform must continue to prevent those at the top having more of an influence from those at the bottom. Additionally, the development of new policies around officeholder accounts should be explored. By setting limits like \$25,000, Councilmembers are always seeking contributions to keep their office holder accounts full. I believe that officeholder accounts should be regulated similar to campaign committees. This would limit contributions and from whom the officeholder can accept contributions from.

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City of Oakland Public Ethics Commission Commissioner Application

5. What else would you like the subcommittee to know as your application is considered?

I believe that I can bring a unique perspective to the Commission, having represented a community organization, handled campaign financing for both a candidate when working for the senate and also from the administrative side as being a filing officer. Thank you for your consideration and look forward to discussing further.

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MICHAEL B. MACDONALD

EDUCATION

California State University Channel Islands · Camarillo, CA · B.A., Political Science · GPA 4.0 · 2017 to 2018

Pi Sigma Alpha · Political Science National Honors Society

Capstone · Qualitative Research · *The Second Face of Power: Why does California not have an oil and gas severance tax?*

City University of New York · New York, NY · A.A., Political Science, Public Policy · GPA 3.98 · 2012 to 2015

Phi Theta Kappa · National Honors Society

WORK EXPERIENCE

City of Berkeley · Berkeley, CA · Assistant City Clerk

May 2019 to Present

- Participate in the development and administration of the department's budget.
- Supervise a variety of functions within the Department with a focus on municipal elections, campaign filings, conflict of interest requirements, and regulations for City advisory commissions.
- Monitors campaign and conflict of interest statements; responds to technical questions from employees, commissioners, candidates and committees; and attends Fair Campaign Practices Commission meetings as staff support.

California State Senate · Senator Scott Wiener · San Francisco, CA · District Representative

Nov. 2018 to May 2019

- Advocate for LGBTQ and public safety by working with law enforcement officials, state agencies, fellow elected offices, and state department leaders.
- Research proposed legislation to determine its effects on the district and subsequently work with numerous entities to facilitate the implementation of the policy.

County of Alameda · Registrar of Voters · Oakland, CA 2018 · ROVER Precinct Leader

Sep. 2018 to Nov. 2018

- Prepared, dispatched, and distributed voting equipment; polling place supplies; and election emergency equipment.
- Served as the point person for hundreds of poll workers at more than twelve polling places.

Diversity Collective VC · Ventura, CA · Co-Founder · Vice President · Board of Directors

June 2015 to Aug. 2018

- Co-Founded the Community Resource Center, Ventura County's first non-profit LGBTQ community center that strives to build a County in which LGBTQ people can be healthy, equal, and complete members of the community.
- Coordinated with city agencies to revive the County's HIV/AIDS Education and Prevention Program and served as lead organizer for DCVC's Free HIV/AIDS Rapid Testing Program.
- Fundraised over 200,000 dollars by preparing grant applications and organizing annual events.
- Developed job descriptions, policy practices, employee handbook, and hiring procedures.

City of Port Hueneme · Port Hueneme, CA · Assistant City Clerk

Sep. 2017 to June 2018

- Updated the City's Retention Schedule and spearheaded the City's first records destruction in over ten years.
- Audited and updated the City contract system, risk management policies, and vendor insurance procedures.
- Served as Clerk to the City Council during Special City Council meetings, performed roll call, completed official minutes, coordinated presentations and public speakers, and ran audio and visual support.

California State Senate · Senator Hannah-Beth Jackson · Oxnard, CA · District Representative

Dec. 2015 to Jan. 2017

- Served as lead representative for K-12 education, transportation, housing, and homelessness issue areas by working closely with the Senator, constituents, district organizations, local governments, and state agencies.

California State Senate · Senator Fran Pavley · Calabasas, CA · Office Manager

June 2015 to Jan. 2016

- Communicated with constituents through the Legislative Constituent Management System.

Fourth Wall Restaurant Group: Quality Meats · New York, NY · Captain Server

Feb. 2010 to May 2015

- Served VIP customers at a renowned steakhouse that serves over 500 guests on a daily basis.

NOTEWORTHY

Alice B. Toklas LGBT Democratic Club · San Francisco, CA · Board of Directors

2019 – 2020

Model United Nations · Seattle, WA; Portland, OR; San Francisco, CA · Delegate

Sep. 2017 to May 2018

- **Republic of Korea:** First Place Award – *Nuclear Non-Proliferation; Peaceful, Modern, and Sustainable Energy.*
- **Plurinational State of Bolivia:** Rapporteur Award – *Sustainable Digital Development: Globalization.*

Instructionally Related Activities Fee Advisory Committee · Committee Member

Sep. 2017 to May 2018

- Appointed by the V.P. of Student Affairs to assist in the allocation of a 750,000-dollar student fee budget.

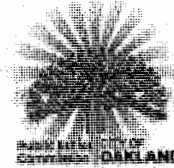
Ventura County Young Democrats · Ventura, CA · Treasurer

June 2016 to May 2018

ATTACHMENT 5

ATTACHMENT 6

CITY OF OAKLAND PUBLIC ETHICS COMMISSION



Commissioner Application

Name: Arvon J. Perteet

Mailing Address: [REDACTED]

Daytime Phone: [REDACTED]

Email: [REDACTED] City Council District: _____

Are you an Oakland resident? Yes No Years of Residency in Oakland: 30+

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:
NDNC

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? _____
6. List any languages other than English that you speak fluently. NDNC
7. How did you hear about this vacancy? City of Oakland Website

List the names, addresses and telephone numbers of two references:

1. Name: Rev. Dr. Jacqueline Thompson
Address: [REDACTED]
Phone: [REDACTED]
2. Name: Gordon Greenwood, Esq
Address: [REDACTED]
Phone: [REDACTED]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: [REDACTED] Date: 10/31/19
See Supplemental Questions on next page →

ATTACHMENT 6

ATTACHMENT 6

Oakland Public Ethics Commission Supplemental Questions Responses for Arvon J. Perteeet

1. Why do you want to serve on the Public Ethics Commission?

I have lived in Oakland for the majority of my life. I attended public schools in Oakland from elementary schools all the way through high school, with the exception of one year in Hayward and two years in Berkeley. I have a strong affinity for my community and have always wanted to serve in some public capacity. I believe that public servants should be responsible to the community they serve and serving on this commission would help me to satisfy the desires to serve the community and maintain the greatness that I see and believe still exists in the City of Oakland.

2. What skills and experience will you bring to the Commission?

For over 10 years I worked as a prosecutor at both the county and federal level. During that time, I further developed my skills as an investigator, evaluator, and decision maker. I worked alongside investigators to make the right decisions about when, how, and why to adjudicate matters on behalf of the People of the State of California and United States. I also learned to assess the parties that I investigated and tried to always make sure they were given a fair shot. I would bring that same sense of fairness to the Commission.

3. What issues, projects, or goals would you to pursue while serving on the Commission?

In today's political climate, transparency and truth are some of the biggest concerns for our citizens. Candidates and ultimately our elected officials should be transparent and truth about their positions and relationships. Therefore, making sure that candidates and elected officials are complying with their disclosure responsibilities would be a focus for me.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

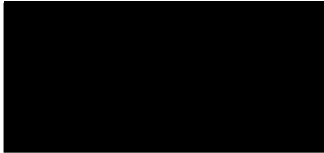
All three of the stated areas are challenges for the City. Due to the fact that technology has made it both difficult and easy to determine the truth, those who are responsible for investigating and judging these matters must also be careful to verify the information they receive and be comfortable with additional due diligence in order to make the right decisions. A first look is not always the clear indication of the truth. Therefore, adjudicators of these issues must use patience, reasonableness, and common-sense when reaching a conclusion.

5. What else would you like the subcommittee to know as your application is considered?

I intended on serving the City of Oakland as a member of this Commission with the respect and dignity it deserves. Oakland is and has always been a great city. I am a product of its greatness and I want young people to know that great things come from Oakland and serving on this Commission would help me to demonstrate that to young people in our community.

ATTACHMENT 6

Arvon J. Perteet



EXPERIENCE

Square, Inc.

Global Legal Response and Fraud Investigations San Francisco, CA
Manager October 2018 to Present

Lead a team of Fraud Investigators and Legal Response Analysts in San Francisco and New York. Responsible for collaborating with internal partners, litigation attorneys, and law enforcement to develop strategies to prevent fraud against Square and its customers. Manage legal responses globally based on criminal and civil requests by third parties in compliance with applicable laws, statutes, and our terms of service. Prepare legal responses related to motions to compel third party discovery requests.

San Francisco District Attorney's Office

San Francisco, CA
April 2017 to October 2018

Assistant District Attorney
Lead Attorney responsible for criminal prosecution of cases involving officer involved shootings, in-custody deaths, and use of excessive force; Liaison with Office of Citizen Complaints regarding San Francisco Police Department (SFPD) Officers. Work closely with SFPD internal affairs to conduct criminal investigations, including meeting with witnesses and experts. Also use criminal grand jury to seek indictments and for investigations, and bring charges via preliminary hearings. Prepare public reports involving in custody deaths and officer involved shootings

United States Attorney's Office

San Francisco, CA
March 2011 to April 2017
March 2009 to 2011

Assistant United States Attorney
Special Assistant United States Attorney
Responsible for criminal and civil prosecution of asset forfeiture cases; Liaison to local law enforcement relating to Bank Secrecy Act Task Force in the Northern District of California; Prosecution of federal statutory violations relating to narcotics trafficking, mortgage fraud, identity theft, bank and wire fraud; Conducted depositions, propounded and responded to civil discovery; Lead federal civil and criminal investigations relating to violations of the Bank Secrecy Act; Conduct Grand Jury Investigations; Provided training to federal, state, and local law enforcement regarding financial crimes and investigations.

Contra Costa District Attorney's Office

Martinez, CA
January 2007 to February 2009

Deputy District Attorney
Responsible for processing, preparation and prosecution of misdemeanor and felony cases; Conducted preliminary hearings; Investigated, initiated and handled consumer fraud complaints; Prepared and argued legal motions. Litigated civil asset forfeiture cases related to narcotics trafficking. Interviewed witnesses, experts, and law enforcement officers. Solo chaired numerous jury and bench trials.

Toschi, Sidran, Collins & Doyle

Oakland, CA
July 2006 to December 2006

Attorney
Responsible for caseload of active civil litigation files in the Unlimited and Limited Jurisdiction Courts of Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, and Sonoma Counties. Responsibility for initial case analysis, recommendation and implementation of discovery plans, client relations, liability analysis, case evaluation, settlement negotiations, mediations, arbitrations, and trials. Defended third-party claims, uninsured motorist claims, underinsured motorist claims, and medical payment claims. Investigated and litigated trials of suspected fraudulent claims conducted examinations under oath, and made recommendations for disposition of claims.

Arvon J. Perteet



State Farm Mutual Automobile Insurance Company Emeryville, CA
Claim Representative/Team Manager December 1993 to August 2005
Investigated, evaluated, and analyzed first- and third-party automobile claims. Determined the company's financial responsibility under the contract on behalf of the policyholder and determined negligence for the involved parties on the appropriate claims. Trained employees in the areas of negligence, liability investigation, first- and third-party settlement evaluations, negotiations, and property damage settlement. Determined and prepared staffing level reports for expense analysis for department and executive management review. Responsible for monitoring and hiring defense counsel to represent insureds and the company in claim related lawsuits. Piloted successful programs that increased company efficiency and productivity. Provided mentoring and coaching for employees on career and personal development.

EDUCATION

Golden Gate University School of Law, San Francisco, CA
Doctor of Jurisprudence, May 2005
Honors: Dean's List, Spring 2002, Fall 2004
Diana Richmond Merit Scholarship Recipient, Fall 2002
CALI Award for Insurance Law
Activities: Student Bar Association, 2L Night representative

Morehouse College, Atlanta, GA
Bachelor of Arts, Business Administration, May 1991
Concentration in Banking and Finance
Honors: Honor Roll, Spring 1988

Professional Development
Asset Forfeiture, Basic and Advance Money Laundering, Mortgage Fraud, and Tax Crimes – National Advocacy Center – 2009 -2012
Grand Jury Practice Seminar – National Advocacy Center- 2010
Financial Investigation Seminar – (San Francisco) – 2009
Speaker on Bank Secrecy Act – West Coast Anti-Money Laundering Conference – 2012
Speaker on Asset Forfeiture – West Coast Anti-Money Laundering Conference – 2012
Facilitator – Financial Investigation Seminar -United States Department of Justice, Asset Forfeiture Money Laundering Section, 2015-2016

Bar Membership: California State Bar, #242828, Admitted June, 2006
California Association of Black Lawyers

ATTACHMENT 7

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

Commissioner Application



Name: Janani Ramachandran

Mailing: [REDACTED]
[REDACTED]

Email: [REDACTED] City Council District: 1

Are you an Oakland resident? Yes No Years of Residency in Oakland: 1.5 years

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

N/A

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? May 6, 2019
6. List any languages other than English that you speak fluently. Tamil, Spanish
7. How did you hear about this vacancy? Reached out to Whitney Barazoto and Mayor Schaff's office regarding possible vacancies.

List the names, addresses and telephone numbers of two references:

1. Name: Judge Tara M. Flanagan

[REDACTED]

(Please note - this is Judge Flanagan's private chamber number)

2. Name: Steve Toben

[REDACTED]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

[REDACTED]

Date: 10/26/19

See Supplemental Questions on next page →

ATTACHMENT 7

Supplemental Questions

On a separate page, please answer the following four questions:

1. **Why do you want to serve on the Public Ethics Commission?**

2. **What skills and experience will you bring to the Commission?** (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)

3. **What issues, projects, or goals would you like to pursue while serving on the Commission?**

4. **What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?**

5. **What else would you like the subcommittee to know as your application is considered?**

Applications are due by 5:00 p.m. on **Friday, November 1, 2019**, and must include the following materials:

1. Signed Application.
2. Answers to the Supplemental Questions
3. Your resume

Applications may be submitted by mail, email or fax to PEC staff:

Public Ethics Commission
Attn: Whitney Barazoto
1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
ethicscommission@oaklandca.gov
Fax: (510) 238-3315

For questions, please call (510) 238-3593.
Web: www.oaklandca.gov/pec

ATTACHMENT 7

Janani Ramachandran Public Ethics Commissioner Application Supplemental Questions

1. Why do you want to serve on the Public Ethics Commission?

I am interested in serving on the Public Ethics Commission because I want to be part of the solution for meaningful change that our current political and governance systems need. I believe that transparent local governments hold the key to such impactful change. As a native of Alameda County, I am aware of the rich cultural and economic diversity that make us unique. I am also keenly aware of the growing multitude of challenges that come with this widening diversity; gentrification, homelessness, climate change, police violence, inter-familial violence, and much more. I want to engage Oakland residents to allow their voices to be heard by electing officials and implementing ballot measures that they find most effective to tackle these complex challenges. I want to be a part of Oakland's most influential ethics institution, and hold our elected officials and city departments accountable to their constituents. I want to use my position as a Commissioner to help engage every resident of Oakland, and build their trust in local government. Above all, I want to ensure that corruption does not interfere with these essential democratic process, and plague our city government.

The City of Oakland has the potential to bring truly innovative energy to these important endeavors, and I aspire to bring my own drive and creativity towards this work. Serving on the Public Ethics Commission would be an invaluable opportunity to build upon my lifelong passion for being engaged in civic processes, and leadership skills gained from advocacy work in various social justice causes.

2. What skills and experience will you bring to the Commission? (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)

As a law student with a passion for social justice, as a scholar of open governance, as a queer woman of color, and as a native of Alameda County, I believe that I will bring a fresh and valuable perspective to the Public Ethics Commission.

I have maintained a lifelong interest in understanding methods to improve government transparency and accountability. As an honors scholar at Stanford University's Center for Democracy, Development, and Rule of Law, I studied comparative government systems, and analyzed structural solutions to combat corruption, enhance the efficiency of bureaucratic processes, and increase political accountability. In addition, I served as an elected undergraduate Senator; my work on the undergraduate Senate Appropriations Committee improved my understanding of various oversight mechanisms and tools that can operate to increase transparency to my fellow peers, classmates, and constituents.

My work experience in public health has also contributed to my understanding of how nonprofits can effectively connect with local governments to allow their voices to be heard, and the variety of ways in which government officials can be responsive, or fail to be responsive, to such outreach. One of my responsibilities involved spearheading a domestic violence advocacy program for a network of community health clinics, and developing ways to connect with local government bodies as well as coalitions of nonprofits with similar goals. I collaborated with different community stakeholders to launch a stream of public outreach campaigns geared towards encouraging immigrant survivors of domestic violence to

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access services; this resulted in a large increase in requests for services from immigrant communities and other marginalized populations. I learned to identify the best strategies to liaise and engage with the public, and translate these needs to relevant government bodies.

My experiences at Berkeley Law have exposed me to many local ordinances, boards and legal institutions in the City of Oakland. During my time as a clinical student at the East Bay Community Law Center's Housing Clinic, representing low-income tenants in unlawful detainer proceedings, I often interacted with the Oakland Housing, Residential Rent, and Relocation Board, as well as with staff at the City Attorney's office working on affirmative litigation to support tenants' rights. Despite the many challenges tenants continue to face, I learned how Oakland's local ordinances are incredibly progressive and justice-oriented, and how individuals employed in city institutions are deeply concerned with incorporating the voices of its diverse citizens. In addition, my work with Bay Area Legal Aid's Domestic Violence Prevention Project helped me understand the various struggles of low-income survivors of domestic violence in Oakland, particularly those from immigrant communities. It was heartbreaking to see how survivors from marginalized populations are frequently unable to access systems of justice, or how such legal systems are manipulated against them. However, working with a grassroots legal aid agency to overcome such challenges and provide legal representation was a meaningful way to understand the crucial role of civic institutions, and how they can bridge the gap in accessing justice.

My legal education has grounded my lifelong commitment to working with various stakeholders to enhance government accountability. I have acquired invaluable tools to support these goals by understanding the workings of administrative law, the nuances of civil procedure, various ethics requirements of those in the legal profession, and how complicated ethical situations in the law can be addressed and overcome. Moreover, my current role as a Board Director at the Family Violence Appellate Project has exposed me to methods by which institutions with fiduciary and oversight responsibilities can hold employees of a legal nonprofit accountable. I have helped critically examine financial statements, tax returns, and audits in order to promote transparency for the nonprofit's clients and donors. In addition, my experiences serving as a Board Member of Men Creating Peace have given me incredible exposure to a grassroots Oakland-based nonprofit focused on domestic violence batterer intervention. By working on issues related to strategic development and organizational growth, and well as more day-to-day issues involving partnership development, fundraising, and marketing, I have been exposed to the various challenges, as well as opportunities, that similar small nonprofits experience in our city, and have been able to brainstorm ways in which governments can support such civic organizations.

3. What issues, projects, or goals would you like to pursue while serving on the Commission?

I am interested in helping the PEC develop and pursue its Enforcement processes, and continue to expand the number and types of cases it investigates. Given that there has been an uptick in enforcement complaints received in the past two years, I want to support the Commission in being able to conduct speedy, efficient investigations, and implement pragmatic administrative or civil penalties. I would also hope to initiate improved public outreach efforts to better publicize the penalties imposed for unethical conduct, and thus more effectively deter such behavior. I would hope to use my position on the PEC to encourage more city employees and members of the public to report violations of ethics, campaign finance, and transparency laws, in order to build faith in the city government's ability to hold its employees and elected officials accountable.

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I am also particularly interested in joining the Campaign Finance Subcommittee, and helping the PEC continue to hear the perspectives of diverse Oakland residents in understanding their barriers to engaging in the political process. Given my work with low-income communities in Oakland during my legal internships with Bay Area Legal Aid's Domestic Violence Prevention Program, as well as with tenants facing eviction through the East Bay Community Law Center Housing Clinic, I am well aware of the multitude of challenges marginalized populations face to simply survive, and their barriers to accessing justice and participating in the political process. While there has been already substantial progress on research and outreach to Oakland residents, I hope to be able to continue to engage with community members and nonprofit partners to develop effective recommendations for campaign finance reforms.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

I believe that the public's perception of corruption among city institutions and elected officials continues to be the City of Oakland's most pressing challenge. Scandals regarding collusion between government agencies, city officials, and private contractors continue to plague public opinion about the prevalence of city corruption, and overshadow the concerted efforts and dedicated attempts of institutions, including the PEC, to promote accountability in the government. The work of investigative journalism in recent years has played an important role in bringing corrupt officials to justice, but has also increased public criticism on a host of issues such as bribery from Oakland Coliseum Authority officials in recent negotiations, and awarding suspiciously monopolistic contracts to California Waste Solutions. Law enforcement institutions have particularly faced heightened ethics-based criticism in recent years, including Harry Hu's highly-publicized admissions of taking bribes from leaders of organized criminal networks, and OPD's alleged failure to investigate sexual misconduct committed by officers.

However, I also see meaningful opportunities to change these perceptions as a result of the PEC's previous and ongoing efforts. For example, when corrupt dealings in Oakland's Planning and Building Department were unveiled, the media also gave coverage to the efforts of PEC to investigate the alleged bribes taken by code enforcement officers and their collusion with landlords. I believe that more reporting and awareness of the enforcement actions taken by the PEC can help improve public opinion, and build faith in our government institutions.

5. What else would you like the subcommittee to know as your application is considered?

I firmly believe that I will bring a variety of skills and professional experiences that would contribute to the growth and flourishing of Oakland's Public Ethics Commission. My passion for accountable government along with my energetic personality, creative, entrepreneurial spirit, and ease in connecting with a variety of personalities will serve the goals of the commission. Thank you for your consideration.

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JANANI RAMACHANDRAN

EDUCATION

University of California, Berkeley School of Law: J.D. Candidate, May 2020

Stanford University: B.A. in International Relations with Honors in Democracy, Development, and Rule of Law, June 2014

WORK EXPERIENCE

Alameda County Superior Court; Oakland, CA – Judicial Extern for Hon. Judge Tara M. Flanagan, Jan 2018-May 2019

- Researched new domestic violence service laws and drafted new court forms for self-represented petitioners.
- Conducted an evaluation of local batterer-intervention programs based on in-person observations and interviews.
- Wrote legal memos on restraining orders and intersecting issues in family and criminal courts.

East Bay Community Law Center Housing Clinic; Berkeley, CA – Law Student, Aug 2018-Dec 2018

- Represented tenants in unlawful detainer proceedings. Made court appearances, conducted initial client interviews and home visits, drafted and responded to discovery requests, wrote and filed answers and subsequent motions.

Bay Area Legal Aid- Domestic Violence Prevention; Oakland, CA – Law Clerk, Summer 2018

- Wrote in-depth legal memos on procedural issues in restraining order, child custody, and divorce cases involving survivors. Worked closely with clients to develop trial strategy, and prepared direct examinations.

Mary's Center for Maternal and Infant Health; Washington DC Metro Area – Feb 2015-July 2017

- **Social Services Coordinator** (*June 2016-July 2017*): Designed and managed inaugural Domestic Violence Advocacy Program across five health clinics, developed partnerships with government agencies, conducted trainings for medical providers, supervised domestic violence advocates, and created community outreach programs. Managed a minority health education program, supervised staff, liaised with Maryland state health agencies.
- **Family Support Worker** (*Feb 2015-May 2016*): Worked with at-risk mothers through intensive home-visiting services to provide crisis case management. Liaised with government agencies to expand home visiting programs.

Hewlett and Flora Family Foundation; Menlo Park, CA and Gujarat, India – Fellow, Summer 2014

- Identified and visited prospective grantees for inaugural anti-violence against women initiative in Gujarat.
- Evaluated grantee programs in Haiti through in-country site visits and interviews.

Other Internships: **Ford Foundation;** New Delhi, Summer 2013; **Ashoka Venezuela;** Caracas, Venezuela –Summer 2013;

United States Department of State –Bureau of Conflict and Stabilization Operations; Washington DC–Summer 2012

LEADERSHIP AND VOLUNTEER ACTIVITIES

Family Violence Appellate Project – Board Director: May 2018-Present

- Provide organizational governance and oversight, feedback on growth and inclusivity, and development efforts.

Berkeley Resistance Against Inter-Partner Violence (BRAIV) – Founder and President: August 2018-Present

- Founded new student organization to advocate for domestic violence survivors through court-watch programs.
- Partner with local domestic violence agencies to raise awareness within the Berkeley Law community.

Berkeley Law Women of Color Collective – Executive Board Member: March 2018-Present

- Lead art-based activist efforts and performances to foster community and campus-wide dialogue on race and gender.

Alipato Project – Volunteer Law Student: December 2017-December 2018

- Conducted client intakes and legal research for domestic violence tort cases against abusive former partners.

Stanford University Undergraduate Senate – Senator, Chair of Academic Affairs Committee: 2011-2012

- Founded committee to improve academic advising by liaising with faculty and administrators; led team of five.
-

INTERESTS AND HONORS

Languages: Tamil (native fluency); Spanish (professional proficiency)

Interests: Theater (actor and director in amateur productions); music (former lead singer in local band); Muay Thai.

Awards: **Asian Pacific American Bar-Bay Area Lawyers for Individual Freedom Scholarship:** May 2019

California Women Lawyers Foundation Nancy E. O'Malley Scholarship: March 2019

Women Lawyers of Alameda County and Judge Stuart Hing Scholarship: October 2018

Berkeley Law Dean's Fellowship: August 2017

Prosser Prize, Domestic Violence Law: January 2019

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CITY OF OAKLAND PUBLIC ETHICS COMMISSION

Commissioner Application



Name: Steven M. Selna

Mail: [Redacted]

Daytime: [Redacted]

Email: [Redacted] City Council District: 2

Are you an Oakland resident? Yes No Years of Residency in Oakland: 35

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

None

Please answer yes or no to all the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? Attending 11/4 meeting
6. List any languages other than English that you speak fluently. None
7. How did you hear about this vacancy? Twitter

List the names, addresses and telephone numbers of two references:

1. Name: Michael Foster

Address: [Redacted]
Phone: [Redacted]

2. Name: Juan Walker

Address: [Redacted]
Phone: [Redacted]

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: [Redacted]

Date: 11/1/19

See Supplemental Questions on next page →

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Supplemental Questions

On a separate page, please answer the following four questions: (See attached)

1. **Why do you want to serve on the Public Ethics Commission?**

2. **What skills and experience will you bring to the Commission?** (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)

3. **What issues, projects, or goals would you like to pursue while serving on the Commission?**

4. **What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?**

5. **What else would you like the subcommittee to know as your application is considered?**

Applications are due by 5:00 p.m. on **Friday, November 1, 2019**, and must include the following materials:

1. Signed Application.
2. Answers to the Supplemental Questions
3. Your resume

Applications may be submitted by mail, email or fax to PEC staff:

Public Ethics Commission
Attn: Whitney Barazoto
1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
ethicscommission@oaklandca.gov
Fax: (510) 238-3315

For questions, please call (510) 238-3593.
Web: www.oaklandca.gov/pec

Steven Selna

Summary

Seasoned professional with expertise in complex civil litigation. Bringing over 25 years of experience in class actions, business disputes and product liability claims. Extensive business leadership and management experience on behalf of a national law firm.

Skills

- Experienced civil litigator and trial lawyer.
- Former Managing Partner in Am Law 100 law firm.

Experience

Partner

May 2018 to Current

Alston & Bird LLP — San Francisco, CA

- Lead counsel for a major pharmaceutical manufacturer in a Judicial Council of California Coordinated Proceeding (*JCCP*) involving more than 18,000 plaintiffs in Los Angeles Superior Court.
- In a published opinion, defeated class certification in a consumer class action in the Central District of California based on Article III standing and Rule 23 requirements. *Webb v. Carter's Inc., et al.*, No. 2:08-cv-07367 (C.D. Cal.)
- In a published opinion, obtained summary judgment in the Central District of California in a product liability failure-to-warn case based on the learned intermediary doctrine. *Thompson v. Janssen Pharmaceuticals Inc.*, No. 2:16-cv-02628 (C.D. Cal.)
- Pro bono representation on behalf of Asylum seekers in removal proceedings before U.S. immigration courts

Partner

November 2001 to May 2018

Drinker Biddle & Reath LLP — San Francisco, CA

- Managing Partner of Am Law 100 law firm
- Regional Partner in Charge of San Francisco office
- Co-chair of National Diversity Committee
- Vice-chair of litigation practice group
- Significant business tort litigation experience involving claims of breach of contract, violations of Business and Professions Code 17200 and 17500, breach of warranty, fraud, theft of trade secrets, and trade libel.
- Represented companies in national defense of multiple state attorneys general actions alleging violations of state unfair trade practice statutes, Medicaid fraud statutes, and common-law claims

Partner

January 1990 to November 2001

Gordon & Rees LLP — San Francisco, CA

- Partner in San Francisco-based national law firm, with extensive class action, commercial litigation and product liability litigation experience

Associate

September 1987 to May 1990

Keegan Young & Logan LLP — San Francisco, CA

Education and Training

J.D. : Law

University of Pacific - McGeorge School of Law — Sacramento, CA

Bachelor of Arts : Political Science

University of California — Berkeley, CA

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Supplemental Questions

1. Why do you want to serve on the Public Ethics Commission?

I want to serve on the Public Ethics Commission (PEC) because, as an Oakland native, I want to contribute to a process that is dedicated to 1) ensuring the integrity of our City government; and 2) making our elections open and accessible to all citizens. I also believe my personal and professional background would enable me to make a significant contribution to the great work already being done by the PEC.

I would personally be honored to serve on the PEC. I was born at the old Oak Knoll Naval Hospital and raised in the Rockridge section of the city. As a teenager, I was an employee of the City of Oakland Parks and Recreation Department. As a young adult, I taught in the Oakland Public Schools. Today, I live in Crocker Highlands with my wife and 3 children. I have seen a lot of change over the years in our community, much of it for the better. That positive change often began with strong, ethical leadership from our elected public officials. I aspire for the City of Oakland to achieve even greater prosperity. To do so, our government must have the public's faith and trust, which will not happen if it is not being held to the highest standards of integrity and accountability. It will also not happen if the electoral process is not accessible to all its citizens. In addition to my personal connection to Oakland, I see my work leading professional responsibility and diversity initiatives in my law firm as a natural fit for the commission. My on-going pro bono efforts on behalf of young immigrant asylum seekers is also motivated by a similar desire to help ensure inclusivity and justice in our systems of government.

I believe that part of my motivation for applying for a position on the Commission stems from what we currently see taking place at the highest levels of the federal government: routine examples of conflicts of interest; misuse of public office and resources, and corrupt political activities that are eroding the foundations of our democracy. The rule of law is under attack, and "Ethics" seemingly has become an antiquated notion. We are also seeing how challenging it is for our governmental institutions to effectively manage their own conduct, particularly where power and influence often are unconstrained by principles of transparency and fairness.

Even in a community like the City of Oakland, where there is widespread agreement that what is taking place in Washington is unprecedented and wrong, we need to remain vigilant to ensure that such behavior has no place in our local elections and the work of our City government. That means taking all steps necessary to ensure that our electoral process is open, accessible, honest and fair. It means ensuring that the work of our City government is not vulnerable to the undue influence of corporate lobbyists. It means educating those who aspire to public office or to doing business in Oakland about compliance with government integrity laws and the principles that inform them. In doing so, we can make a meaningful difference, and set an example for other communities.

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Unfortunately, experience has told us that we cannot exclusively rely on our elected officials and local governments to police themselves and shed light on wrongdoing. That's why we need a watchdog like the PEC: to ensure that what is occurring at the national level is never allowed to take root here. We cannot afford a further erosion of faith in our public institutions.

2) What skills and experience will you bring to the Commission?

In my professional life, I have worn many administrative hats, including serving as a Managing Partner of a national law firm; running the San Francisco office of that firm; serving as Co-Chair of my firm's National Diversity Committee, as well as Vice-chair of my practice group.

As Diversity Committee Co-Chair, my signature initiative was to re-invigorate our efforts to recruit, retain and advance lawyers with diverse backgrounds. I also organized panels of in-house counsel whose clients had won diversity awards to speak at our firm retreats about the importance of diversity to their companies; as well as prominent lawyers with diverse backgrounds who advised our younger diverse lawyers about how to develop successful practices.

As a Managing Partner, I assumed a leadership role on matters of professional responsibility, establishing mandatory in-house programs on ethics, conflicts of interest and personal accountability. As a firm leader, when pursuing a course of action intended to benefit the institution at large, I saw how a reputation for personal integrity inspired the support of others. I also came to appreciate the value of opposing views and consensus-building.

As for community work, I devote significant professional time to the pro bono representation of young asylum applicants in removal proceedings before U.S. immigration courts, in affiliation with KIND (Kids in Need of Defense). I am also a former board member of the Oakland East Bay Symphony. I have also served on multiple local high school boards. I currently serve on committees of the Bay Area Council, a business policy and trade organization dedicated to better and more affordable housing; and, combatting homelessness in the Bay Area.

3. What issues, projects or goals would you like to pursue while serving on the Commission?

Among the issues I would like to pursue while serving on the Commission are the following:

- a) Campaign finance and public financing reform and ensuring equity in the election process - I find this area to be of great importance. I would like to contribute to a process that makes running for public office more inclusive for all. The PEC has already done good work in this area through the Limited Public Financing program, but more can be done;
- b) Enforcement of ethics, campaign and transparency laws – I feel that aggressively conducting investigations, audits and public hearings in support of the Enforcement Program would play to my professional strengths;

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c) I would be happy to take a leadership role in the PEC's outreach efforts to city officials and people doing business with the City and feel that my professional background would help facilitate this.

I would also be happy to pursue whatever projects the PEC determines to be most in need of attention.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

- a) Campaign finance and public financing reform, and ensuring equity in the election process;
- b) Ethics violations and training – Several council member ethics violations have been reported in recent years. Looking at this in the most constructive light, perhaps our elected officials would benefit from better (and/or more frequent) ethics training. At the other end of the equation, perhaps the penalties for ethics violations should be reviewed to assess whether they afford adequate deterrence;
- c) Disseminating the information, education and training pertaining to a) and b) above.

5. What else would you like the subcommittee to know as your application is considered?

Fundamentally, I would like to serve on the PEC because as an Oakland native, I can think of no other civic role that is a better match for my aspirations and capabilities. I consider myself very fortunate to have been born and raised in Oakland. My exposure to the City's culture as well as its political and social climate provided me experiences and opportunities that fundamentally shaped who I am today. I have a strong sense of gratitude for that experience. It motivates me to want to continue to give something back to my hometown and be a force of good for others, as my predecessors were for me.

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Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill Butler
Gail Kong
Nayeli Maxson
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie F. Johnson, Enforcement Chief
DATE: December 23, 2019
RE: *In the Matter of Michael Colbruno (Case No. 16-01)*; PEC Memorandum on Proposed Decision

INTRODUCTION

The Enforcement Unit of the City of Oakland Public Ethics Commission (“Complainant”) brought this action to redress violations of the Lobbyist Registration Act (“LRA”) by Oakland Lobbyist Michael Colbruno (“Respondent”). Complainant charged Respondent with twelve separate violations of the Lobbyist Registration Act: 1) Failing to timely register as a lobbyist 2013 and 2014, 2) Failure to file quarterly lobbyist reports in 2012, 2014 and 2015, and 3) Failing to timely file lobbyist registration forms 2013 and 2014. Complainant is only required to show that the violations occurred by a preponderance of the evidence and has established the violations in this case.

Respondent failed to present a viable defense to any of these charges. Based on his Opening Statement, testimony and supplemental letter, Complainant anticipates Respondent will continue to claim multiple conflicting stories like; 1) He filed the required documents but someone must have removed them from the City Clerk’s Office, 2) He filed the required documents electronically but did not confirm if they had been received therefore a mistake occurred in transmitting the documents, and 3) He did not, in fact, conduct any lobbying except for one year but the Public Ethics Enforcement Chief told him to file lobbyist reports. Despite his conflicting accounts, Respondent provided no evidence to support any of his defensive assertions.

The Hearing Officer made the following findings and proposed decision recommendation:

1. Respondent failed to timely file four quarterly reports in 2012.
2. Respondent failed to timely file four quarterly reports in 2014.
3. Respondent failed to timely file one Lobbyist Registration Forms in 2013.
4. Respondent failed to timely file one Lobbyist Registration Forms in 2014.
5. Respondent failed to timely file two quarterly reports for 2015
6. The Hearing Officer recommends that the Commission impose a total administrative penalty of **\$5,250.00** for the 12 violations of the City of Oakland Lobbyist Registration Act.

I. BRIEF HISTORY

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Respondent registered as a lobbyist in 2002 and has been an active lobbyist since. The Respondent also served on the City's Planning Commission from 2006 until 2013 and has been a member of the Port of Oakland Board of Commissioners since 2013.

On January 12, 2016, the Commission received a complaint alleging that the Respondent had failed to register as lobbyist in 2012 and 2014. Enforcement Staff completed its investigation and found that the Respondent had failed to timely register as a lobbyist and or failed to file timely lobbyist quarterly reports in 2012, 2013, 2014 and 2015. On March 28, 2016, the Commission's Enforcement Staff informed the Respondent of the allegations against him.

On April 7, 2016, Enforcement Staff contacted the City Clerk and requested all lobbyist registration forms and quarterly reports it had received for the Respondent. According to the City Clerk's records, it had not received a lobbyist registration form for 2013 and 2014 or lobbyist quarterly reports for any of 2012, 2014 and the first half of 2015.

In his initial response, the Respondent asserted the following: 1) that he timely filed all required lobbyist forms with the City Clerk; 2) that the City Clerk kept filed lobbyist forms in a binder in a section of the City Clerk's Office that was available to the public without supervision, and; 3) that someone removed the 12 missing lobbyist forms from the binders in the City Clerks' office.

However, the Respondent did not provide any evidence that he timely filed the twelve missing lobbyist forms with the City Clerk. In fact, the Respondent acknowledged that he failed to maintain copies of his registration and quarterly reports, contrary to the LRA Records requirement provision 3.20.100.¹

Moreover, the City Clerk, at all relevant times, sent a copy of all lobbyist forms it received to Commission Staff to post on the Commission's website. A review of the Commission Staff's records found that it never received a copy of any of the 12 missing lobbyist forms from the City Clerk.

Subsequently, on April 11, 2016, the Respondent filed each of the missing lobbyist forms with the City Clerk.

Between March 28, 2016 and December 2018, Enforcement Staff, attempted, unsuccessfully, to reach a proposed settlement agreement with the Respondent. Commission Staff placed a proposed stipulation on the agenda for the Commission to consider on April 2, 2018. At that meeting, the Commission rejected the proposed stipulated agreement and instructed Staff to negotiate a larger penalty, and if not successful, to start the process for setting the matter for an administrative hearing.

Between April 2, 2018 and November 18, 2019, the parties did not reach a proposed stipulated agreement and therefore, pursuant to the Commission's instructions and its Complaint Procedures, Staff started the process for setting this matter for an administrative hearing.

On November 18, 2019, In the Matter of Colbruno came before Public Ethics Commissioner James Jackson acting in the capacity of Hearing Officer.

II. PROPOSED DECISION

a. Violations

¹ O.M.C. 3.20.100 "A local governmental lobbyist shall retain, for a period of five (5) years, all books, papers and documents necessary to substantiate the registration and disclosure required to be made under this act."

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The Hearing Officer's proposed decision finds that the Respondent, Michael Colbruno, committed the following violations of the Lobbyist Registration Act:

Count I: Failing to Timely File Four Quarterly Lobbyist Reports for the year(s) 2012 and 2014 (8 total)

As a lobbyist in 2012, the Respondent was required to file with the City a quarterly lobbyist report within 30 days of the end of each calendar quarter of 2012.

Respondent failed to timely file with the City: 1) a quarterly lobbyist report for the January 1 through March 31, 2012, reporting period by April 30, 2012; 2) a quarterly lobbyist report for the April 1 through June 30, 2012, reporting period by July 30, 2012; 3) a quarterly lobbyist report for the July 1 through September 30, reporting period by October 30, 2012, 4) a quarterly lobbyist report for the October 1 through December 31, 2012, reporting period by January 30, 2013, 5) a quarterly lobbyist report for the January 1 through March 31, 2014 reporting period by April 30, 2014; 6) a quarterly lobbyist report for the April 1 through June 30, 2014, reporting period by July 30, 2014, 7) a lobbyist quarterly report for the July 1 through September 30, 2014, reporting period by October 30, 2014, and; 8) a lobbyist quarterly report for October 1 through December 31, 2014, reporting period by January 30, 2015, in violation of Section 3.20.110 of the Oakland Lobbyist Registration Act.

Count II: Failing to Timely File a Lobbyist Registration Form(s) one in 2013 and in 2014 (2 total)

As a lobbyist in 2013 and 2014, the Respondent was required to file with the City a lobbyist registration form by January 30, 2013 and 2014.

Respondent failed to timely file with the City: 1) a lobbyist registration form by January 30, 2013 and 2014, in violation of Sections 3.20.050 and 3.20.110 of the LRA.

Count III: Failing to Timely File Two Quarterly Reports for 2015 (2 total)

As a lobbyist in 2015, the Respondent was required to file with the City a quarterly lobbyist form within 30 days of the end of each the calendar quarter in 2015.

The Respondent failed to timely file with the City: 1) a quarterly lobbyist report for the January 1 through March 31, 2015, reporting period by April 30, 2015, and 2) a quarterly lobbyist report for the April 1 through June 30, 2015, reporting period by July 31, 2015, in violation of Section 3.20.110 of the LRA.

b. Penalty

The Hearing Officer's proposed decision recommends that the Commission impose a total administrative penalty of **\$5,250.00** for the 12 violations of the City of Oakland Lobbyist Registration Act.

III. POSSIBLE ACTIONS BY THE COMMISSION

Pursuant to the Commission's Complaint Procedures, the Commission may either adopt the proposed decision in its entirety, or in the alternative, adopt the proposed decisions' actual finding, but reach additional or different conclusions consistent with the proposed decision's factual findings. (Commission's Complaint Procedures § v(1)(2).)

If the Commission decides that the proposed decision in its entirety, the proposed decision will be adopted as the Commission's decision and the Respondent will be ordered to pay an administrative penalty of \$5,250.00.

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If the Commission decides that the proposed decision's factual findings warrant a different legal conclusion and/or a different penalty, the Commission may adopt the proposed decision's factual finding and additional or different legal conclusions and/or impose a different penalty.

Whether the Commission decides to adopt the proposed decision in its entirety or adopt different legal conclusions and/or penalties, the Commission's decision and order regarding a proposed decision will constitute the closure of the administrative process for this matter. (Commission's Complaint Procedures § V (I)(6).)

IV. COMMISSION STAFF RECOMMENDATION

Commission Staff recommends that the Commission adopt the proposed decision's factual and legal findings, but that the Commission impose an administrative penalty of \$12,000 as a recommended penalty in the proposed decision based on the aggravating factors stated below.

Aggravating Factors

In this case, all of the counts are aggravated by the following facts:

1. Respondent was an experienced lobbyist with over a decade of experience at the time of each of the violations. He had substantial experience with the City of Oakland Lobbyist filing requirements and direct knowledge of the Lobbyist filing and quarterly reporting rules requiring timely filing of Lobbyist forms.
2. Respondent has received the benefit of uncharged violations of the LRA.² An uncharged violation is an aggravating factor when the circumstance concerns something which the respondent has done or failed to do that could establish a separate but related violation of the rules that the respondent is aware of or could be expected to foresee. In this case, the respondent acknowledged that he failed to maintain records/copies of his lobbyist annual and quarterly filings, the basis of which establish a separate but related violation of the LRA that the respondent was aware of and could be expected to foresee.
3. The Respondent also engaged in a pattern of conduct that was not isolated or incidental, but was continuous during critical election years in the City of Oakland, specifically:
 - i. The Respondent failed to timely file four quarterly lobbyist reports for 2012. Lobbyist quarterly reports detail who the lobbyist worked for, what type of work they conducted on their client's behalf and which City department, elected or appointed official was lobbied. According to the late reports the Respondent filed in 2016, he did a significant amount of lobbying in 2012 on behalf of three clients; the California Nurses Association, Harborside Health Center and Sagwa Ibrahim.
 - ii. In 2013, the respondent failed to timely file his initial lobbyist registration form. A person is prohibited from engaging in lobbyist activity on behalf of a client unless he or she has registered by submitting the lobbyist registration form with his or her listed clients on the form. In this case, the Respondent admits that he lobbied in 2013, in spite of not being a registered lobbyist in the City of Oakland.
 - iii. The Respondent failed to timely file a lobbyist registration form and four quarterly lobbyist reports for 2014, resulting in a complete lack of information available to the public and

² O.M.C. § 3.20.100 Records.

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other parties regarding his lobbying activity for an entire year. According to the late forms he filed in 2016, he did a significant amount of lobbying in 2014 on behalf of four clients; AMG Development, Harborside Health Center, Recology and Blum.

- iv. The Respondent failed to timely file two quarterly lobbyist reports for 2015, resulting in a complete lack of information available to the public and other parties regarding his lobbying activity for the first six-month period. According to the late forms he filed in 2016, he did a significant amount of lobbying during that six-month period on behalf of seven clients; Harborside Health Center, Blum, AirBnB, AMG Development, Signature Development, VOLTA, and Recurrent Energy.
4. Presence of intent to mislead. Throughout the investigation and hearing the Respondent has made misrepresentations about the facts alleged that resulted in his failure to file timely Lobbyist Registration Forms and Lobbyist Quarterly Reports. The respondent has made the following misrepresentations:
 - i. Respondent represented that he, in fact, filed the missing Lobbyist Registration Forms and Quarterly Reports and that they were received by the City Clerk but that someone removed them from the City Clerk's office from an unsecured binder. Respondent could not produce any documentation or receipt of confirmation that he had, in fact, filed the missing forms with the City Clerk's office. Respondent failed to produce any copies of the aforementioned forms. Respondent admitted that he did not keep copies of the submitted forms.
 - ii. Respondent represented that a member of his staff electronically filed the missing Lobbyist Registration Forms and Quarterly Reports but that it is possible that the City did not receive them. Respondent could not produce any documentation, receipt of confirmation or testimony from his staff that they had, in fact, electronically filed the missing forms.
 - iii. Respondent represented that he did not engage in any lobby activity specifically between March/April 2014 to November 2014, because he was working on a City of Oakland mayoral candidate campaign. Respondent, however, late filed both Lobbyist Registration Forms and Quarterly Reports that represented to the City that he, in fact, engaged in lobbyist activity during the stated time.
 - iv. Respondent represented that although he did not engage in lobbying in any year besides 2012, the late filed Lobbyist Registration Forms and Quarterly Reports reflect that he had engaged in lobbyist activity because he was instructed by PEC Staff. Respondent, however, could produce no email, letter, memo or any other verifiable document or witness that corroborated that the Ethics Staff directed him to file a Lobbyist Registration Form or Quarterly Report with false information in it.
 5. The Respondent's failure to file his Lobbyist Registration Forms and Quarterly Reports are serious violations. The only current way for the public to trace the influence on legislation, contracts, initiatives and City projects is by looking at the disclosure reports lobbyists are required to file. Those reports show who's getting paid to lobby and by whom, where lobbyists are influencing City policies and the reasons why. They are a critical measure of external influences on both legislation and legislators. In this case, the lack of transparency and information reported by the Respondent during critical election years in the City made his conduct particularly egregious.
 6. There was considerable public harm to the citizens of Oakland. Citizens have a right to know how much lobbyist clients are spending to influence governmental decisions, who the lobbyists are and

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what interests they represent. The Respondent's failure to disclose his lobbying activities or register to lobby for four years (2012-2015) hindered Oakland citizens from knowing very important information on what and who their City government was doing business with. Oakland is a particularly politically active community where individual citizens take particular note of City Council and its outside influences. This complaint was initiated by a concerned citizen.

7. Respondent's failure to file Lobbyist Registration and Quarterly Reports between 2012 and 2015 was not inadvertent, at a minimum it was negligent. The Respondent admitted he had sloppy recordkeeping and was not following up to confirm whether his forms were actually received by the City. The Lobbyist Registration Ordinance imposes a duty upon the lobbyist to not only timely file their forms but to keep copies for their own records³ to avoid any disputes over a filed form or the content of the form. The Respondent, a seasoned, well known lobbyist in Oakland, failed to do the minimum requirement of keeping copies of his forms and admitted to filling out and submitting the forms to the City only upon the request of PEC Staff after the complaint had been filed.
8. Although the Respondent may regret what has occurred or regret that it was discovered and reported by an Oakland citizen, he has not shown any remorse for his failure to file lobbyist forms over a four-year period. The Respondent has demonstrated a nonchalant attitude regarding the seriousness of his conduct. Throughout conversations with the PEC he has characterized his conduct as just "sloppy record keeping." He has not acknowledged the greater harm to the community as a result of his failure to provide transparent reporting.
9. The extended period of time (four years) that the Respondent failed to either file his required Lobbyist Registration Form or Quarterly Report is egregious.

The purpose of administrative penalties like those provided in the LRA is to promote transparency, gain compliance with lobbyist filing requirements and protect the public from lobbyists who have not discharged, will not discharge or are unlikely to properly discharge their professional duties. The public rightfully expects the Commission to enforce the lobbyist filing requirements and hold those responsible who fail to comply.

Based on the consideration of all the relevant aggravating factors stated above, and the expressed concerns of the Commission, Enforcement Staff submits that an appropriate administrative penalty is \$1,000 for each individual form the Respondent failed to file, for a total administrative penalty of \$12,000.

In this case, Respondent failed to file the following twelve forms:

1. Four Quarterly Lobbyist Reports for 2012
2. One Lobbyist Registration Form for 2013
3. One Lobbyist Registration Form for 2014
4. Four Quarterly Lobbyist Reports for 2014
5. Two Quarterly Lobbyist Reports for 2015.

To be clear, Staff is not recommending a total penalty of \$12,000 to penalize the Respondent for taking his own case to hearing; to the contrary, the aggravating factors associated with the Respondent's conduct warrant imposing a substantial penalty.

³ Oakland Municipal Ordinance § 3.20.100.

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BEFORE THE CITY OF OAKLAND PUBLIC ETHICS COMMISSION
COMMISSIONER JAMES E. T. JACKSON

In the Matter of:

MICHAEL COLBRUNO, et al.,

Respondent.

Case No. 16-01

**FINIDNGS OF FACT AND
CONCLUSIONS**

Public Ethics Commissioner James E. T. Jackson heard this case on November 18, 2019 in Oakland, California. Kellie Johnson, Enforcement Chief, represented petitioner, the Public Ethics Commission (PEC) Enforcement Unit. Clinton Killian, attorney at law, represented respondent Michael Colbruno.

The record was left open for the parties to submit written supplemental closing briefs on alleged conflicts of four identified current and past PEC Commissioners as well as any other topic related to Case No. 16-01, not to exceed 15 pages. The record was closed, and the case submitted on November 25, 2019.

A. FINDINGS OF FACT

1. Petitioner is the Enforcement Unit of the City of Oakland PEC.
2. Respondent is the managing partner of the Milo Group, which is a government

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1 | affairs and public advocacy corporation. Respondent started the Milo Group in 2010 with his
2 | current business partner John Gooding. Prior to that, respondent worked for both state and local
3 | government as the legislative director and chief of staff in the San Francisco Mayor's office, the
4 | San Francisco Board of Supervisors, former Mayor Willie Brown, the California State Assembly
5 | and Clear Channel. In addition, respondent has also served as a Commissioner on the Chabot Joint
6 | Powers Authority Board, the Oakland Planning Commission, and the Oakland Board of Port
7 | Commissioners.

8 | 3. On January 12, 2016, the PEC received a complaint alleging that respondent failed
9 | to register as a lobbyist in Oakland in the years 2012 and 2014. PEC staff informed respondent
10 | about this complaint on March 28, 2016.

11 | 4. On April 7, 2016, PEC staff contacted the City Clerk and requested all lobbyist
12 | filings on file for respondent.

13 | 5. Respondent has filed Lobbyist Registration forms and Quarterly Reports consistently
14 | and correctly in 2010, 2011, 2013 and from 2016 to the present.

15 | 6. The City Clerk could not provide PEC staff with any Lobbyist Registration forms for
16 | the years 2013 and 2014. Nor could the City Clerk's Office provide any quarterly reports at all for
17 | the years 2012 and 2014. And the City Clerk's Office could not produce two out of four Lobbyist
18 | Quarterly Reports for the year 2015.

19 | 7. The City Clerk's original paper lobbyist registration filings were previously
20 | available for public inspection in an unsupervised area.

21 | 8. The City Clerk's Office provides contemporaneous copies of all lobbyist filings to
22 | the PEC which the PEC then posts on its website.

23 | 9. Prior to April 11, 2016, the PEC did not have any lobbyist registration forms for
24 | respondent for the years 2013 and 2014 nor any quarterly lobbyist reports for respondent for the
25 | years 2012 and 2014 or the first half of 2015.

26 | 10. On April 11, 2016, respondent completed the following filings:

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- 1 (a) 2012 Lobbyist 1st Quarterly Report;
- 2 (b) 2012 Lobbyist 2nd Quarterly Report;
- 3 (c) 2012 Lobbyist 3rd Quarterly Report;
- 4 (d) 2012 Lobbyist 4th Quarterly Report;
- 5 (e) 2013 Lobbyist Registration Form;
- 6 (f) 2014 Schedule A – Statement of Lobbying Activities attachment to 2014 Quarterly
- 7 Lobbying Report;
- 8 (g) 2014 Schedule A – Statement of Lobbying Activities attachment to 2014 Quarterly
- 9 Lobbying Report;
- 10 (h) 2014 Lobbyist 1st Quarterly Report;
- 11 (i) 2014 Lobbyist Registration Form;
- 12 (j) 2014 Lobbyist 3rd Quarterly Report;
- 13 (k) 2014 Lobbyist 4th Quarterly Report;
- 14 (l) 2015 Lobbyist 1st Quarterly Report and Schedule A – Statement of Lobbying Activities
- 15 attachment; and
- 16 (m) 2015 Lobbyist 2nd Quarterly Report.

17 11. On April 27, 2016, PEC staff informed respondent that petitioner was opening an
18 investigation into this complaint.

19 12. Following its investigation, PEC staff noticed respondent's case as Item No. 7 on the
20 agenda for the monthly PEC meeting held on April 2, 2018.

21 13. On April 2, 2018 at its regular monthly meeting, PEC staff presented a staff report
22 on a proposed Stipulation, Decision and Order in respondent's case. Respondent was not present.
23 The PEC declined to adopt staff's recommendation to approve the Stipulation and directed staff to
24 continue negotiating for settlement with respondent while moving forward with the case.

25 14. On June 4, 2018 at its regular monthly meeting, PEC staff presented its Investigation
26 Summary and Probable Cause memorandum on respondent's case as Item No. 7 on its agenda.

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1 Respondent was present. The PEC found probable cause to set this matter for hearing before a
2 single Commissioner. The hearing date was eventually set for November 18, 2019.

3 **1. Petitioner's Evidence**

4 15. Petitioner submitted petitioner's Exhibit Nos. 1-22 and 35, listed in **Appendix A**,
5 attached to and incorporated into these Findings and Conclusions. Petitioner submitted a
6 supplemental closing brief on November 25, 2019 and additional exhibits which are listed as
7 Exhibit Nos. 23-34 and 36 in **Appendix A**.

8 16. Respondent is a seasoned lobbyist who has successfully completed and filed
9 Lobbyist Registration forms and Quarterly Reports consistently and correctly from 2010 to 2011,
10 2013 and from 2016 to the present.

11 17. On August 20, 2013, respondent completed and filed his Lobbyist 2nd Quarterly
12 report by noting that he did not perform any lobbying activity in the city of Oakland on behalf of
13 California Nurses Asso. for the period of Aril 1, 2013 through June 30, 2013.

14 18. On August 20, 2013, respondent completed and filed his Lobbyist 2nd Quarterly
15 report by noting that he did not perform any lobbying activity in the city of Oakland on behalf of
16 Gateway Bank for the period of Aril 1, 2013 through June 30, 2013.

17 19. On October 31, 2013, respondent completed and filed his Lobbyist 3rd Quarterly
18 report by checking the space marked, "Check here if you did not engage in any reportable lobbying
19 activity during the period of time covered by this report." Respondent did not attach any
20 documents disclosing lobbying activity from July 1, 2013 through September 31, 2013.

21 20. The PEC's Quarterly Lobbyist report forms evolved over the years to require more
22 information. In 2012-2014, the information that lobbyists were required to report included:

23 (a) Name and address of the client or employer of the lobbyist;

24 (b) Item(s) of governmental action on which the lobbyist worked for their client;

25 (c) Name of all officials, name and title of all board members or commissioners, and job
26 title and office or department of each city employee who were lobbied; and;

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1 (d) A brief narrative description of the position advocated on behalf of the client or
2 employer identified in (i), no more than three sentences.

3 21. In 2015, the PEC's Quarterly Lobbyist report forms required a total dollar amount
4 received or expected from the client on whose behalf the lobbyist performed for that quarter.

5 22. The Lobbyist Registration Act in Oakland requires individuals who operate as
6 lobbyists to file their individual information on behalf of whom they are lobbying, rather than who
7 their company or business as a whole are lobbying. The Act specifies that "lobbyist" means an
8 individual, and that "no person" may lobby in the city without first registering.

9 23. Respondent testified that he did some lobbying in 2012 but none in 2014 and the
10 first half of 2015. Both 2012 and 2014 were election years in Oakland. Respondent's filings show
11 that he did in fact engage in lobbying in 2012, 2014 and 2015.

12 24. In contrast to the correctly completed and filed forms submitted by respondent in the
13 years 2010, 2011, 2013 and 2016, respondent filled out his missing 2012, 2014 and 2015 forms as
14 follows:

15 (a) 2012 Quarterly Lobbying Reports: For the year 2012, respondent did not check the
16 space marked "Check here if you did not engage in any reportable lobbying activity during the
17 period of time covered by this report."

18 (b) 2014 Quarterly Lobbying Reports: For the year 2014, respondent reported lobbying
19 the following individuals on behalf of the following clients for the following reasons: (i) AMG
20 Development for development at 105th & San Leandro; (ii) Councilmembers Kalb, Schaaf, Kaplan,
21 McElhaney, and Kernighan on behalf of Recology for advocating against waste/recycling RFP; (iii)
22 Mayoral aide Ms. Campbell-Washington on behalf of Gateway Bank to encourage the city's
23 engagement in community banking and microlending; (iv) Blum for various issues related to
24 medical cannabis; and (iv) Councilmembers Kaplan, Kernighan, Mayor Quan, Ms. Campbell-
25 Washington, City Attorney Parker, Alex Katz, and Arturo Sanchez on behalf of Harborside Health
26 Center for various issues related to medical cannabis and federal forfeiture. Also within these 2014

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1 Quarterly filings, for one Quarterly Report, respondent responded “N/A” for topic of governmental
2 lobbying and persons met with for clients California Nurses Association and Gateway Bank.

3 “N/A” means not applicable.

4 (c) 2015 1st and 2nd Quarterly Lobbying Reports: For the year 2015, respondent
5 reported lobbying the following individuals on behalf of the following clients for the following
6 reasons in receipt of the following compensation:¹ (i) Planning Dept. employees Rachel Flynn and
7 Robert Merkamp, Scott Miller and Pete Vollman, Mayor Schaaf and City Attorney Parker on behalf
8 of AMG Development for management, monitoring and development at 104th & San Leandro,
9 receiving a combined \$47,500; (ii) Mayor’s Office, Councilmembers Gallo, Kaplan, Kalb and
10 McElhaney, City Administrator’s Office employee Mr. Minor on behalf of Blum for various issues
11 related to medical cannabis including dispensaries and cultivation, receiving a combined \$70,000;
12 (iii) Mayor Schaaf and City Council on behalf of Harborside Health Center for reasonable cannabis
13 policy business regulations and forfeiture action, receiving a combined \$70,000; (iv) Mayor’s
14 Office, City Administrator’s Office, City Attorney’s Office and Councilmembers Kaplan, Kalb,
15 Guillen, McElhaney, Washington, Gallo, Brooks and Reid on behalf of AirBnB for general policy
16 discussion regarding shared rentals and reasonable regulation of short term rentals receiving a
17 combined \$62,500; (v) Mayor’s Office, City Administrator’s Office on behalf of Recurrent Energy
18 for site search for battery storage for solar energy, receiving \$19,500; (vi) Planning Dept.
19 employees Rachel Flynn and Robert Merkamp and City Attorney Parker on behalf of Signature
20 Development for various issues regarding Brooklyn Basement development, receiving \$19,500;
21 (vii) Mayor Schaaf and City Attorney Parker on behalf of Signature Development Group for land
22 use/development of Brooklyn Basin project receiving \$40,000; and (viii) City Council, City
23 Attorney Parker, Mayor’s Office Matt Nichols, Transportation Director on behalf of Volta for
24 general discussion regarding charging stations and EV parking, receiving a combined \$47,500.

25 _____
26 ¹ By 2015, the PEC’s Quarterly Lobbyist report forms required a total dollar amount received or
expected from the client on whose behalf the lobbyist performed for that quarter.

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1 25. Respondent knew or should have known that under the Lobbyist Registration Act, he
2 was responsible for filing information with the city regarding who his clients were, the issues he
3 was lobbying on, and which government officials he met with. Respondent's claims that he was
4 confused, and that the PEC staff directed him how to fill out the forms for these years are specious
5 because of all the times that respondent correctly filled out this paperwork. This includes those
6 months when respondent correctly checked the box indicating under penalty of perjury that he
7 personally performed no lobbying activities for six months of 2013. Moreover, PEC staff did not
8 have access to respondent's clients, topics of lobbying or government officials with whom
9 respondent may have met; this information came from respondent.

10 **2. Respondent's Testimony and Evidence**

11 26. Respondent submitted respondent's Exhibit Nos. 101-107, listed in **Appendix A**,
12 attached to and incorporated into these Findings and Conclusions. Respondent submitted his
13 supplemental closing brief on November 25, 2019, listed as Exhibit No. 108 in **Appendix A**.

14 27. Respondent opened the Milo Group in 2010 with John Gooding. The Milo Group is
15 a government affairs and public advocacy firm. Respondent comes from an extensive good
16 government background and his partner has drafted and conducted ethics trainings for government.
17 Respondent's family takes their ethical obligations very seriously.

18 28. Respondent hand filed paper lobbyist registration forms and reports from 2010
19 through 2012 in Oakland. After that, respondent relied on a program called PDF Filer to file his
20 lobbyist registration forms and reports. In his experience, some of these electronic filings end up in
21 junk mail or are rejected due to size. Respondent never received "Receipt Requested" notifications
22 or any receipt acknowledgements after making these electronic filings.

23 29. Respondent believed that he filed the 12 missing forms and reports but did not keep
24 any copies of any of these filings. Respondent was unable to produce any evidence tending to show
25 that he made any of these 12 filings at the time each was due.

26 30. After PEC staff contacted respondent about these missing 12 forms and reports, and

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1 after respondent was unable to locate copies of these filings, respondent promptly filed all 12
2 missing forms and reports on April 11, 2016. These included four 2012 Quarterly Lobbying
3 reports, two Lobbyist Registration forms for 2013 and 2014, four 2014 Quarterly Lobbying reports
4 and two 2015 Quarterly Lobbying reports.

5 31. Respondent did not undertake any lobbying activity in 2014 and 2015 and only some
6 in 2012, despite his filings for these years noting lobbying on behalf of numerous clients. Rather,
7 respondent's business partner John Gooding did lobby in Oakland during these years, and the
8 information that appears on respondent's filings accurately reflects the lobbying activities of Mr.
9 Gooding. Respondent filled out these forms in this manner at the direction of PEC staff. This
10 includes backdating the forms, even though all of them were filed on the same date of April 11,
11 2016. Respondent did not understand the registration requirements for years when he did not
12 undertake any lobbying efforts.

13 **3. Other Matters**

14 32. The parties submitted additional briefing on November 25, 2019.

15 33. In his briefing, respondent raised conflict allegations against four separate PEC
16 Commissioners.

17 34. Petitioner responded that no actual legal conflicts had been alleged and that none
18 exist.

19 35. Respondent's conflicts claims are addressed in **Appendix B**, attached to these
20 Findings and Conclusions, and incorporated in full here.

21 **B. CONCLUSIONS OF LAW**

22 1. The authority to bring this action derives from the city of Oakland's Charter,
23 including sections 603(b) and (f). City of Oakland Municipal Code (OMC) Chapter 3.20 contains
24 the city's Lobbyist Registration Act (LRA). The LRA was first adopted in 2002 and has been
25 amended in 2007 and 2018. Ordinances 12431, 12782 and 13469. The PEC shall not commence
26 an administrative action alleging a violation of the LRA more than four years after the date of the

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1 | alleged violation. OMC 3.20.200(A). If the PEC finds a violation of the LRA, it may:

2 | (a) find mitigating circumstances and take no further action;

3 | (b) issue a public statement or reprimand; or

4 | (c) impose an administrative penalty of up to one thousand dollars for each violation. OMC
5 | 3.20.200(B).

6 | 2. The standard of proof applied to this hearing is the preponderance of evidence. Cal.
7 | Evid. Code section 115. The burden of proof is on the petitioner. Cal. Evid. Code section 500.

8 | 3. The parties have stipulated that respondent did not timely file the following
9 | documents:

10 | (a) **Four** quarterly reports for 2012

11 | (b) **One** Lobbyist Registration form for 2013;

12 | (c) **One** Lobbyist Registration form for 2014;

13 | (d) **Four** quarterly reports for 2014; and

14 | (e) **Two** quarterly reports for 2015.

15 | 4. The LRA defines “lobbyist” as, “any individual who: (1) receives or is entitled to
16 | receive one thousand dollars (\$1,000.00) or more in economic consideration in a calendar month,
17 | other than reimbursement for reasonable travel expenses, to communicate directly or through agents
18 | with any public official, officer, or designated employee, for the purpose of influencing any
19 | proposed or pending governmental action of the City; or (2) whose duties as a salaried employee,
20 | officer, or director, of any corporation, organization or association, include communication directly
21 | or through agents with any public official, officer, or designated employee, for the purpose of
22 | influencing any proposed or pending governmental action of the City.” OMC 3.20.030(D). In the
23 | case of any ambiguity, the definition of “lobbyist” shall be interpreted broadly. *Ibid.*

24 | 5. The LRA requires all individual lobbyists who wish to lobby Oakland officials to
25 | register with the PEC annually in January of each year. OMC 3.20.040(A-C). Registration means
26 | filing in writing the lobbyist’s name and their business and residence addresses. *Ibid.* The LRA

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1 further requires all lobbyists who have terminated their lobbying activities in Oakland to notify the
2 PEC. OMC 3.20.050. This termination notification requirement has existed in the LRA since
3 2002. Ordinance No. 12431.

4 6. The LRA further requires lobbyists to file four reports annually on all lobbying
5 activity within the city. OMC 3.20.110. These reports shall be due no later than 30 days after the
6 end of the calendar quarter. *Ibid.*

7 7. Ignorance of the law is not an excuse for noncompliance. Black's Law Dictionary,
8 8th ed. (West Group, 2004) pg. 2181.

9 8. The PEC has adopted Enforcement Penalty Guidelines (Guidelines) that govern this
10 proceeding. These Guidelines provide for consideration of all relevant factors in mitigation and
11 aggravation. The factors to be considered include: (1) the seriousness of the violation; (2) the
12 presence or absence of any intent to conceal, deceive or mislead; (3) whether the violation was
13 deliberate, negligent or inadvertent; (4) whether the violation was isolated or part of a pattern, and
14 whether there is a prior record of violations; (5) whether amendments were voluntarily filed to
15 provide full disclosure upon learning of the reporting violation; and (6) the degree of cooperation
16 with the PEC's investigation, and the demonstrated willingness to remedy any violation.

17 9. The PEC has broad discretion in evaluating a violation and determining the
18 appropriate penalty based on the totality of circumstances. The list of aggravating and mitigating
19 factors in the Guidelines is not an exhaustive list, but rather a sampling of factors that could be
20 considered. Guidelines, pg. 2. The Guidelines contain two separate administrative penalty
21 schemes: Streamline and Mainline. *Id.* at pp. 3-4. The Streamline Penalties are reserved for those
22 cases that settle. *Ibid.* The Mainline Penalties are reserved for cases involving more serious
23 violations and violations that do not qualify for the Streamline penalties. *Id.* at pg. 4. The
24 Streamline Penalties do not apply here.

25 10. The Guidelines' Mainstream Penalties provide a base level per violation sum of
26 \$750.00 and a statutory limit per violation sum of \$1000.00. Guidelines, pg. 5.

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1 11. In mitigation, the evidence does not show any intention to conceal, or a deliberate
2 violation of law by respondent. Respondent quickly took steps to search his records for proof of
3 completed filings for the 12 filings at issue, and then when he could find none, he expeditiously
4 completed and filed the missing forms and reports.

5 12. In aggravation, respondent is a seasoned lobbyist with over a decade of lobbying
6 experience in Oakland and other jurisdictions. Respondent has filed Lobbyist Registration forms
7 and Quarterly Reports consistently and correctly from 2010 to 2011, 2013 and from 2016 to the
8 present:

9 (a) On August 20, 2013, respondent completed and filed his Lobbyist 2nd Quarterly report
10 by noting that he did not perform any lobbying activity in the city of Oakland on behalf
11 of California Nurses Asso. for the period of Aril 1, 2013 through June 30, 2013.

12 (b) On August 20, 2013, respondent completed and filed his Lobbyist 2nd Quarterly report
13 by noting that he did not perform any lobbying activity in the city of Oakland on behalf
14 of Gateway Bank for the period of Aril 1, 2013 through June 30, 2013.

15 (c) On October 31, 2013, respondent filled out his Lobbyist 3rd Quarterly report by
16 checking the space marked, “Check here if you did not engage in any reportable
17 lobbying activity during the period of time covered by this report.” Respondent did not
18 attach any documents disclosing lobbying activity from July 1, 2013 through September
19 31, 2013.

20 13. The evidence presented during the hearing and submitted in the parties’ additional
21 briefing shows respondent did in fact undertake lobbying activities in 2012, 2014 and 2015. Exhs.
22 2, 3, 4, 5, 7, 12, 13, 14, 15, 16, 18, 19, 20. His filings show he lobbied Oakland officials on behalf
23 of AMG Development, Harborside Health Center, Recology, Blum, AirBnB, Signature
24 Development, VOLTA and Recurrent Energy during the years when he failed to complete required
25 lobbyist registration forms and quarterly reports. Likewise, the evidence shows that respondent
26 comes from a strong public government background and successfully completed filings in 2010,

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1 2011 and 2013. In 2013, respondent clearly indicated that he did not personally perform any
2 lobbying activities for two of his clients in his 2013 Lobbyist 2nd Quarterly report. Exhs. 9, 10.
3 Moreover, respondent indicated that he personally performed no lobbying activities for any of his
4 clients at all in his 2013 Lobbyist 3rd Quarterly report. Exh. 11. Respondent failed to keep records
5 of any of his filings, despite the LRA requiring all lobbyists do so for a period of at least five years.
6 OMC 3.20.100. Respondent has demonstrated his knowledge of the LRA's requirements and his
7 responsibilities there under. The evidence does not support respondent's claims that he was
8 confused about what needed to be included in the city of Oakland's Lobbyist Registration forms.
9 Nor does it support respondent's contention that he deferred to PEC staff as to what needed to be
10 filled out in the form.

11 14. Respondent offered conflicting testimony regarding his filing and lobbying activities
12 for the years 2012, 2013, 2014 and 2015. Respondent testified that he likely filed all forms and
13 reports over the four year period but that the files may have been either stolen from the City Clerk's
14 Officer, were too large for the City's system to handle, or may have ended up in junk or spam mail
15 boxes. Respondent could not produce copies of any of the missing 12 filings. He further testified
16 that he did little to no lobbying activity in 2012, 2014 and the beginning of 2015, but his filings
17 show that he lobbied numerous officials and employees on behalf of high profile or lucrative clients
18 such as Harborside Health Center, Recology, AirBnB and Blum.

19 15. Petitioner argues that this case warrants the imposition of substantial civil penalties
20 considering the seriousness of the violations and the aggravating factors. Respondent's failure to
21 file his forms and reports are significant violations under the LRA. The LRA requires openness and
22 transparency about who is influencing whom, and to whose benefit. Currently, the only way for
23 members of the public to obtain this information is to look through the city's LRA filings.
24 Respondent deprived the public of this information over a four year period, with two of those years
25 being election years. During the hearing, respondent admitted that the information currently
26 contained within his April 11, 2016 filings are to this day inaccurate. Petitioner requests that

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1 respondent be fined \$12,000.00, which is based on the Guidelines' statutory ceiling of \$1,000 per
2 violation. Respondent has served in or around government for the past three decades. Respondent
3 is an experienced lobbyist who has successfully and correctly filed his lobbyist Registration forms
4 and Quarterly reports in 2010, 2011, 2013 and from 2016 to the present. This includes checking the
5 appropriate space when he did not engage in any lobbying activities. Petitioner pointed out that
6 while respondent's clients Blum and Harborside Health were able to obtain cannabis permits,
7 numerous other individuals and entities who have attempted to secure such permits have not been
8 able to do so, including many people of color.

9 16. Respondent argues that he should not be penalized with the imposition of any civil
10 penalties that are cumulatively \$2,500.00 or higher. Respondent comes from an extensive good
11 government background and his partner has drafted and conducted ethics trainings for government.
12 Respondent's family takes their ethical obligations very seriously. Fault may lie with the city for
13 not having an electronic filing system as to why the 12 filings are missing. Alternatively, some of
14 the larger filings may have ended up in a junk mail folder. Moreover PEC staff shares in
15 responsibility for its direction in how to fill out the 12 missing forms and reports that were
16 backdated and contain inaccurate information.

17 1. Analysis

18 17. **Counts One through Four and Seven through 12: Failing to Timely File**
19 **Quarterly Lobbyist Reports for 2012, 2014 and the first half of 2015.**

20 (a) The LRA defines "lobbyist" as an individual, not a corporation. OMC 3.20.030(D).
21 The LRA requires individual lobbyists who operate within the city to report their unique and
22 personal lobbying activities to the city. OMC 3.20.110. The LRA has done so since September
23 2002. Ordinance 12431. The LRA requires lobbyists to file quarterly reports for every year they
24 lobby within the city of Oakland. OMC 3.20.110. These filings must be made within 30 days after
25 the end of the particular calendar quarter being reported on. *Ibid.* The LRA further requires
26 lobbyists to either check a space if they have performed no lobbying or to fill out an attachment

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1 containing the following information if they did lobby:

2 (i) Name and address of the client or employer on whose behalf the lobbying was
3 done;

4 (ii) Item of governmental action on which the lobbyist performed the work;

5 (iii) Name of all officials, name and title of all board members or commissioners,
6 and job title and office or department of each city employee who were lobbied; and

7 (iv) A brief narrative description of the position advocated on behalf of the client or
8 employer identified in (i), no more than three sentences.²

9 (b) Respondent did not timely file any 2012 or 2014 Lobbyist Quarterly reports and did
10 not file the first two 2015 Lobbyist Quarterly reports.

11 (c) The evidence shows that respondent comes from a strong public government
12 background and successfully completed filings in 2010, 2011 and 2013. The evidence also shows
13 that respondent did in fact engage in lobbying in 2012, 2014 and 2015. Exhs. 2, 3, 4, 5, 12, 13, 14,
14 15, 16, 18, 19, 20. Moreover, respondent was familiar with how to report no lobbying activity
15 under the LRA. In 2013, respondent clearly indicated that he did not personally perform any
16 lobbying activities for two of his clients in his 2013 Lobbyist 2nd Quarterly report. Exhs. 9, 10.
17 And respondent indicated that he personally performed no lobbying activities for any of his clients
18 at all in his 2013 Lobbyist 3rd Quarterly report. Exh. 11. Respondent has competently
19 demonstrated his knowledge of the LRA's requirements and his responsibilities there under. The
20 evidence does not support respondent's claims that he was confused about what needed to be
21 included in the city of Oakland's Lobbyist Quarterly reports. Nor does it support respondent's
22 contention that he deferred to PEC staff as to what needed to be filled out in the form. The burden
23 on filing timely and accurate information falls on the respondent. The LRA requires individuals to
24

25 ² OMC 3.20.110(A-C). The LRA makes further information demands on lobbyists if they or their
26 client/employer hires certain city employees, if any elected officials employ the lobbyists for non-city
purposes, or if the lobbyists act as an agent or go-between in providing campaign contributions to any city
official. None of these categories are relevant here. OMC 3.20.110(D-F).

ATTACHMENT 10

1 file information regarding their individual lobbying efforts. This information must be submitted
2 under penalty of perjury and lobbyists must keep records of all filings going back five years.

3 18. **Counts Five and Six: Failing to Timely File a Lobbyist Registration Form for**
4 **2013 and 2014.**

5 (a) The LRA defines “lobbyist” as an individual, not a corporation. OMC 3.20.030(D).
6 The LRA requires individual lobbyists to register annually with the PEC before they personally
7 undertake lobbying within the City. OMC 3.20.040 (A-C). These annual filings must occur during
8 the month of January. OMC 3.20.040(C).

9 (b) Respondent did not timely register as a lobbyist for the years 2013 and 2014.

10 (c) The evidence shows that respondent did in fact undertake lobbying activities in
11 2013. Exhs. 8, 9. Likewise, the evidence shows that respondent performed lobbying activities in
12 2014 as well. Exhs. 12, 13, 14, 15, 16. The evidence shows that respondent comes from a strong
13 public government background and successfully completed filings in 2010, 2011 and 2013. In
14 2013, respondent clearly indicated that he personally lobbied for two of his clients in his 2013
15 Lobbyist 2nd Quarterly report. Exhs. 6, 8, 9. And respondent indicated that he personally
16 performed no lobbying activities for any of his clients at all in his 2013 Lobbyist 3rd Quarterly
17 report. Exh. 11. Respondent has demonstrated his knowledge of the LRA’s requirements and his
18 responsibilities there under. The evidence does not support respondent’s claims that he was
19 confused about what needed to be included in the city of Oakland’s Lobbyist Registration forms.
20 Nor does it support respondent’s contention that he deferred to PEC staff as to what needed to be
21 filled out in the form.

22 19. The violations in this case are serious and go to the ethical integrity of individuals
23 who are paid to sway official’s opinions and help push policies and legislation that favor their
24 clients. The city of Oakland has a strong and important interest in requiring lobbyists to provide the
25 information that the LRA mandates. Respondent’s assertions that the city’s filing system is to
26 blame are not well taken. The LRA places the record-keeping burden on lobbyists. OMC 3.20.100.

ATTACHMENT 10

1 This section requires lobbyists to keep records of their filings for a period of not less than five
2 years. *Ibid.* Therefore, on April 11, 2016, respondent was mandated by law to have copies of all
3 12 filings, “necessary to substantiate the registration and disclosure required to be made under this
4 Act.” *Ibid.* Respondent did not comply with this portion of the LRA either.³ Further, only
5 respondent is responsible for the content of the filings; the burden again is on the individual
6 lobbyist making the representations in their filings. OMC 3.20.030(D), 3.20.040(A-C), 3.20.050,
7 3.20.110(A-F). PEC staff does not know what activity a lobbyist has undertaken in a given year;
8 rather they rely upon the lobbyists to provide truthful, accurate information. In fact, all Lobbyist
9 Quarterly reports, going back to the relevant time frame of 2012, demand that individual lobbyists
10 filling out these reports attest under penalty of perjury that the provided information is true and
11 correct. PEC staff has no way of knowing whether the information lobbyists provide is truthful;
12 again, that burden falls on the individual lobbyist.

13 C. ORDER

14 Based on all the foregoing, it is recommended that respondent Michael Colbruno be ordered
15 to pay a total administrative penalty of **\$5,250.00**⁴ for the 12 violations of the City of Oakland
16 Lobbyist Registration Act.

17 Dated: December __, 2019
18

19
20 By: _____
Commissioner James E. T. Jackson
21
22
23

24 _____
25 ³ Petitioner addressed these added potential violations in their case but emphasized that no causes of
26 action were brought on these grounds. Therefore, this Order does not consider Respondent’s failure to keep
records as a separate charge.

ATTACHMENT 10

APPENDIX A – EXHIBIT LIST

Exhibit No. and Description	Offered by:	Submitted without objection:
1. Investigation Summary/Probation Cause Memorandum	Petitioner	Yes
2. 2012 Lobbyist 1 st Quarterly Report filed April 11, 2016	Petitioner	Yes
3. 2012 Lobbyist 2 nd Quarterly Report filed April 11, 2016	Petitioner	Yes
4. 2012 Lobbyist 3 rd Quarterly Report filed April 11, 2016	Petitioner	Yes
5. 2012 Lobbyist 4 th Quarterly Report filed April 11, 2016	Petitioner	Yes
6. 2013 Lobbyist 4 th Quarterly Report and Schedule A attachment on Statement of Lobbying Activities filed January 29, 2014 ¹	Petitioner	Yes
7. 2013 Lobbyist Registration form filed April 11, 2016	Petitioner	Yes
8. 2013 Lobbyist 1 st Quarterly Report and Schedule A attachment on Statement of Lobbying Activities filed April 25, 2013	Petitioner	Yes
9. 2013 Lobbyist 2 nd Quarterly Report and Schedule A attachment on Statement of Lobbying Activities filed August 20, 2013	Petitioner	Yes
10. 2013 Schedule A attachment on Statement of Lobbying Activities filed August 20, 2013 disclosing	Petitioner	Yes

¹ Exh. No. 6 appears to be mislabeled in petitioner's Exhibit Binder Table of Contents as "2014 Lobbyist 1st Quarterly Report / And Lobbyist Disclosure Form filed January 29, 2014"

ATTACHMENT 10

lobbying activity for 2 nd Quarter of 2013		
11. 2013 Lobbyist 3 rd Quarterly Report filed October 31, 2013	Petitioner	Yes
12. 2014 Schedule A attachment of Statement of Lobbying Activities for 2014 Lobbyist Quarterly report filed April 11, 2016	Petitioner	Yes
13. 2014 Schedule A attachment of Statement of Lobbying Activities for 2014 Quarterly Report filed April 11, 2016	Petitioner	Yes
14. 2014 Lobbyist 1 st Quarterly Report and Lobbyist Registration form filed April 11, 2016	Petitioner	Yes
15. 2014 Lobbyist 3 rd Quarterly Report filed April 11, 2016 ²	Petitioner	Yes
16. 2014 Lobbyist 4 th Quarterly Report filed April 11, 2016 ³	Petitioner	Yes
17. 2015 Lobbyist 4 th Quarterly Report and Lobbyist Disclosure form filed January 27, 2016	Petitioner	Yes
18. 2015 Lobbyist 1 st Quarterly Report and Schedule A attachment on Statement of Lobbying Activities filed April 11, 2016	Petitioner	Yes
19. 2015 Lobbyist Registration form filed April 8, 2015	Petitioner	Yes
20. 2015 Lobbyist 2 nd Quarterly Report and Schedule A attachment on Statement of Lobbying Activities filed April 11, 2016	Petitioner	Yes

² Exh. No. 15 mistakenly shows it to be a “2014 Lobbyist 1st Quarterly Report,” however the parties agree that the handwritten time period on this form shows it to be the respondent’s 2014 Lobbyist 3rd Quarterly report.

³ Exh. No. 16 mistakenly shows it to be a “2014 Lobbyist 3rd Quarterly Report,” however the parties agree that the handwritten time period on this form shows it to be the respondent’s 2014 Lobbyist 4th Quarterly report.

ATTACHMENT 10

21. 2015 Lobbyist 3 rd Quarterly Report and Disclosure form filed October 7, 2015	Petitioner	Yes
22. Oakland Municipal Code Lobbyist Registration Act, Chapter 3.20	Petitioner	Yes
23. Letter from Nicole Drake Lau 6-19-18	Petitioner	Yes
24. Letter from Michael Colbruno	Petitioner	Yes
25. Email from Respondent's Staff Re PRR	Petitioner	Yes
26. Email from Respondent's Staff Re PRR additions	Petitioner	Yes
27. Email from Respondent's Staff Re PRR third	Petitioner	Yes
28. Email from Respondent Re PRR Videos of PEC meetings	Petitioner	Yes
29. Email from Respondent Re PRR Video and Conflict of Interest	Petitioner	Yes
30. Email Responding to Respondent on Conflict of Interest	Petitioner	Yes
31. Email from PEC Staff to Respondent Re PRR Video Links	Petitioner	Yes
32. Email Re Staff Response to the Respondent's request for City Attorney Memo on Conflicts	Petitioner	Yes
33. Email from PEC Staff to Respondent with Video links	Petitioner	Yes
34. PEC Staff response to Respondent regarding PRR Conflict of Interest	Petitioner	Yes
35. Wiley Rein News Alert – "Heavy Penalties Assessed against Unregistered Lobbyist in Chicago" Laham, Carol and Brooks, Louisa dated March 2017	Petitioner	Yes
36. Petitioner's supplemental closing brief	Petitioner	Yes

ATTACHMENT 10

101. Staff Report on Proposed Stipulation in Case No. 16-01 In the Matter of Michael Colbruno dated March 23, 2018	Respondent	Yes
102. Stipulation, Decision and Order in Case No. 16-01 In the Matter of Michael Colbruno	Respondent	Yes
103. What Port Commissioner Must Know About State and Port Conflict of Interest Rules – Recusals and Prohibited Transactions, undated	Respondent	Yes
104. Email communications (1) from Exec. Dir. Whitney Barazoto to attorney Clinton Killian and Enforc. Dir. Kellie Johnson dated November 15, 2019 and (2) from attorney Clinton Killian to Exec. Dir. Whitney Barazoto dated November 15, 2019	Respondent	Yes
105. Letter from Respondent Michael Colbruno to the PEC Commissioners dated May 22, 2018	Respondent	Yes
106. Video recording of April 2, 2018 PEC meeting	Respondent	Yes
107. Video recording of June , 2018 PEC meeting	Respondent	Yes
108. Respondent's supplemental closing brief	Respondent	Yes

ATTACHMENT 10

APPENDIX B – CONFLICT CLAIMS AGAINST COMMISSIONERS SMITH, CROWFOOT, NISHIOKA AND TUMAN

1. Commissioner Jodie Smith

The Milo Group is a California corporation that was incorporated in 2010, with three officers: CEO John Gooding, Secretary Alistair McElwee and CFO Michael Colbruno (respondent). The Milo Group currently is comprised of: respondent (Partner), John Gooding (Partner), Nara Dahlbacka (VP), Alistair McElwee (Operations) and Nicole Drake (Operations Manager).

Respondent¹ has a current case pending before the Public Ethics Commission (PEC) related to his failure to register and file quarterly lobbyist forms and reports under the City's Lobbyist Registration Act (LRA) over the course of four years, with two of these years being election years.

Respondent² alleges that Commissioner Jodie Smith is conflicted out of participating in anything having to do with respondent's case for the following three reasons:

1. Emblidge, Moscone & Otis ("EMO"; Ms. Smith's employer) and the Milo Group "jointly represented" RescueAir Systems before the SF Board of Supervisors; and
2. Attorney Scott Emblidge represented Ms. Nicole Drake when she was a member of Berkeley's Rent Stabilization Board; and
3. Attorney Emblidge procured a restraining order against a citizen who was harassing SF Supervisor Carole Migden. Respondent was Ms. Migden's staff member.

Respondent fails to include any identifying information which would assist in analyzing whether Commissioner Smith had or has an impermissible financial conflict of interest, such as: identifying a qualifying financial interest, dates of employment for Commissioner Smith, or dates when any of the incidents described took place.

¹ Respondent claims that he, "immediately raise[d] ethical conflicts with commissioners Jodi Smith, Lisa Crowfoot, and Christina [sic] Nishioka," in the beginning of 2016. Exh. 107, Appendix A. The evidence shows, however, that respondent did not raise any conflict complaints about Commissioner Smith until Operations Manager Nicole Drake's June, 19, 2018 letter – well after the two PEC meetings at issue in respondent's case. Further, this letter addressed only alleged conflicts of Commissioner Smith. These allegations are the same as those addressed in this Appendix B.

² Respondent made further allegations that Commissioner Smith said, "I don't care that much about that," in response to PEC staff pointing to the fact that respondent took full responsibility and immediately complied with staff's request to file the missing forms and reports during the PEC's April 2, 2018 meeting, however a review of the video of Case 16-01 during this meeting does not show Commissioner Smith making this comment. Links to the PEC's April 2, 2018 and June 4, 2018 meetings were included among respondent's evidence. See Appendix A, Exh. Nos. 106 and 107.

ATTACHMENT 10

Commissioner Smith provided PEC staff with the following facts:

1. EMO performed work for RescueAir, Inc. and its President, Anthony Turiello between July 24, 2013 and Sept. 15, 2013, comprising approximately 13.5 hours. This work had nothing to do with the Milo Group, which may well have been lobbying for RescueAir; and
2. EMO attorney Emblige performed less than two hours of billable work for Rent Board Commissioner Nicole Drake regarding a problem she had with public employers in Berkeley between November 2011 and March 2012; and
3. As an in house San Francisco Deputy City Attorney, Attorney Emblige obtained a restraining order on behalf of Supervisor Migden in the early 1990s. It is possible that this order extended to respondent, who was Ms. Migden's aid at the time. This work pre-existed the EMO firm and Mr. Emblige was paid for this work by his employer at the time, the City and County of San Francisco; and
4. Ms. Smith began her employment with EMO in January of 2015. She became a Commissioner with the PEC on June 22, 2017, and her term expires on January 21, 2020.

A. Conflict of Interest Laws:

The California Political Reform Act ("PRA") prohibits a public official (including a member of a City board or commission) from participating in any government decision that will have a reasonably foreseeable material financial effect on any of the official's economic interests.

California Government Code Section 1090 ("Section 1090") prohibits a board or commission member from having a financial interest in any government contract "made" by their board or commission.

These conflict of interest laws apply to board members on boards charged with making recommendations to the City Council about grants or contracts to/with agencies, organizations or individuals.

The City's Government Ethics Act ("GEA") incorporates both the PRA and Section 1090 by reference into local law.

When recusal is required, the member must refrain from voting on funding or other action items that could have a foreseeable financial effect, or discussing the items formally, whether at the committee meetings, or informally with other committee members at or outside the meeting. (Note that in order to allow the member to vote on other funding items, the PRA allows the committee to bifurcate funding decisions so that the decision to fund this organization could be taken first, with the interested member recusing himself/herself, followed by the decision or decisions to fund the remaining agencies, allowing the participation of the member in the follow up decision(s).)

ATTACHMENT 10

The conflicts alleged in this case arise under two separate laws: Gov. Code 1090 and OMC section 2.25.040(A) (based on Gov. Code 87100 *et seq.*). Government Code section 1090 prohibits city officers from being financially interested in any contract made by them in their official capacity. OMC section 2.25.040(A) prohibits all “Public Servants” from making, participating in making or seeking to influence a decision of the City in which the Public Servant has a financial interest within the meaning of the Political Reform Act. “Public Servant” includes commission and board members. OMC section 2.25.030(D)(2). “Financial interest” means a business entity in which the public servant has an investment of \$2,000 or more in which she is a director, officer, partner, trustee, employee or manager. Additionally, “financial interest” can mean income aggregating to \$500 or more in the previous 12 months, including community property.

Commissioner Smith began her employment with EMO in January of 2015. All of the incidents upon which the alleged conflict of interest claim is based, occurred long before her employment with EMO as well as her term as a PEC Commissioner. Based on these facts, there was no conflict for Ms. Smith to disclose, because she was not employed by EMO when the firm represented RescueAir in 2013, nor when EMO represented Ms. Drake in 2011 and 2012. She could not have conceivably benefitted from any of these financial transactions. And EMO did not exist when Mr. Emblige represented Supervisor Migden in the 1990’s.

Moreover, even if Commissioner Smith had been employed by EMO at the time of its RescueAir engagement, she would not have a financial conflict of interest regarding voting on ethics matters related to the Milo Group because she was not receiving any income from the Milo Group. Although it is unclear whether Ms. Drake was employed by the Milo Group in 2011/12, Commissioner Smith was not employed by either EMO or the Milo Group and therefore, there is no conflict.

B. Conclusion

Based on the foregoing analysis, Commissioner Smith does not have a conflict of interest that prohibits her from participating in the case involving respondent’s alleged failure to register and file periodic lobbyist reports under the LRA.

2. Commissioner Lisa Crowfoot

Respondent³ makes the following allegations against former Commissioner Crowfoot: Respondent had a, “professional relationship with Ms. Crowfoot’s husband in his various roles at the San Francisco Board of Supervisors, San Francisco Mayor’s Office and California Governor’s Office.” Exh. No. 107, Appendix A. Respondent fails to identify any specific financial interest at stake, including the amount at issue. Nor are there any dates attached to when and for how long this “professional relationship” existed. Respondent mis-cites state Fair

³ Respondent claims that he, “immediately raise[d] ethical conflicts with commissioners Jodi Smith, Lisa Crowfoot, and Christina [sic] Nishioka,” in the beginning of 2016. Exh. 107, Appendix A. The evidence shows, however, that respondent did not raise any conflict complaints about Commissioner Crowfoot until the hearing in this matter on November 18, 2019.

ATTACHMENT 10

Political Practices Commission (FPPC) Regulation 18707 for the proposition that board and commission members, “cannot participate in a hearing if there is an ‘appearance of possible improprieties,’” however this is not what FPPC Regulation 18707 states. Rather, this quote comes from the FPPC’s August 2015-January 2016 Conflicts of Interest Guide and states as follows:

Under the [PRA], a public official will have a statutory conflict of interest with regard to a particular government decision **if it is foreseeable that the outcome of the decision will have a financial impact on the official’s personal finances or other financial interests. In such cases**, there is a risk of biased decision-making that could sacrifice the public’s interest in favor of the official’s private financial interest. In fact, preventing conflicts of interest was of such vital importance to the voters that the [PRA] not only prohibits actual bias in decision making but also **seeks to forestall . . . the appearance of possible improprieties.**⁴

Support for this contention comes from the case *Witt v. Morrow*, where the court of appeal held that the whole purpose of the PRA, “is to preclude a government official from participating in decisions where it appears he may not be totally objective because the outcome will likely benefit a corporation or individual by whom he is also employed.”⁵ But for conflicts laws to apply, there has to be a financial interest at issue that can be analyzed. As explained above, respondent has not provided any information with which a meaningful analysis could be undertaken. Respondent has failed to identify any financial interest whatsoever. The scant allegations, without more, do not rise to the level of a conflict of interest.

3. Commissioner Krisida Nishioka

Respondent⁶ alleged that former Commissioner Nishioka’s husband had a political relationship with respondent.

This issue is moot, however, as former Commissioner Nishioka recused herself, not on the basis of any conflict of interest, but to avoid any appearance of bias.

4. Commissioner Joseph Tuman

Respondent makes the following allegations against Commissioner Joseph Tuman: Commissioner Tuman ran for Mayor of Oakland in 2014, while respondent was assisting then-incumbent Mayor Jean Quan with her re-election campaign.

A. Conflict of Interest Laws:

⁴ *Witt v. Morrow*, 70 Cal.App.3d 817 at 822-823 (1977).

⁵ *Ibid.*

⁶ Respondent claims that he, “immediately raise[d] ethical conflicts with commissioners Jodi Smith, Lisa Crowfoot, and Christina [sic] Nishioka,” in the beginning of 2016. Exh. 107, Appendix A. The evidence shows, however, that respondent did not raise any conflict complaints about Commissioner Nishioka until the hearing in this matter on November 18, 2019.

ATTACHMENT 10

The California Political Reform Act (“PRA”) prohibits a public official (including a member of a City board or commission) from participating in any government decision that will have a reasonably foreseeable material financial effect on any of the official’s economic interests.

California Government Code Section 1090 (“Section 1090”) prohibits a board or commission member from having a financial interest in any government contract “made” by their board or commission.

These conflict of interest laws would apply to board members on boards charged with making recommendations to the City Council about grants or contracts to/with agencies, organizations or individuals.

The City’s Ethics Act (“GEA”) incorporates both the PRA and Section 1090 by reference into local law.

When recusal is required, the member must refrain from voting on funding or other action items that could have a foreseeable financial effect, or discussing the items formally, whether at the committee meetings, or informally with other committee members at or outside the meeting. (Note that in order to allow the member to vote on other funding items, the PRA allows the committee to bifurcate funding decisions so that the decision to fund this organization could be taken first, with the interested member recusing himself/herself, followed by the decision or decisions to fund the remaining agencies, allowing the participation of the member in the follow up decision(s).)

The conflicts alleged against Commissioner Tuman on their face do not allege any financial gain or benefit to Commissioner Tuman whatsoever. It is unclear if respondent’s conflict allegation is more appropriately cast as a bias claim. If this is the case, then Commissioner Tuman must address any potential bias claims prior to hearing matters involving respondent.

B. Conclusion

Based on the foregoing analysis, Commissioner Tuman does not have a conflict of interest that prohibits him from participating in the case involving respondent’s alleged failure to register and file periodic lobbyist reports under the LRA.

ATTACHMENT 11



Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill M. Butler
Gail Kong
Joe Tuman
Nayeli Maxson Velázquez
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: December 18, 2019
RE: Proposed Amendments to PEC Ordinance (O.M.C. Chapter 2.24)

Overview

This memorandum provides background information regarding the attached proposed draft amendments to the Public Ethics Commission's Ordinance (O.M.C. Chapter 2.24), which outline the Commission's administrative and operational structure and authority beyond the general framework provided by City Charter. If approved by the Commission, staff will pursue legislative approval through City Council. The revisions are intended to align the ordinance with the Oakland City Charter, as amended in 2014, including deleting duplicative sections that now appear in City Charter, and codify the Commission's administrative enforcement and collections process.

Attached are draft proposed amendments to the PEC Ordinance, and below is a narrative summary of the substantive changes.

Background

The Commission's structure and responsibilities are set out in the City's governing laws, including the Oakland City Charter, Public Ethics Commission (PEC) Ordinance (O.M.C. Chapter 2.24), and Commission Operations Policies (previously By-Laws). Until November 2014, the City Charter included a brief description of the Commission and its purpose, the ordinance laid out specific duties and responsibilities in greater detail, and the By-Laws reiterated both the Charter language and the text of the ordinance (as well as language from the Oakland Sunshine Ordinance).

With the passage of Measure CC in November 2014, the City Charter was amended to incorporate many PEC Ordinance provisions, as well as additional provisions to strengthen the Commission's authority, independence, and staffing. As a result of the new and augmented Charter language, portions of the PEC Ordinance are now redundant of some of the language that is in the Charter.

Redundant Language Deleted

Specifically, City Charter section 603(b) now includes the Commission's specific functions and duties that were previously outlined in O.M.C. section 2.24.020. The attached amendments delete the substance of this section and replace it with the prior language in section 2.24.070 (Rules, regulations, and procedures), with minor amendments.

ATTACHMENT 11

City Charter sections 603(d) and (e) now include language regarding Commissioner appointments, qualifications, and restrictions, which were previously included in O.M.C. sections 2.24.040 and 2.24.050. And City Charter section 603(f) now provides details about the Commission's enforcement authority above and beyond the provisions of O.M.C. section 2.24.030, rendering the latter obsolete. Therefore, these O.M.C. sections also are deleted in the attached amendments.

Additional Language Added

In addition, two sections have been added to the ordinance. First, language was inserted as the new section 2.24.030 to specify the Commission's role as a City entity and in relation to Commission staff. It also articulates the role and authority of the Executive Director in relation to both the Commission and the staff. These provisions now align neatly with the City Charter language and the Commission's Operations Policies.

Lastly, the new language includes details regarding the Commission's administrative hearing and collections procedures in order to codify existing practices and ensure consistency over time.

Recommendation

Commission staff recommends the PEC review and approve the proposed amendments to the PEC Ordinance (O.M.C. Chapter 2.24) so that staff can submit them to City Council for consideration.

Attachments

- A. Draft Proposed Amendments to the PEC Ordinance
- B. City Charter Section 603

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

TITLE (Indent half inch both sides and justified)

WHEREAS,
; and

WHEREAS,
; and

WHEREAS,
; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 2, Chapter 2.24 of the Oakland Municipal Code containing the enabling ordinance of the Public Ethics Commission is amended to add, delete or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type.) Portions of regulations not cited or not shown in underscoring or strike-through are not changed.

SECTION 2. Code Amendments.

Title 2, Chapter 2.24 is amended as follows:

2.24.010 - Creation.

Oakland City Charter Section ~~202603~~ has ~~established~~ the Public Ethics Commission (Commission) and proscribes its role and function, Commissioner qualifications and appointment process, enforcement and investigative authority, and staff resources, among other provisions.

ATTACHMENT 12

2.24.020 – Commission Operations.

- A. Implementation of City Charter enumerated role, functions, and duties. The Commission shall adopt policies, procedures, and regulations for the conduct of its business by a majority vote of the members present.
- B. Process. A majority vote of the Commission is required for the adoption of any motion or resolution.
- C. Transmittal. The Commission shall transmit to the City Council any rules, regulations, or procedures adopted by the Commission within seven calendar days of adoption. A rule, regulation or procedure adopted by the Commission shall become effective sixty days after the date of adoption by the Commission unless, before the expiration of the sixty day period, two-thirds of all the members of City Council vote to veto the rule, regulation, or procedure.
- D. Policies and Procedures. Policies and procedures include, but are not limited to, operations policies to guide the Commission's general operations, and complaint procedures to establish the administrative process for the investigation and enforcement of potential violations of government ethics, transparency, and campaign finance laws or policies.

~~2.24.020 – Functions and duties.~~

~~It shall be the function and duty of the Public Ethics Commission, for and on behalf of the city, its elected officials, officers, employees, boards and commissions:~~

- ~~A. — Oversee compliance with the city Campaign Reform Ordinance.~~
- ~~B. — Oversee compliance with the city Code of Ethics.~~
- ~~C. — Oversee compliance with conflict of interest regulations as they pertain to city elected officials, officers, employees, and members of boards and commissions.~~
- ~~D. — Oversee the registration of lobbyists in the city should the City Council adopt legislation requiring the registration of lobbyists.~~
- ~~E. — Oversee compliance with any ordinance intended to supplement the Brown Act or Public Records Act.~~
- ~~F. — Review all policies and programs which relate to elections and campaigns in Oakland, and report to the City Council regarding the impact of such policies and programs on city elections and campaigns.~~

ATTACHMENT 12

- ~~G. — Make recommendations to the City Council regarding amendments to the city Code of Ethics, Campaign Reform Ordinance, Conflict of Interest Code, any ordinance intended to supplement the Brown Act or Public Records Act, and lobbyist registration requirements should the City Council adopt lobbyist registration legislation, and submit a formal report to the City Council every two years concerning the effectiveness of all local regulations and local ordinances related to campaign financing, conflict of interest, lobbying, the Brown Act, the Public Records Act, and public ethics.~~
- ~~H. — Set compensation for the office of City Councilmember which shall be reviewed by the Commission and adjusted as appropriate, in odd-numbered years. In 1997, the Commission shall first establish a base salary for the Office of Councilmember at a level which shall be the same or greater than that which is currently received. Thereafter, the Commission shall fix City Councilmember compensation at a level not to exceed ten percent above the base salary as adjusted.~~
- ~~I. — Each year, and within the time period for submission of such information for the timely completion of the city's annual budget, provide the City Council with an assessment of the Commission's staffing and budgetary needs.~~
- ~~J. — Make recommendations to the City Council regarding the imposition of fees to administer and enforce local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, supplementation of the Brown Act and Public Records Act and public ethics.~~
- ~~K. — Make recommendations to the City Council regarding the adoption of additional penalty provisions for violation of local ordinances and local regulations related to campaign financing, conflict of interest, registration of lobbyists, and public ethics.~~
- ~~L. — Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, with respect to a person's duties pursuant to applicable campaign financing, conflict of interest, lobbying, and public ethics laws.~~
- ~~M. — Prescribe forms for reports, statements, notices, and other documents related to campaign financing, conflict of interest, lobbying, and public ethics.~~
- ~~N. — Develop campaign financing, conflict of interest, lobbying, Brown Act, Public Records Act and public ethics informational and training programs, including but not limited to:
 - ~~1. — Seminars, when appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, lobbyists, and government officials, with city, state and federal laws related to campaign financing, conflicts~~~~

ATTACHMENT 12

~~of interest, the Public Records Act, the Brown Act, lobbying, and public ethics.~~

~~2. Preparation and distribution of manuals to include summaries of ethics laws and reporting requirements applicable to city officers, members of boards and commissions, and city employees, methods of bookkeeping and records retention, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws related to campaign financing, conflicts of interest, lobbying, and public ethics.~~

~~O. Perform such other functions and duties as may be prescribed by the Oakland Code of Ethics, conflict of interest regulations, ordinances as they may be adopted to supplement the Brown Act and the Public Records Act or to require the registration of lobbyists in the city and Campaign Reform Ordinance.~~

~~In prescribing the above duties and functions of the Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other city board or commission or to a city department. As to such functions or responsibilities of another board or commission or of a department of the city, the Commission will render assistance and advice to such board, commission or department as may be necessary. Nothing in this section shall be construed to prevent city officers, employees, and elected or appointed officials from seeking advice directly from the City Attorney, or, when appropriate, the Fair Political Practices Commission, concerning regulations and ordinances related to campaign financing, conflicts of interest, lobbying, and public ethics.~~

~~2.24.030 – Authority.~~

~~In furtherance of the above enumerated duties and functions, the Oakland Public Ethics Commission is authorized to:~~

~~A. Conduct investigations, audits and public hearings.~~

~~B. Issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before the Commission. The Commission may find a person in contempt as provided by the general law of the state for failure or refusal to appear, testify, or to produce required books, papers and documents.~~

~~C. Impose penalties and fines as provided for by ordinance. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to~~

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~~a mutually agreed upon arbitrator whose decision shall be final. The decision of the arbitrator is not appealable to the City Council.~~

~~2.24.040 – Composition – Terms of office.~~

- ~~A. The Oakland Public Ethics Commission shall consist of seven members. The Commission shall be appointed as follows: Three members who represent local civic organizations with a demonstrated history of involvement in local governance issues shall be nominated for appointment by the Mayor, with confirmation by the City Council, pursuant to Section 601 of the City Charter. Four members shall be appointed, following a public recruitment and application process by the unanimous vote of the three representatives appointed by the Mayor with confirmation by the City Council. The four members so appointed shall reflect the interests of the greater Oakland neighborhood and business communities. Commissioners shall serve without compensation. Prior to appointment of a Commission member or members, by the Mayor, each member of the City Council may provide the Mayor with a list of up to three individuals qualified by experience and background to serve on the Commission. In appointing members to the Commission, the Mayor shall consider the recommendations of the City Council.~~
- ~~B. Four members shall constitute a quorum.~~
- ~~C. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three years, except that for terms commencing immediately preceding adoption of the ordinance codified in this chapter, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and three members shall be appointed for a three-year term. No member may serve more than one consecutive three-year term.~~
- ~~D. A vacancy on the Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within fourteen (14) days of appointment. A vacancy shall be filled no sooner than thirty (30) days and no later than sixty (60) days from the date that such vacancy occurs. Any member of the City Council who chooses to recommend a person or persons to fill a vacancy of a position appointed by the Mayor and confirmed by the City Council pursuant to subsection A of this section shall forward such recommendation to the Mayor for consideration no later than thirty (30) days from the date that a vacancy occurs.~~

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~~E. A member appointed by the Mayor may be removed pursuant to Section 601 of the Charter. A member appointed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council may be removed by the unanimous vote of the three members appointed by the Mayor and confirmed by the Council. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three consecutive regular meetings except on account of illness or when absent from the city by permission of the Commission, shall constitute cause for removal.~~

~~2.24.050 – Qualifications.~~

~~Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. During his or her tenure, and for one year thereafter, no member of the Commission shall:~~

- ~~A. Be employed by the city or have any direct and substantial financial interest in any work or business or official action by the city.~~
- ~~B. Seek election to any other public office, or participate in or contribute to an Oakland municipal campaign.~~
- ~~C. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.~~

2.24.030 - Commission Structure.

- A. Role of the Commission. The Commission, as a whole, is responsible for establishing Commission policies and priorities, promoting government ethics and transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by staff.
- B. Commission Staff. The Executive Director reports to the Commission Chair and the Commission and is responsible for establishing staff priorities in consultation with the Chair and consistent with policy direction provided by the Commission. The Executive Director leads and supervises Commission staff and has the authority to hire and remove employees within constraints set by the Civil Service Commission, the Department of Human Resources, and the Commission's budget.

2.24.0460 - Election of chairperson and meetings.

- A. Election of Chair and Vice-Chair. At the first regular meeting of each year, the members shall elect a chairperson and a vice-chairperson.

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A.B. Meetings. The Commission shall hold regular meetings at an established time and place suitable for its purpose. Other meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be provided the members, the Council, and the public press at least seventy-two (72) hours before the meeting is scheduled to convene.

2.24.070 – Rules, regulations and procedures.

~~The Commission shall establish rules, regulations and procedures for the conduct of its business by a majority vote of the members present. The Commission must vote to adopt any motion or resolution. The Commission shall transmit to the City Council any rules, regulations and procedures adopted by the Commission within seven calendar days of adoption. A rule, regulation or procedure adopted by the Commission shall become effective sixty (60) days after the date of adoption by the Commission unless before the expiration of this sixty (60) day period two-thirds of all the members of the City Council vote to veto the rule, regulation or procedure.~~

2.24.0580 - Staff assistance.

The City Manager, or designees thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the functions and duties as set forth in the City Charter and in ordinances within the Commission's jurisdiction above.

2.24.0690 - Legal assistance.

The City Attorney is the Commission's legal advisor. The City Attorney shall provide the Commission with legal assistance, to the extent such assistance does not constitute a conflict. In the event of a conflict, the City Attorney shall retain outside counsel.

2.24.070 – Procedures for Imposing Administrative Fines.

A. Purpose. This section establishes standard procedures for the imposition, enforcement, collection, and administrative review of fines and penalties for violation of any law or ordinance under the purview of the Commission. The procedures set forth in this section are adopted pursuant to Government Code Section 53069.4 and the City of Oakland's power to govern municipal affairs under Article 11 of the California Constitution. By adopting this section, the City does not intend to limit the ability of the City to use any other remedy, civil or criminal, that may be available in a particular case. The City may use the procedures set forth in this section as an alternative to, or in conjunction with, any other available remedy.

B. Complaint Procedures. The Commission shall adopt procedures to establish the administrative process for the investigation and enforcement of violations of the laws within the Commission's jurisdiction. These procedures shall dictate the process for receiving, initiating, and reviewing

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complaints, conducting investigations or audits, and resolving cases prior to an administrative hearing.

C. Administrative Hearing Process.

1. Selection of Hearing Panel or Examiner.

If the Commission decides to schedule a hearing, the Commission may either sit as a hearing panel or delegate authority to one or more members or to an independent hearing examiner.

2. Pre-Hearing Process and Submissions.

The Commission must provide notice of the hearing to the responding party and may define reasonable time limits and other requirements for submission of any proposed subpoenas, resolution of any procedural or preliminary matters not related to the truth or falsity of the factual allegations, and submission of any written materials.

3. Conduct of Hearings.

The Commission may define reasonable terms for the conduct of hearings, receipt and rules of evidence, presentation of testimony, and order of oral arguments. The Commission also may establish a process for hearing a matter in which the responding party refuses or otherwise fails to appear at a properly noticed hearing.

4. Action Upon Conclusion of Hearing.

The Commission may define reasonable time limits and other requirements for preparation and submission of findings of fact and conclusions by the hearing panel or examiner and any procedure for requesting re-hearing.

The Commission's order following a hearing may determine that any violation of law occurred only if the weight of the evidence shows that it was more likely than not that a violation occurred.

The Commission's order and any findings of facts and conclusions adopted by the Commission may include orders for corrective, remedial or punitive actions, and any appropriate fines. The Commission's decision following a hearing shall be final and shall constitute closure of the administrative process with respect to any complaint.

D. Payment of Administrative Fines.

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Any fines imposed by a final order of the Commission will be required to be paid by the due date identified in the order, but no sooner than thirty (30) days after the order is issued. Fines that remain unpaid after the due date will be subject to a late payment penalty of 10 percent plus interest at a rate of 1 percent per month on the outstanding balance.

E. Remedies for Non-Payment.

The amount of any fine not paid within the time required under this Chapter, including the amount of any applicable late payment charges, constitutes a debt to the City. The City may file a civil action or pursue any other legal remedy to collect such money. In any civil action to obtain payment of the fine, and any late payment penalties, the City shall be entitled to obtain a judgment for the amount of the unpaid fines and penalty payments and, in addition, for the costs and attorneys' fees incurred by the City in bringing any civil action to enforce the provisions of this Section.

F. Right to Judicial Review.

Any person aggrieved by the action of the hearing officer taken pursuant to this Chapter may obtain review of the administrative decision by filing a petition for review in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

If a final order of a court of competent jurisdiction determines that the City has not properly imposed a fine pursuant to the provisions of this Chapter, and if the fine has been deposited with the City during the course of the legal proceeding, the City shall promptly refund the amount of the deposited fine, consistent with the court's determination, together with interest at the average rate earned on the City's portfolio for the period of time that the City held the fine amount.

2.24.100 - Protection against retaliation.

- A. No officer or employee of the city shall use or threaten to use any official authority or influence to effect any action as a reprisal against a city officer or employee for acting in good faith to report or otherwise bring to the attention of the Commission or other appropriate agency, office or department, information regarding the violation of any regulation or ordinance over which the Commission has authority.
- B. No officer or employee of the city shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Commission or other appropriate agency, office or department, information regarding the

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violation of any regulation or ordinance over which the Commission has authority.

SECTION __. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION __. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: _____

ATTACHMENT 12

NOTICE AND DIGEST

ORDINANCE TITLE (Indent half inch both sides and justified)

Oakland City Charter**ARTICLE VI - ADMINISTRATIVE ORGANIZATION****Section 603. Public Ethics Commission.**

- (a) Creation and Role. There is hereby established a Public Ethics Commission which shall be responsible for: (1) enforcement of laws, regulations and policies intended to assure fairness, openness, honesty and integrity in City government, including compliance by the City of Oakland, its elected officials, officers, employees, boards and commissions, and other persons subject to laws within the jurisdiction of the Commission; (2) education and responding to issues regarding the aforementioned laws, regulations and policies, and; (3) impartial and effective administration and implementation of programs to accomplish the goals and purposes of the Commission as defined by this Section. Such laws, regulations, policies, and programs shall include those relating to campaign finance, lobbying, transparency, and governmental ethics, as they pertain to Oakland. The Commission shall have the power to make recommendations to the City Council on matters relating to the foregoing. Nothing in this Section shall preclude other City officials, agencies, boards and commissions from exercising authority heretofore or hereafter granted to them, with the exception of Charter Section 603(b)(5).
- (b) Functions and Duties. It shall be the function and duty of the Public Ethics Commission to:
- (1) Foster and enforce compliance with:
 - (i) Sections 218 ("Non-interference in Administrative Affairs"), 907 ("Nepotism"), 1200 ("Conflict of Interest") and 1202 ("Conflict in Office") of this Charter, for violations occurring on or after January 1, 2015;
 - (ii) The Oakland Campaign Reform Act, Limited Public Financing Act and False Endorsement in Campaign Literature Act, Oakland's Conflict of Interest Code, code of ethics and governmental ethics ordinance, the Oakland Lobbyist Registration Act, the Oakland Sunshine Ordinance, any ordinance intended to protect City whistleblowers from retaliation, and other Oakland laws regarding campaign finance, lobbying, transparency, or governmental ethics, as provided by ordinance or this Charter;
 - (iii) Related state laws including, but not limited to, the Political Reform Act, Ralph M. Brown Act, and Public Records Act, as they pertain to Oakland.
 - (2) Report to the City Council concerning the effectiveness of all local laws regarding campaign finance, lobbying, transparency, and governmental ethics.
 - (3) Issue oral advice and formal written opinions, in consultation with the City Attorney.
 - (4) Within the time period for submission of such information for the timely completion of the City's regular budget process, provide the Mayor and City Council with an assessment of the Commission's staffing and budgetary needs.

- (5) Act as the filing officer and otherwise receive and retain documents whenever the City Clerk would otherwise be authorized to do so pursuant to Chapter 4 of the California Political Reform Act of 1974 (Government Code Section 81000, et seq.), provided that this duty shall be transferred to the Commission during the 24 months following the effective date of this provision and the Commission shall be the sole filing officer for the campaign finance programs by January 1, 2017.
 - (6) Educate and promote understanding regarding the requirements under the Commission's oversight and study any significant non-compliance problems or trends with Oakland's campaign finance, lobbying, transparency, and governmental ethics laws and identify possible solutions for increasing compliance.
 - (7) Review and make recommendations regarding all City systems used for public disclosure of information required by any law within the authority of the Commission.
 - (8) Perform such other functions and duties as may be prescribed by laws of this Charter or City ordinance.
- (c) Councilmember Salary Increases. The Public Ethics Commission shall set Council compensation as provided for in Charter Section 202.
- (d) Appointment, Vacancies, Terms. The Public Ethics Commission shall consist of seven (7) members who shall be Oakland residents. Commissioners shall serve without compensation.

The Commission shall be appointed as follows in subsection (1) and (2).

- (1) Appointments by Mayor, City Attorney and City Auditor. The Mayor shall appoint one member who has represented a local civic organization with a demonstrated history of involvement in local governance issues.

The City Attorney shall appoint one member who has a background in public policy or public law, preferably with experience in governmental ethics or open government matters.

The City Auditor shall appoint one member who has a background in campaign finance, auditing of compliance with ethics laws, protection of whistleblowers, or technology as it relates to open government.

Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting. The Mayor, City Attorney, and City Auditor may not appoint an individual who was paid during the past two years for work by a committee controlled by the official.

Upon the effective date of this section, the three members appointed by the Mayor prior to 2015 shall continue to serve the remainder of their terms. Vacancies in the three positions appointed by the Mayor shall be filled in the following manner: the City Attorney shall appoint a member to fill the first vacancy; the City Auditor shall appoint a member to fill the second vacancy and the Mayor shall appoint the member to fill the third vacancy. Thereafter, the

positions appointed by the Mayor, City Attorney and City Auditor shall be filled in the same manner and upon consideration of the same criteria as the initial appointments.

The appointments made by the Mayor, City Attorney, and City Auditor may be rejected by City Council Resolution within 45 days of receiving formal notice of the appointment. An appointment shall become effective once written notice is made by the appointing authority to the City Clerk. Upon receiving such written notice, the Clerk shall promptly provide formal notice to the City Council.

- (2) Commission Appointments. The four members of the Commission who are not appointed by the Mayor, City Attorney or City Auditor shall be appointed, following a public recruitment and application process, by the affirmative vote of at least four (4) members of the Commission. Any member so appointed shall reflect the interests of the greater Oakland neighborhood, nonprofit and business communities.

Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting.

- (3) Terms of office. All categories of member shall be appointed to staggered terms. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three years. No member may serve more than two consecutive full three-year terms. If a member is appointed to fill an unexpired term which term is for more than 1.5 years, he/she may serve only one additional consecutive three-year term. If a member is appointed to fill an unexpired term which term is for less than 1.5 years, he/she may serve two consecutive full three-year terms.
- (4) Quorum. Four members shall constitute a quorum.
- (5) Vacancy. A vacancy on the Commission will exist whenever a member dies, resigns, ceases to be a resident of the City or absents himself/herself continuously from the City for a period of more than 30 days without permission from the Commission, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of a member, or is removed. A finding of disability shall require the affirmative vote of at least four members of the Commission after considering competent medical evidence bearing on the physical or mental capability of the member.

Vacancies not filled by the Mayor, City Attorney, or City Auditor within 90 days of the occurrence of such vacancy may be filled by the City Council in the same manner as provided by Charter, Section 601.

- (6) Removal. Members of the Commission may be removed by their appointing authority, with the concurrence of the Council by Resolution, only for conviction of a felony, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular meetings except

on account of illness or when absent by permission of the Commission, or violation of this Charter section, after written notice of the grounds on which removal is sought and an opportunity for a written response.

- (e) Qualifications and Restrictions. Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. No member of the Commission shall:
 - (1) Have an employment or contractual relationship with the City during the member's tenure and for a period of one year after the date of separation.
 - (2) Be a registered Oakland lobbyist or be required to register as an Oakland lobbyist, or be employed by or receive gifts or other compensation from a registered Oakland lobbyist during the member's tenure and for a period of one year after the date of separation.
 - (3) Seek election to any other public office in a jurisdiction that intersects with the geographic boundaries of Oakland, or participate in or contribute to an Oakland municipal campaign.
 - (4) Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.
- (f) Enforcement.
 - (1) Authority. In furtherance of Charter Section 603(b)(1) and (5). the Public Ethics Commission is authorized to:
 - (i) Conduct investigations;
 - (ii) Conduct audits of compliance with disclosure requirements with the Commission;
 - (iii) Conduct public hearings as provided by the Commission's complaint procedures or other law;
 - (iv) Issue subpoenas to compel the production of books, papers, records and documents and take testimony on any matter pending before the Commission. The Commission may seek a contempt order as provided by the general law of the state for a person's failure or refusal to appear, testify, or to produce required books, papers, records and documents;
 - (v) Impose penalties, remedies and fines, as provided for by ordinance. Ordinances enforced by the Public Ethics Commission shall not be subject to the \$1,000 limit on fines provided Sections 217 and 1208 of this Charter. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to the Alameda County Superior Court by filing a petition for writ of mandamus;
 - (vi) Submit referrals to other enforcement authorities, including but not limited to the Alameda County District Attorney, California Fair Political Practices Commission, and California Attorney General;
 - (vii) Seek remedial relief for violations and injunctive relief;

- (viii) By an affirmative vote of at least five members, reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 218 and 1202 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;
 - (ix) Reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 907 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;
 - (x) Perform other functions as authorized by law.
- (2) Final enforcement action. Final enforcement action by the Commission on a matter, including but not limited to the imposition of fines or dismissal of a case, shall be made by an affirmative vote of at least four members.
- (3) Investigations. Preliminary review by Commission staff of allegations shall be confidential, to the extent permitted by law, until any of the following occurs:
- (i) Placement of the item on a Public Ethics Commission meeting agenda;
 - (ii) Passage of one year since the complaint was filed;
 - (iii) Action by the Executive Director closing the file without placing it on the agenda, pursuant to the Commission's complaint procedures or policies; or
 - (iv) Expiration of the Statute of Limitations.
- (4) Penalty guidelines and Enforcement Discretion. The Public Ethics Commission shall develop a policy setting forth standards for imposing penalties and exercising enforcement discretion. Commission staff shall adhere to the policy when recommending penalties under each of the different penalty provisions that the Commission has the power to enforce.
- (5) Per diem late filing fees. Regarding per diem fees that are authorized due to the late filing of disclosure reports, including campaign finance statements, lobbyist reports, and other ethics-related disclosures filed with the Commission by law, the following shall apply:
- (i) Assessments. Any instance of late filing that triggers the assessment of a fee of \$1,000 or more by the Commission shall be placed on a Commission meeting agenda before issuance of the fee;
 - (ii) Waiver guidelines. The Commission shall establish waiver guidelines in accordance with state law, which the Commission, as the filing officer, shall follow in determining whether or not to grant a waiver. These guidelines shall be published on the Commission's website. The Commission shall prescribe criteria for appeal to the Commission of waiver decisions made by the Executive Director. At each regular Commission meeting, the Executive Director shall provide a written report,

which shall be published online, regarding any waivers decisions made since the previous regular meeting;

- (iii) Referral of final, uncollected fees to collections. Unpaid non-investigatory, per diem late filing fees for disclosure programs that are past due for more than 90 days shall be referred to a City delinquent revenue collection office.
- (6) Private right of action. Oakland residents shall have a private right of action to file suits to enforce the Oakland Campaign Reform Act, Oakland Lobbyist Registration Act, Oakland Sunshine Ordinance, and any City governmental ethics ordinance when the City does not impose or stipulate to a penalty or file suit for a particular violation. Such private right of action shall be enabled for a given ordinance once criteria for such suits, including but not limited to a required notice period, actionable violations and remedies that may be sought, are prescribed by the ordinance.
- (g) Staff Assistance & Budget.
- (1) The City shall appropriate a sufficient budget for the Public Ethics Commission to fulfill the functions and duties as set forth above.
 - (2) Sufficient staffing shall not be less than the following minimum staffing requirement. Effective July 1, 2015, the City shall meet a minimum staffing requirement for the Commission. The minimum staffing shall consist of the following full-time positions or their equivalent should classifications change: Executive Director; One Deputy Director; One Ethics Investigator; One Program Analyst I or Operations Support Specialist; One Program Analyst; One Administrative Assistant I. The minimum staffing budget set-aside may be suspended, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution.
 - (3) The Executive Director shall serve at the pleasure of the Commission. By an affirmative vote of at least four members, the Commission may terminate the Executive Director. Upon a vacancy, the Commission shall conduct a search for the Executive Director with staff assistance provided by the City Administrator. Upon completion of the search and its vetting of applicants, the Commission shall select two or three finalists and forward the selections to the City Administrator, who shall select one as the Executive Director. The City Administrator shall not have the authority to remove the Executive Director. The Commission shall periodically conduct a performance review of the Executive Director.
 - (4) The Deputy Director shall serve at the pleasure of the Executive Director. Other than the Executive Director and Deputy Director, staff shall be civil service in accordance with Article IX of the City Charter. After the effective date of this Charter provision, the Commission Executive Director shall identify special qualifications and experience that the Program Analysts and Operation Support Specialist candidates must have. Candidates for future vacancies shall be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time, except that

said selective certification shall not be subject to discretionary approval by the Personnel Director.

- (5) All staff are subject to the restrictions in Charter Section 603(e), except that staff are not prohibited from employment with the City and the one-year post-service restriction shall apply only to the Executive Director.
- (h) Amendment of Laws. Prior to enacting any amendments to laws that the Commission has the power to enforce, the City Council shall make a finding that the proposed changes further the goals and purposes of the ordinance or program in question and provide specifics substantiating the finding. Absent an urgency finding akin to suspending compliance with the Sunshine Ordinance, amendments to laws that the Commission has the power to enforce and that are proposed by one or more members of the City Council shall be submitted to the Commission for review and comment, prior to passage of the amendments by the City Council.
- (i) References to Other Laws in this Section. All references to other laws in this Section shall refer to these laws as they may be amended from time to time.

(Added by: Stats. November 2014.)

ATTACHMENT 14



Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill Butler
Gail Kong
Joseph Tuman
Nayeli Maxson Velazquez
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: December 20, 2019
RE: Mandated Campaign Contribution and Expenditure Limit Adjustment

The Public Ethics Commission (PEC or Commission) is responsible for adjusting Oakland's Campaign Contribution and Expenditure Limits annually according to the increase in the Consumer Price Index (CPI) for the preceding year pursuant to the Oakland Campaign Reform Act.

This memorandum provides background information about the annual adjustment and informs the Commission of staff's plan to update the contribution and expenditure limits for 2020.

Background

The Oakland Campaign Reform Act (OCRA) imposes limits on campaign spending and seeks to reduce the influence of large contributions on election outcomes. OCRA tasks the Public Ethics Commission with annually adjusting the Contribution and Expenditure Limits for campaigns in Oakland. Below are the applicable sections of the Oakland Campaign Reform Act (attached):

- Limitations on Contributions from Persons (O.M.C. Sec. 3.12.050)
- Limitations on Contributions from Broad-Based Political Committees (O.M.C. Sec. 3.12.060)
- Expenditure Ceilings for candidates who voluntarily agree to expenditure ceilings (O.M.C. Sec. 3.12.200)
- Amount of Independent Expenditures that lift the Expenditure Ceilings (O.M.C. Sec. 3.12.220)

The above sections establish a framework by which contributions to a candidate are limited to \$100 per contributor, unless the candidate voluntarily agrees to limit their overall spending for the entirety of their campaign (expenditure ceiling) to a set amount provided by OCRA. By accepting the expenditure ceiling, the candidate can then receive up to \$500 in contributions from an individual. The same is true for contributions from a broad-based political committee, as defined in OCRA, for which the statutory contribution limits are \$250 and \$1,000, respectively.¹

In addition to these limits, OCRA provides a mechanism by which the candidate expenditure ceiling is lifted if and when a person reaches a certain threshold of spending on independent expenditures on a particular race. The threshold amounts are as follows:

¹ These statutory amounts of \$100, \$500, \$250, and \$1,000 are adjusted each year as described on the next page.

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Candidate	Independent Expenditure Threshold
District City Council or School Board	\$15,000
City Attorney, Auditor, Councilmember-at-Large, or Mayor	\$70,000

All of these contribution limit and expenditure ceiling amounts are adjusted each year according to the increase in the Consumer Price Index (CPI), as provided in each of the above OCRA sections. Now, for example, the prior statutory \$100 limit for candidates who do not accept the expenditure ceiling is \$200 in practice, and for those who accept the expenditure ceiling, the statutory \$500 limit is \$800 as a result of annual CPI increases over time.

Annual Adjustment

OCRA specifies the timing and nature of the annual increase, providing that the amounts listed in each of the above sections must be increased annually according to the CPI “for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics.” The increase of the contribution limitation amounts “shall not exceed the CPI increase,” and the adjustment “shall be rounded to the nearest one hundred (100).” The calculations shall be based on 1999 as the index year for contribution limits, and 1998 as the index year for expenditure ceilings and the independent expenditure threshold.²

OCRA also requires that the expenditure ceiling amounts be published no later than February 1st of each year.³

Conclusion

The CPI data for 2019 will be released by the U.S. Department of Labor, Bureau of Labor Statistics, in January 2020.⁴ Once released, Commission staff will use the released data to calculate the increase for the 2020 contribution and expenditure limits and independent expenditure thresholds as required by the Oakland Campaign Reform Act. Subsequently, Commission staff will publish and distribute the updated information.

Attached is the spreadsheet that Commission staff will use to insert the data point for the annual average CPI increase for all urban consumers in 2019 and make the corresponding calculations for 2020. No further Commission action is necessary.

Attachments:

1. Oakland Campaign Reform Act
2. Spreadsheet for Calculating Campaign Contribution and Expenditure Limits 2020

² O.M.C. Sections 3.12.050(G), 3.12.060(G), 3.12.200, and 3.12.220, referring to sec. 3.12.200.

³ O.M.C. 3.12.200.

⁴ U.S. Bureau of Labor Statistics. San Francisco Region Consumer Price Index. <http://www.bls.gov/ro9/cpisanf.htm>. See data at http://www.bls.gov/regions/west/data/consumerpriceindex_sanfrancisco_table.pdf.

ATTACHMENT 14

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT¹¹

Footnotes:

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Editor's note— Ord. No. 13399, § 1, adopted November 29, 2016, amended Chapter 3.12 in its entirety to read as herein set out. Formerly, Chapter 3.12, Article I—IX, pertained to similar subject matter and derived from Ord. No. 12158, adopted in 1999; Ord. No. 12197, adopted in 1999; Ord. No. 12207, § 2, adopted in 2000; Ord. No. 12260, § 1, adopted in 2000; Ord. No. 12998, § 1, adopted March 2, 2010; Ord. No. 13156, §§ 3—5, adopted March 19, 2013, and Ord. No. 13262, § 1, adopted October 21, 2014.

Article I. - Findings and Purpose

3.12.010 - Title.

This Chapter shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. No. 13399, § 1, 11-29-2016)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

- A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by City government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.
- C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.
- D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.
- E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.
- F. Disclosure of donors who have financial interests with the City of Oakland and also of City Officials who solicit contributions safeguards against potential conflicts of interest.
- G. For transparency, and to protect our democracy, including from the risk of secretive big money, it is important that the public have a right to know who is paying for, and who is sending, advocacy and campaign communications.
- H. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.
- I. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

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(Ord. of 13545, 6-18-2019; Ord. No. 13399, § 1, 11-29-2016)

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

- A. To ensure that all individuals and interest groups in our City have a fair and equal opportunity to participate in elective and governmental processes.
- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To reduce the advantage of incumbents and thus encourage competition for elective office.
- E. To allow candidates and elected City Officials to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- G. To help restore public trust in governmental and electoral institutions.

(Ord. No. 13399, § 1, 11-29-2016)

Article II. - Definitions

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in the California Political Reform Act (California Government Code Sections 81000 through 91014), as amended, shall govern the interpretation of this Act.

- A. "Broad-based political committee" means a committee of persons which has been in existence for more than six (6) months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five (5) or more candidates.
- B. "Candidate" means any candidate, as defined by the California Political Reform Act, for City Office.
- C. "City" means the City of Oakland.
- D. "City Office" includes, but is not limited to, City of Oakland Mayor (Mayor), City of Oakland City Attorney (City Attorney), City of Oakland City Auditor (City Auditor), City of Oakland City Councilmembers (Councilmembers), and Oakland School Board Directors (School Board Directors).
- E. "City Official" means any person holding a City Office, any member of a City board or commission, and any City employee.
- F. "Election" means any election for City Office.
- G. "Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.

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- H. "Entity" means any person, other than an individual.
- I. "Local committee" means any committee, as defined in the California Political Reform Act, that is required by the California Political Reform Act to file campaign statements with the City.
- J. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.
- K. "Qualified campaign expenditure" for candidates means and includes all of the following:
 - 1. Any expenditure made by a candidate, elected City Official or committee controlled by the candidate or elected City Official, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate.
 - 2. A nonmonetary contribution provided at the request of or with the approval of the candidate, elected City Official or committee controlled by the candidate or elected City Official.

"Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

(Ord. No. 13399, § 1, 11-29-2016)

Article III. - Contribution Limitations

3.12.050 - Limitations on contributions from persons.

- A. No person shall make to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall receive from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00), adjusted annually pursuant to Subsection F., for each election except as stated in Subsection B. of this Section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no person shall make to a candidate and the controlled committee of such candidate, and no such candidate and the controlled committee of such candidate shall receive contributions totaling more than five hundred dollars (\$500.00), adjusted annually pursuant to Subsection F., from any person for each election.
- C. Any person who makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City Office in excess of the amounts stated in Subsection A.
- D. This Section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than City offices.
- E. Persons making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a person has separately accounted for such contributions and expenditures for such elections for City office, contributors to that person may contribute more than the amount set forth in Subsection A. of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

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(Ord. No. 13399, § 1, 11-29-2016)

3.12.060 - Limitations on contributions from broad-based political committees.

- A. No broad-based political committee shall make to any candidate and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00), adjusted annually pursuant to Subsection F., for each election except as stated in Subsection B. of this Section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand dollars (\$1,000.00), adjusted annually pursuant to Subsection F., for each election.
- C. Any broad-based political committee that makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City office in excess of the amounts stated in Subsection A. of this Section.
- D. This Section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than City offices.
- E. A broad-based political committee making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a broad-based political committee has separately accounted for such contributions and expenditures for such elections for City office, contributors to that broad-based political committee may contribute more than the amounts set forth in Subsection A. of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.065 - Contributions made under legal name.

No contributions shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.070 - Return of contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor no later than five (5) business days after the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

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(Ord. No. 13399, § 1, 11-29-2016)

3.12.080 - Aggregation of contributions.

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

- A. Two (2) or more entities' contributions shall be aggregated when any of the following circumstances apply:
 1. The entities share the majority of members of their boards of directors.
 2. The entities share three (3) or more, or a majority of, officers.
 3. The entities are owned or controlled by the same majority shareholder or shareholders.
 4. The entities are in a parent-subsidary relationship.
 5. One entity finances, maintains, or controls the other entity's contributions or expenditures.
- B. Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decision to make contributions.
- C. The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by that same person.
- D. If two (2) or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- E. No committee and no broad-based political committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad-based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.090 - Loans.

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.
- B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.
- C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.
- D. Other than loans pursuant to Subsection C. of this Section, extensions of credit in excess of one thousand five hundred dollars (\$1,500.00) for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

(Ord. No. 13399, § 1, 11-29-2016)

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3.12.100 - Family contributions.

- A. Contributions by two (2) individuals married to each other shall be treated as separate contributions and shall not be aggregated.
- B. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half (½) to each parent or the total amount to a single custodial parent).

(Ord. No. 13399, § 1, 11-29-2016)

3.12.110 - One campaign committee and one checking account per candidate.

A candidate shall have no more than one campaign committee and one checking account for the City office being sought, out of which all expenditures for that office shall be made. This Section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.115 - Ballot measure committees controlled by candidates or elected City Officials.

A candidate or elected City Official who controls a ballot measure committee may not directly or indirectly use or influence the use of ballot measure committee funds to support the candidate's or elected City Official's election or to support or oppose other candidates, and may not transfer such funds to another committee supporting the candidate's or elected City Official's election, or supporting or opposing other candidates. The foregoing notwithstanding, the prohibitions of this Section shall not apply to a committee created to oppose or support the qualification of a recall measure and/or the recall election of the controlling candidate or controlling elected City Official.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.116 - Disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees.

All non-candidate controlled recipient committees, including ballot measure committees and general purpose committees, required to file campaign statements in the City of Oakland, must disclose the principal officers of the committee. Such disclosure must include the full name, street address, and telephone number of at least one (1) principal officer, as well as all principal officers up to a total of three (3). This disclosure shall be made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. Such information shall be filed with the Public Ethics Commission and made available to the public.

(Ord. of 13545, 6-18-2019)

3.12.117 - Reporting by City Officials who solicit campaign contributions from persons contracting or proposing to contract with the City.

- A. Any public servant, as defined by Section 2.25.030(D), who is required to file a statement of economic interests (Form 700) and who successfully solicits a contribution of five thousand dollars (\$5,000.00) or more per calendar year to any committee from any person who contracts or proposes

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to contract with the official's department during the contractor prohibition time period specified in Section 3.12.140, must disclose such solicitation within thirty (30) days of the solicitation to the Public Ethics Commission using a process provided by the Public Ethics Commission.

1. Mayor, Members of the Council, and their Senior Staff Members. For purposes of this section, the "department" of the Mayor, member of the Council, or Senior Staff Member to either the Mayor or member of Council shall be the City, and the disclosure requirement shall apply when the solicitation is made to a person contracting or proposing to contract with the City.
 - a. For purposes of this section, a "senior staff member" to either the Mayor or a member of the Council means an individual employed in any of the following positions: Chief of Staff, Deputy Chief of Staff, Communications or other Director, Legislative or Policy Aide, or any other position in the Mayor's or Council Member's office who is required to file a Form 700.

(Ord. of 13545, 6-18-2019)

3.12.120 - Money received by elected City Officials and candidates treated as contributions, income or gifts.

Any funds received by any elected City Official, candidate, or committee controlled by an elected City Official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the California Political Reform Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.130 - Contributor identification and restriction on use of cash.

- A. No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate or local committee unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.
- B. No person shall make, and no candidate or local committee shall receive, a contribution of one hundred dollars (\$100.00) or more in cash.
- C. No candidate or local committee shall make an expenditure of one hundred dollars (\$100.00) or more in cash.
- D. No person shall make a contribution of one hundred dollars (\$100.00) or more other than an in-kind contribution unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code Section 84302.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.140 - Contractors doing business with the City or the Oakland Unified School District prohibited from making contributions.

- A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, for selling or leasing any land or building to the City, or for purchasing or leasing any land or building from the City, whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City

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Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or the termination of negotiations for such contract.

- B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District, for selling or leasing any land or building to the School District, or for purchasing or leasing any land or building from the School District, whenever the value of such transaction would require approval by the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or termination of negotiations for such contract.
- C. If a person is an entity, the restrictions of Subsections A. and B. also apply to all of the entity's principals, including, but not limited to, the following:
 - 1. The entity's board chair, president, chief executive officer, chief operating officer, chief financial officer, and any individual who serves in the functional equivalent of one or more of those positions;
 - 2. Any individual who owns an ownership interest in the entity of twenty (20) percent or more; and
 - 3. An individual employee, independent contractor, or agent of the entity, that represents or is authorized to represent the entity before the City in regards to the contract or proposal contract.
- D. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.
- E. For contributions to elected City Officials other than School Board Directors, transactions that require approval by the City Council include but are not limited to:
 - 1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).
 - 2. Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.
 - 3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).
 - 4. Contracts for the sale or lease of any building or land to or from the City.
 - 5. Amendments to contracts described in Subsections E.1., 2., 3., and 4. of this Section.
- F. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:
 - 1. Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.
 - 2. Contracts requiring School Board approval under Public Contract Code Section 20111.
 - 3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
 - 4. Contracts for the sale or lease of any building or land to or from the School District.
 - 5. Amendments to contracts described in Subsections F.1., 2., 3., and 4. of this Section.
- G. "Commencement of negotiations" for City contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any City Official or when a City Official formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

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H. Reserved.

- I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- J. "Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.
- K. "Completion of negotiations" occurs when the City or the School District executes the contract or amendment.
- L. "Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by a City Official or an appointed or elected School District officer or employee.
- M. The Oakland City Administrator shall be responsible for implementing procedures for City contracts to ensure contractor compliance with this Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed by the City Clerk at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The City Clerk shall keep an updated list of current contractors available for inspection.

- N. The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

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The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

- O. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District or for purchasing any land or building from the City or the School District, or for leasing any land to or from the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates Subsection A. of this Section, shall be subject to the enforcement provisions of Article IX of this Act.
- P. Candidates and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland or the Oakland Unified School District (OMC § 3.12.140).

(Ord. No. 13399, § 1, 11-29-2016)

3.12.150 - Officeholder fund.

- A. Every elected City Official shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected City Official. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.
- B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in Subsection C.1. through 5. of this Section. Such allowable expenditures shall include, but are not limited to the following categories:
 - 1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;
 - 2. Expenditures for office equipment, furnishings and office supplies;
 - 3. Expenditures for office rent;
 - 4. Expenditures for salaries of part-time or full-time staff employed by the elected City Official for officeholder activities;
 - 5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;
 - 6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the elected City Official; (2) a member of the elected City Official's staff; or (3) such other person designated by the elected City Official who is authorized to perform such government duties;

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7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the elected City Official, (2) a member of the elected City Official's staff, (3) such other person designated by the elected City Official who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;
 8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;
 9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;
 10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;
 11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the elected City Official or a member of the elected City Official's staff in the performance of his or her governmental responsibilities;
 12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;
 13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;
 14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the elected City Official communicates in his or her official capacity;
 15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;
 16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
 17. Expenditures for ballot measures.
- C. Officeholder expense funds shall not be used for the following:
1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;
 2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;
 3. Membership in any athletic, social, fraternal, veteran or religious organization;
 4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City Official;
 5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.
- D. No funds may be transferred from the officeholder fund of an elected City Official to any other candidate committee.
- E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.
- F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

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(Ord. No. 13399, § 1, 11-29-2016)

3.12.160 - Allowance for donation of office space.

- A. Donation of office space for use by elected City Officials in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:
 - 1. The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
 - 2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.
- B. Use of office space donated pursuant to this Section by an elected City Official shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.170 - Legal expense funds.

- A. An elected City Official or candidate may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or elected City Official's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or elected City Official's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an elected City Official or candidate for legal expense fund must be deposited into the elected City Official's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.
- B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.
- C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.180 - Volunteer services exemption.

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

(Ord. No. 13399, § 1, 11-29-2016)

Article IV. - Expenditure Ceilings

3.12.190 - Expenditure ceilings.

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All candidates who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Subsections 3.12.050.B. and 3.12.060.B. of this Act. Before receiving any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the Public Ethics Commission on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$0.70) per resident for each election in which the candidate is seeking elective office. A candidate for other Citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$0.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning on January 1, 2017, the Public Ethics Commission shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.210 - Reserved.

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if any person makes one or more independent expenditures totaling more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) in a City Attorney, Auditor, Councilmember-at-Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Subsections 3.12.050.B. and 3.12.060.B. of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.200 of this Chapter.

(Ord. No. 13399, § 1, 11-29-2016)

Article V. - Independent Expenditures

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3.12.230 - Independent expenditures for mass mailings, slate mailings or other campaign materials.

- A. Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate shall place the following statement on the mailing in typeface of no smaller than fourteen (14) points:

Notice to Voters

(Required by the City of Oakland)

This mailing is not authorized or approved by any City candidate or election official.

It is paid for

by (name) _____

_____ (address, city, state)

Total cost of this mailing is: (amount)

- B. A committee must disclose the names of persons from whom the committee received its two (2) highest cumulative contributions of five thousand dollars (\$5,000.00) or more in the same manner as required by California Political Reform Act Section 84506 on all mass mailings and television advertisements that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City.

(Ord. No. 13399, § 1, 11-29-2016)

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

- A. **Electronic Filing of Campaign Statements.** Any person required by State or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission provided that the Public Ethics Commission has prescribed the format at least sixty (60) days before the statement or report is due to be filed.
- B. **Continuous Filing of Electronic Statements.** Once a committee is subject to the electronic filing requirements imposed by this Section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Act and the California Political Reform Act.
- C. **Late Filing Fees.** If any person files an original statement or report after the deadline imposed by State or local law, he or she shall, in addition to any other penalties or remedies established by this Act or State law, be liable in the amount of ten dollars (\$10.00) per day after the deadline until the statement or report is filed, to the Public Ethics Commission. No liability under this Subsection shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100.00), whichever is greater. The Public Ethics Commission shall deposit any funds received under this Section into the City's general fund.
- D. **Adoption of General Law.** Except as otherwise provided in, or inconsistent with, this Act or other provisions of local law, the provisions of the California Political Reform Act relating to local elections including any subsequent amendments are hereby incorporated as part of this article.

(Ord. No. 13399, § 1, 11-29-2016)

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3.12.245 - Recordkeeping requirements.

Every person required by State or local law to file a campaign statement or report with the City shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four (4) years following the date the campaign statement or report was filed with the Public Ethics Commission.

(Ord. No. 13399, § 1, 11-29-2016)

Article VII. - Violations Related to Enforcement

3.12.250 - Violations Related to Enforcement.

False Charges and Information. A person shall not knowingly furnish false, fraudulent, or misleading complaints, evidence, documents, or information to the Public Ethics Commission, or District Attorney, or knowingly misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Public Ethics Commission or District Attorney of an alleged violation of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

Article VIII. - Agency Responsibility and Authority

3.12.260 - Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

- A. Oversee compliance with the Act.
- B. Serve as the local filing officer for campaign statements and reports pursuant to the California Political Reform Act.
- C. Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this Act, subject to Section 2.24.070 of the Oakland Municipal Code.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.265 - Duties of the City Clerk.

The City Clerk shall, at a minimum, provide with the nomination packets given to candidates an advisory sheet directing candidates to the Public Ethics Commission for information about campaign reporting requirements.

(Ord. No. 13399, § 1, 11-29-2016)

Article IX. - Enforcement

3.12.270 - Penalties.

Any person who violates this Act is subject to criminal, civil, administrative, and other penalties provided for in this Section. In the event criminal violations of this Act come to the attention of the Public Ethics Commission, it may forward the information to the appropriate law enforcement agency.

- A. **Criminal Penalties.** Any person who knowingly or willfully violates any provision of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to

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violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Act.

1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless a court, at the time of sentencing, specifically determines that this provision shall not be applicable.
 2. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.
- B. Civil Penalties. Any person who violates any provision of this Act shall be liable in a civil action for an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed expended, gave or received, whichever is greater. A decision by the Public Ethics Commission to bring a civil action requires an affirmative vote of at least five (5) of its members.
1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
 2. In determining the amount of liability, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.
- C. Administrative Penalties. Any person who violates any provision of this Act, who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable in an administrative proceeding before the Public Ethics Commission held pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. In addition to administrative penalties, the Public Ethics Commission may issue warnings or require other remedial measures.
1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.280 - Injunctive relief.

- A. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, VI, and VII of this Act.
- B. Any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, and VI of this Act.
- C. Any individual, other than the Public Ethics Commission, before filing a civil action pursuant to this Section, shall first file with the Public Ethics Commission a written request for the Public Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Public Ethics Commission shall respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an administrative or civil action. If the Public Ethics Commission indicates in the affirmative and brings an administrative or civil action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Public Ethics Commission is dismissed without prejudice.
- D. If the Public Ethics Commission needs additional time to determine whether to bring an action or needs additional time to bring an action, it may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety (90) day time period by another sixty (60) days. If the Public Ethics Commission indicates they will not pursue the matter, or if it does not pursue an administrative or civil action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit pursuant to this Section. No resident may bring an action

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pursuant to this Section if the Public Ethics Commission has commenced an administrative action or a law enforcement agency has commenced criminal action arising out of the same facts.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.290 - Forfeiture.

Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's general fund up to the amount of the financial benefit received as a result of the violation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.300 - Costs of litigation.

The court may award to a party, other than the City or any of its commissions, boards, departments or agencies, who prevails in any civil action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.310 - Limitation of actions.

- A. A criminal action alleging a violation of this Act may only be commenced by the Alameda County District Attorney or the California Attorney General and no more than four (4) years after the date of the violation.
- B. A civil action alleging a violation of this Act may only be commenced by the Public Ethics Commission or an individual residing in the City and no more than five (5) years after the date of the violation.
- C. An administrative action alleging a violation of this Act may only be commenced by the Public Ethics Commission and no more than five (5) years after the date of the violation.
- D. Commencement of an administrative action is the date the Public Ethics Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.
- E. Unless otherwise prescribed by applicable law, the date of the violation means the earliest date when the complainant, the Public Ethics Commission, or other prosecuting authority has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant, the Public Ethics Commission, or other prosecuting authority to know or suspect under the facts of the situation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.320 - Liability.

- A. In addition to a committee itself, persons who qualify under the California Political Reform Act as principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers.

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- B. In addition to a person whose conduct is required or prohibited under this Act, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:
1. A current or former officer of the committee;
 2. An employee of the committee;
 3. A person who has received compensation or reimbursement from the committee; and
 4. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.
- C. This Section does not limit potential liability for persons who cause another person to violate this Act or who aids and abets another person in a violation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.330 - Disqualification.

In addition to any other penalties prescribed by law, if a candidate receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et seq. and the regulations of the Fair Political Practices Commission shall apply to interpretations of this Section.

(Ord. No. 13399, § 1, 11-29-2016)

Article X. - Miscellaneous Provisions

3.12.340 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this State or jurisdiction.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.350 - Reference to other laws.

All references in this Act to other laws refer to those laws as amended.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.360 - Severability.

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

(Ord. No. 13399, § 1, 11-29-2016)

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CITY OF OAKLAND CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN REFORM ACT 2020

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)

Consumer Price Index (CPI) Values*

1999 (index year)	172.5	Annual Avg CPI
2019		Annual Avg CPI
Adjustment Factor	0.00%	

Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Persons				
For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$100	0.00%	\$0	\$0
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$500	0.00%	\$0	\$0

* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value

** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

Consumer Price Index (CPI) Values*

1999 (index year)	172.5	Annual Avg CPI
2019		Annual Avg CPI
Adjustment Factor	0.00%	

Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Broad-Based Political Committees				
For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$250	0.00%	\$0	\$0
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,000	0.00%	\$0	\$0

* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value

** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).

EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY AGREE TOP EXPENDITURE CEILINGS (§3.12.200)

Consumer Price Index (CPI) Values*

1998 (index year)	165.5	Annual Avg CPI
2019		Annual Avg CPI
Adjustment Factor	0.00%	

Position	Codified Limit	2010 Census Population**	Total Expenditures	CPI Adjustment Factor	CPI Adjusted Expenditures
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Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill M. Butler
Gail Kong
Joe Tuman
Nayeli Maxson Velázquez
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: December 27, 2019
RE: Disclosure and Engagement Report

This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities for the past year. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as required. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunities for dialogue between the Commission and community members.

Program Milestones in 2019

Compliance

Campaign finance disclosure – As of December 2019, the City of Oakland has 73 active political committees required to file periodic campaign disclosure statements, 41 candidate and officeholder committees, 19 general purpose committees, 8 primarily-formed ballot measure committees, 4 independent expenditure committees, and 1 primarily-formed candidate committee. There were only two semi-annual campaign statement deadlines in 2019, a non-election year. In all, staff processed and reviewed close to 200 campaign-related filings during 2019.

During facial review staff detected five statements with issues requiring amendments and worked with filers to voluntarily come into compliance. Staff assessed \$380 in late fees against two filers and referred three committees for enforcement for failure to file campaign statements after repeated notices and contacts with staff.

Contribution and Expenditure Ceiling Limit Adjustments – As the campaign filing officer, the Commission is responsible for adjusting the contribution and expenditure ceiling limits annually to adjust for increases in the Consumer Price Index (CPI). In January, staff adjusted the contribution and expenditure limits for 2019 and published by the February 1st deadline.

City Auditor Limited Public Financing (LPF) Program Audit – From January thru May, Commission staff participated in the City Auditor's audit of the 2018 LPF program. Staff provided LPF records and assisted in completion of the required audit. The audit found that the PEC's overall systems and

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internal controls are adequate to ensure proper administration of the LPF program. All candidates were properly deemed eligible for the program, and all expenditure reimbursements were appropriate.

Lobbyist disclosure – The PEC received 72 lobbyist registrations and 11 terminations this year, ending the year with 61 registered lobbyists. All lobbyist forms and reports required by the Lobbyist Registration Act are filed with the Public Ethics Commission, and as a result, staff processed 200 quarterly lobbyist activity reports this year.

Statements of Economic Interests – April 2, 2019, marked the deadline for City officials and designated employees within the City’s Conflict of Interest Code to file their annual statement of economic interests (Form 700). Staff conducted an initial compliance check of elected officials to confirm that their Form 700’s were filed. All 11 officials filed their statements on time. Staff continues to work with the Department of Human Resources Management (DHRM) to make available an accurate list of all designated employees required to file Form 700 and is developing a compliance practice for these forms modeled on the process developed for campaign finance compliance.

Other proactive staff activity focused on Form 700 compliance included ongoing work with board and commission support staff to ensure all City board and commission members understand their responsibilities and requirements under local ethics and transparency laws. As PEC staff conducts these discussions, a primary focus is ensuring board and commission members are complying with Form 700 filing and online training requirements.

Board and Commission Compliance Review – In 2019, staff initiated a proactive review to assess whether all City boards and commission websites comply with Sunshine and Brown Act requirements. Initially, Commission staff found that only 19 of the City’s 31 active boards and commissions were conforming with online agenda posting requirements. The focus of the review then shifted to ensuring all board liaisons know and abide by the legal requirements. Over the course of the review, staff held meetings and coordinated with 16 board liaisons to discuss Sunshine and Brown Act requirements and to obtain compliance.

Following Commission staff’s review and direct assistance with boards, all 31 of the City’s boards and commissions subject to the Sunshine Ordinance fulfilled the online agenda posting requirements. Staff also provided recommendations to the Mayor’s Office and City Administrator’s Office on the support board liaisons need to fulfill their duties.

Illuminating Disclosure Data

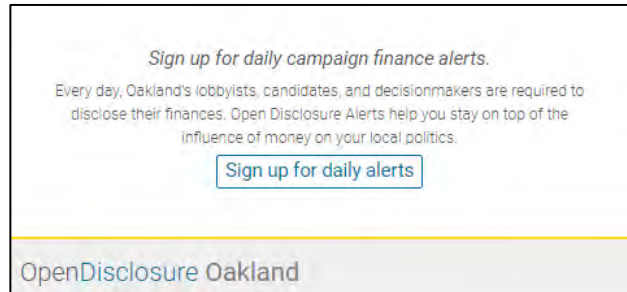
Lobbyist e-filing – During 2019, Commission staff successfully submitted a proposal to the City of Oakland’s Information Technology Department (ITD) to build an online lobbyist e-filing system and public portal to increase efficiency in processing lobbyist registration and disclosure reports and to improve internal and public access to the data contained within the reports. Commission staff worked with IT staff during the last five months of the year to build the filing system utilizing the [OakApps](#) portal, completing the database and making significant progress on the user interface where lobbyists will enter their registration and report data. The pilot system will launch in early 2020.

The electronic filing system is designed to make compliance with the disclosure requirements of the Oakland Lobbyist Registration Act simpler and more convenient for the regulated community. Added features to simplify reporting and provide meaningful and timely reports to the public include the ability to create and edit draft reports, tools to upload client data to lobbyist accounts, as well as drop

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down categories and look-up tables to speed data entry and provide information in more standardized formats. Work has also begun on the design for a new ethics data portal, where members of the public will be able to view key metrics, view the latest filings, and search and download the data.

Open Disclosure – Although 2019 was not an election year, our volunteer partners at Open Oakland added a new [Open Disclosure](#) feature for users interested in staying on top of the latest campaign finance, lobbyist and ethics-related disclosure filings. Users can now subscribe to receive email alerts listing new disclosure filings with highlights from the reports and a link to the filing. The alert includes all campaign finance, lobbyist registrations and reports, statements of economic interest (Form 700), and behested payment reports (Form 803) uploaded to the Oakland NetFile system.

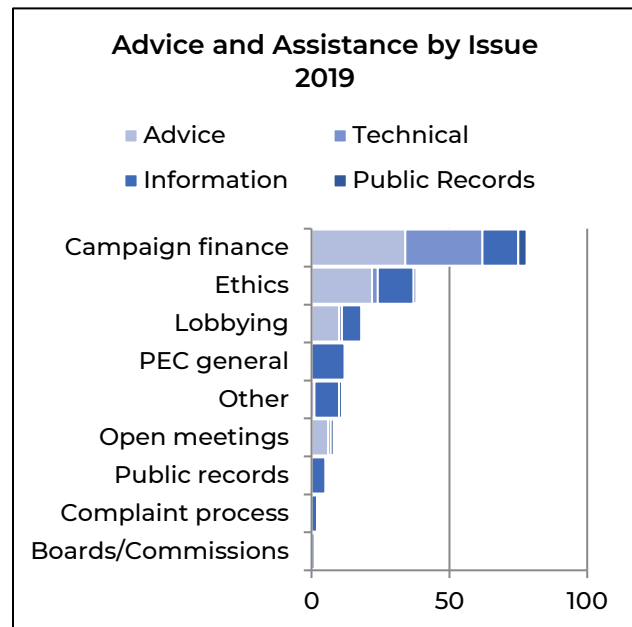


Advice and Engagement

Advice and Technical Assistance – In 2019, Commission staff responded to 173 requests for information, advice or assistance regarding campaign finance, ethics, or lobbyist registration issues.

Elected Officials – At the beginning of the year, Commission staff initiated increased communications with elected officials, providing them with an ethics training checklist and extending an offer of support with state and local ethics laws including an in-person ethics check-in meeting for officials and their staff members.

As a result, staff met with three council offices providing each with an ethics resource binder that included guides and fact sheets relating to the Government Ethics Act, conflicts of interests, gift restrictions, non-interference provision, and the City's ticket distribution policy. The increased outreach and informal meetings allowed PEC staff to better understand the support needs of councilmembers and their staff in complying with local ethics laws and at year-end all 11 elected officeholders are in compliance with both Form 700 filing requirements and the state-required AB 1234 ethics training. Ten out of 11 elected officials completed the PEC's comprehensive online training for Form 700 filers.



New Employee Orientation – In 2016, Commission staff began collaborating with the Department of Human Resources (DHRM) to ensure that every new City employee receives introductory Government Ethics training. Commission staff presents an overview of both the Government Ethics Act and the Commission's services at every New Employee Orientation provided by the City. This year, Commission staff made ten in-person presentations and two video presentations reaching approximately 320 new employees. In addition to regular new employee onboarding, staff also conducted ethics training for

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50 new employees of the Oakland Parks, Recreation, and Youth Development Department for their summer staff orientation.

Supervisor Academy – Supervisor Academy is a relatively new service of DHRM to provide training for supervisors on City policies and procedures, internal systems, and leadership skills relating to day-to-day supervision. Commission staff provided ethics presentations at three Supervisor Academies, reaching over 80 supervisor-level City employees with an overview of the Government Ethics Act and PEC services, as well as the opportunity to dive into discussions of ethical issues and scenarios and skills-based training to deal with ethical dilemmas such as gift restrictions, lobbying activity, misuse of City resources, and public records requests.

Boards and Commissions – This past year, staff provided in-person introductory ethics trainings to four City boards and Commissions: The Cannabis Regulatory Commission, Oakland Fund for Children and Youth Oversight Committee, Bicyclist and Pedestrian Advisory Board, and the Police and Fire Retirement Board. In addition, PEC staff participated in a joint effort with the Mayor’s office, City Clerk, and City Attorney to provide a comprehensive training for City Board and Commission staff liaisons. The training covered all relevant laws and responsibilities, including Sunshine and GEA requirements, pertaining to boards and commissions to ensure understanding and compliance. Staff provided attendees with copies of the PEC’s Boards and Commission Members Handbook and shared practices used by our own Commission for onboarding new members.

Publications – The Commission made substantial revisions to two comprehensive guides intended to assist the regulated community in complying with local laws:

- **Government Ethics Guide** – The previous Ethics Resource Guide, which hadn’t been updated since the adoption of the Government Ethics Act (GEA), was overhauled to create a guide that summarizes all key GEA provisions and provides an additional GEA educational resource to support PEC trainings, fact sheets, and advisories.
- **Board and Commission Members Handbook** – Staff revised the Commission’s Board and Commission Members Handbook to update information related to City structure and boards.

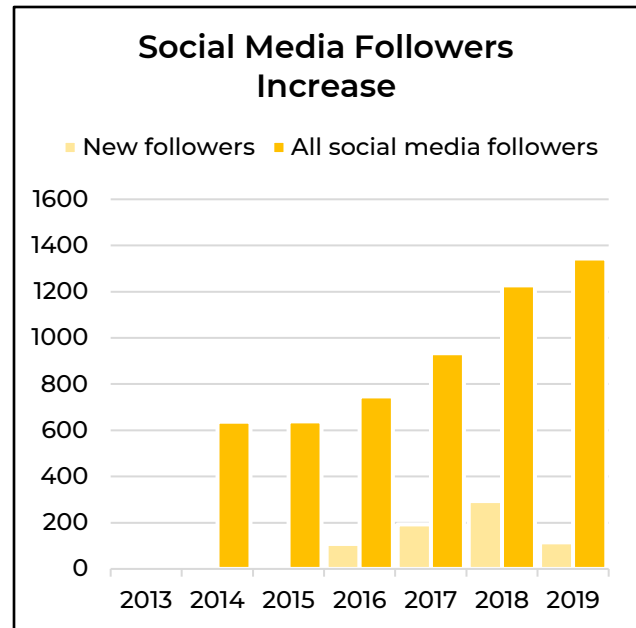
Newsletter – The PEC published and distributed two issues of our semi-annual newsletter **Public Trust** in 2019. The newsletters highlighted the Commission’s ethics education efforts and the expanded breadth and efficacy of the enforcement division along with a range of topics to keep our regulated community and Oakland residents informed about the Commission’s work. The newsletters were distributed electronically to all City staff and Commission followers, shared widely via social media and the Commission’s website, and made available in hard copy in the PEC office and at outreach events. Through the Commission’s email distribution list alone, 1,517 individuals received the PEC newsletter.

Online Engagement

KTOP Video – Staff along with Commissioners Smith, Jackson, and Maxson Velazquez, were the first to participate in KTOP’s new video series **Inside of City Hall**. The show takes an in-depth look at the City’s boards and commissions through talk show style interviews with commission representatives. Staff and Commissioners met with KTOP staff to discuss and develop interview outline and recorded the interview in KTOP studios. The interview covered the Commission’s mission, core activities, and communicated its importance to Oaklanders. The interview officially aired in October and has received 206 views.

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Social Media – In 2019, Commission staff continued producing social media content on a monthly basis to highlight specific PEC policy areas, activities or client-groups. Social media posts generated over 500,000 impressions (views of PEC content) and over 1,000 user engagements (likes, shares or retweets, clicks on links, and new followers). Our social media followers continued to grow with 115 new followers for a total of 5,525 at the end of 2019.



Website – Commission staff continued efforts to improve our online resources by partnering with the City’s Digital Services department to develop service categories to improve the navigability of the City website. PEC staff collaborated with Digital Services to design and conduct user research to test menu labels to make it much easier to find our resources. Test results will be used by Digital Services to provide a Citywide website service menu so PEC client groups such as candidates, lobbyists, and residents can quickly locate PEC-related services.

General Outreach

Commission staff participated in seven community events this year to promote the Commission’s work and provide opportunities for dialogue with Oakland residents:

- **Community Roundtable with City Auditor** – Commissioner Jackson and staff participated in a joint community presentation with the City Auditor’s office at the Dimond Branch Library.
- **Open Data Day** – Commissioner Butler and staff participated in a panel on Public Records as Open Data sponsored by OpenOakland
- **League of Women Voters Speaker Series** – Commissioners Smith, Stein, and Maxson Velázquez and staff presented on the Commission’s campaign finance reform project at two events as part of a League of Women Voters Speaker Series.
- **OpenOakland Day of Service 2019** – The Commission staff designed two projects focused on illuminating lobbyist and behested payment disclosure by digitizing data for local volunteers.
- **Art and Soul** – Commissioners and staff staffed a table to share the Commission’s work with Oakland residents at the annual Art & Soul festival.
- **Public Finance Workshop** – Commissioner Maxson Velázquez along with PEC staff participated in an ACLU-organized workshop to share the outcomes produced by Oakland’s current campaign system and hear from residents regarding their views on local elections and key issues facing Oakland, along with discussing public financing options as a partial solution.



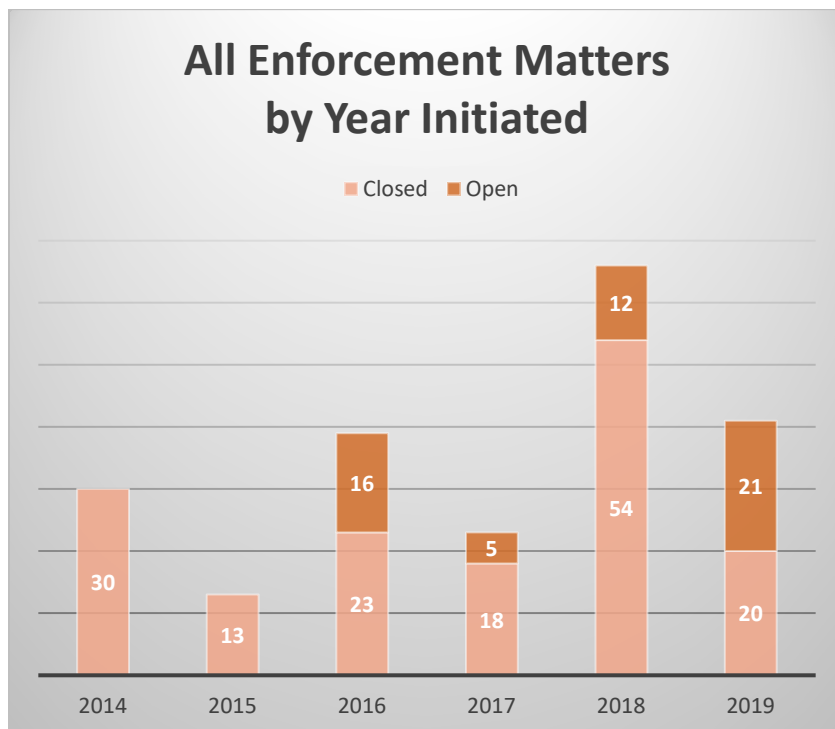
Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill M. Butler
Gail Kong
Nayeli Maxson Velázquez
Joseph Tuman
Jerett Yan

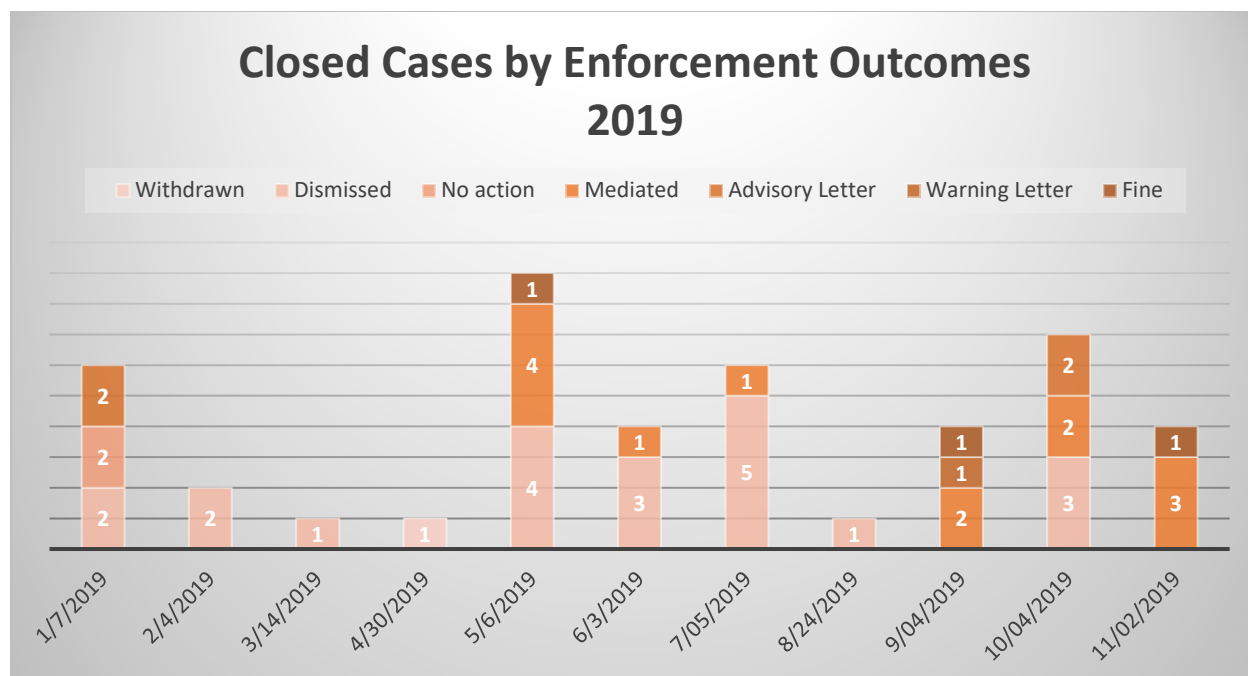
Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: December 23, 2019
RE: Enforcement Program Update

Current Enforcement Activities:

Since the last Enforcement Program Update on December 2, 2019, Commission staff received two formal complaints. This brings the total Enforcement caseload to 52 enforcement and mediation cases: 7 matters in the intake or preliminary review stage, 10 matters under active investigation, 10 matters under post-investigation analysis, 11 matters in settlement negotiations or awaiting an administrative hearing, and 6 ongoing public records request mediations.





Summary of Cases:

Since the last Enforcement Program Update in December 2019, the following status changes occurred:

1. *In the Matter of Colbruno (Complaint No. 16-01)*. On January 12, 2016, Commission Staff received a complaint alleging that Michael Colbruno failed to register as a lobbyist in 2012 and 2014., Commission Staff completed an investigation into the allegations and found that Mr. Colbruno, in fact, failed to timely file lobbyist registration forms and quarterly reports in 2012, 2013, 2014 and 2015 in violation of the Oakland Lobbyist Registration Act. Between 2016 and 2018 the parties attempted to settle the matter by a stipulated agreement with a penalty in the amount of \$2,500. The Public Ethic Commission rejected the penalty amount and instructed Staff to renegotiate the penalty or proceed to a hearing. The parties were unable to reach a stipulated settlement, therefore, on November 28, 2019, a hearing was held on the merits of the allegations. Staff has attached a written memorandum on the proposed decision and appropriate penalty, post hearing. (See Action Item)
2. *In the Matter of Harborside Health Center (Complaint No. 16-06)*. On June 1, 2016, Commission Staff opened a proactive inquiry to determine whether PMACC DBA Harborside Health Center violated Oakland Campaign Reform Act (OCRA) by failing to disclose itself as the source of an independent expenditure made in support of Kaplan for Oakland Mayor 2014 in or around October 2014 and by failing to report the independent expenditure to the City Clerk. After close review of the documentation,

Staff determined to not pursue further action. To the extent that there was any ambiguity in the previous ordinance, it was amended in November 2016, and makes it unequivocal that a campaign committee is required to identify the financial sponsor of its advertisements on or within the respective advertisement and the specified dollar amount of the sponsorship. We informed the Respondent of the applicable law and dismissed the proactive inquiry. (See Attachment)

3. *In the Matter of Oakland City Council (Complaint No. 19-19)*. On November 12, 2019, the City of Oakland Public Ethics Commission received a complaint alleging that each member of the Oakland City Council violated the Oakland Government Ethics Act (GEA) when they approved the grant of funding from the City Budget to Oakland Promise during the following budget cycles: 2016-2018, 2017-2018, 2018-2019 and 2019-2020. The complainant alleged that Oakland Promise was not a state-recognized non-profit organization and that it did not have the appropriate documentation/registration until 2019 with the state to merge with East Bay College Fund (EBCF), a state-recognized non-profit organization. In the absence of being certified, the allocation of City funds to the organization was unlawful. Staff dismissed the complaint because the complainant did not allege conduct that was a violation of the Government Ethics Act. (See Attachment)
4. *In the Matter of City of Oakland Public Works (Maintenance and Facilities) (Complaint No. 19-21)*. The Commission received a complaint on November 26, 2019, alleging that an Oakland City employee with the Public Works Department (maintenance and groundskeeping) violated the Oakland Government Ethics Act by engaging in harassing, profane and racially incendiary conduct against the complainant. Staff dismissed the complaint due to lack of PEC enforcement jurisdiction. (See Attachment)
5. *In the Matter Mike Rivera of the City of Oakland Planning and Building Department (Complaint No. 19-22)*. The Commission received a complaint on November 26, 2019, alleging that Mike Rivera with the Planning and Building Department violated the Oakland Public Meeting ordinance when he emailed Oakland citizens a notice of a “Public Hearing” for an appeal to the City Council scheduled to occur on December 10, 2019. The Complainant further alleged that the complaint was false and misleading because the appeal did not occur on that date and members of the Rules Committee represented that they were not aware of the scheduled hearing. After conducting a preliminary investigation and reviewing the law, Staff determined that the allegations set forth in the complaint did not constitute a violation of the Oakland Sunshine Act and dismissed the complaint. (See Attachment)

ATTACHMENT 16



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-5239
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

PMACC DBA Harborside Health Center
c/o Steve DeAngelo, Executive Director
1840 Embarcadero
Oakland, CA 94606

Re: PEC Complaint No. 16-06; Dismissal Letter

Dear Mr. DeAngelo:

On June 1, 2016, the City of Oakland Public Ethics Commission (PEC) opened a proactive inquiry to determine whether PMACC DBA Harborside Health Center, violated Oakland Campaign Reform Act (OCRA) by failing to disclose itself as the source of an independent expenditure made in support of Kaplan for Oakland Mayor 2014 in or around October of 2014 and by failing to report making the aforementioned independent expenditure to the City Clerk.

We have reviewed documentation of a \$10,000 contribution Harborside made to the Victory Fund in support of Rebecca Kaplan for Mayor 2014 and, although the evidence gathered in our review is enough to warrant an investigation to determine whether the facts resulted in a violation to the Oakland Campaign Reform Act, we will not pursue further action on this matter.

You should know that the Oakland ordinance regulating mass mailings and television advertisements was amended November 29, 2016, after we opened this investigation. OCRA now provides:

A committee must disclose the names of persons from whom the committee received its two (2) highest cumulative contributions of five thousand dollars (\$5,000.00) or more in the same manner as required by California Political Reform Act Section 84506 on all mass mailings and television advertisements

ATTACHMENT 16

PEC Complaint No. 16-06; Dismissal Letter

Page 2

that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City.

To the extent that there was any ambiguity in the previous ordinance, the 2016 amendment makes it unequivocal that a campaign committee is required to identify the financial sponsor of its advertisements on and within the respective advertisements at a specified dollar amount.

In addition, OCRA provisions incorporate by reference all California rules regarding required reporting of independent expenditures made in support or opposition to a candidate or ballot measure, and it specifically requires electronic reporting of all required forms for activities related to Oakland elections. Violations of OCRA, as well as the California Political Reform Act, are subject to penalties of \$5,000 or three times the amount illegally expended for each violation under each separate law.

We are dismissing this investigation at this time while informing you of the law in order to prevent any future potential violations on your part. We are confident that by bringing this to your attention, Harborside Health Center will ensure that all independent expenditures of \$1,000 or more in support or opposition to Oakland candidates or ballot measures will be properly reported to the City of Oakland, and expenditures of \$5,000 or more will be identified on or within the advertisement as required by law.

A copy of the dismissal letter is attached. If you have any questions regarding this matter, please feel free to contact me at (510) 238-4976 or Kjohnson3@oaklandca.gov.

Sincerely,



Kellie F. Johnson
Chief of Enforcement
City of Oakland Public Ethics Commission

Enclosure

if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name and address of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of his or her contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; Amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch.777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18450.1, 18450.5, 18450.11

§ 84501.1. Prohibition on Commission Interpretation on Thresholds and Amounts.

The Commission shall not, by regulation, policy, opinion, or advice letter, construe or interpret any of Sections 82025, 84305, 84310, 84501 through 84511, inclusive, or Section 85704 as allowing the Commission to establish or maintain any thresholds in quantity or amount that are not specified in those sections. Unless otherwise specified in this title, those sections apply regardless of quantity or amount.

History: Added by Stats. 2018, Ch.777.

§ 84502. Disclaimer; Committee Name.

(a)(1) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "Ad paid for by" followed by

the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words "Ad paid for by" followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(b) Any advertisement paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words "Ad paid for by" followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, Internet Web site, or email message, the text described in subdivisions (a) and (b) may include the words "Paid for by" instead of "Ad paid for by."

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004, repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch.777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84503. Top Contributor Disclosure.

(a) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "committee major funding from" followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18421.2

§ 84504. Disclaimer; Radio and Telephone Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2

§ 84504.1. Disclaimer; Video and Television Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the

name of the top contributor from exceeding the width of screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.2. Disclaimer; Print Ads.

(a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10 point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area and shall not be underlined. The names of the top contributors shall not be printed in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) A committee subject to Section 84506.5 shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text "Funding Details At [insert Commission Internet Web site]," which shall be underlined and printed on a line separate from any other text.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than

those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least 5 percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.3. Disclaimer; Electronic Media Ads.

(a) An electronic media advertisement, other than an email message or Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

(1) Include the text “Who funded this ad?” in a contrasting color and a font size that is easily readable by the average viewer.

(2) The text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(b) Notwithstanding subdivision (a), the text required by paragraph (1) of subdivision (a) is not required if including the language would be impracticable. In such circumstances the advertisement need only include a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivisions (a) and (b), an email message or Internet Web site paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message and every publicly accessible page of the Internet Web site.

(d) An Internet Web site that is hyperlinked as provided for in paragraph (2) of subdivision (a) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(e) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (a) shall comply with the disclaimer requirements for radio advertisements in Section 84504.

(f) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font on the committee’s profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication.

(g) The disclaimer required by this section does not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.4. Disclaimer; Radio and Television Ads; Political Parties and Candidates.

A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(a) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(b) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

History: Added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.5. Disclaimer; Independent Expenditure Ads; Political Parties and Candidates.

An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a

pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the Internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84505. Avoidance of Disclosure.

(a) In addition to the requirements of Sections 84502, 84503, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84506.5. Disclaimer; Independent Expenditure Ads; Not Authorized by Candidate.

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that "This advertisement was not authorized or paid for by a candidate

for this office or a committee controlled by a candidate for this office."

History: Added by Stats. 2007, Ch. 495; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84509. Amended Disclaimers.

If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1, 18450.5

§ 84510. Remedies for Article Violations; Civil Action; Fines.

(a)(1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000) of this title, any person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), any person who intentionally violates any provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.



CITY OF OAKLAND

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Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

Gene Hazard

Re: PEC Complaint No. 19-19; Dismissal Letter

Dear Mr. Hazard:

On November 12, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (#19-19) alleging that each member of the Oakland City Council violated the Oakland Government Ethics Act (GEA) when they approved the grant of funding from the City Budget to Oakland Promise during the following budget cycles: 2016-17, 2017-18, 2018-19 and 2019-20. The complainant asserts that Oakland Promise was not a State recognized non-profit organization until 2019 and that Oakland Promise did not have the appropriate documentation/registration (Certificate of Agreement or Certificate of Merger) with the State to merge with East Bay College Fund (EBCF), a State recognized non-profit organization. In the absence of being a certified non-profit or merger with the EBCF, the complainant alleged that any and all allocations of funding were unlawful. After review of your complaint and the law, we have determined that the allegation you set forth does not constitute a violation of the Government Ethics Act and therefore are dismissing the complaint.

On November 19, 2019 the City of Oakland's Auditor's office released a report on its investigation into Oakland Promise. The investigation found the following:

“In 2014, Oakland Promise formed as a partnership between the Oakland Unified School District (OUSD) and the East Bay College Fund (EBCF) to improve educational and career prospects for Oakland youth and families. The East Bay College Fund (EBCF) was a nonprofit organization.

In 2015, the Mayor's Office joined OUSD and EBCF, and assumed a leadership role in collaborating with these organizations, including the Oakland Public Education Fund (Ed Fund). The Mayor's Office publicly launched the Oakland Promise multi-agency partnership in January 2016. The Oakland Public Education

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PEC Complaint No. 19-19; Dismissal Letter
Page 2

Fund (Ed Fund) is a tax-exempt nonprofit organization that raises money for Oakland public schools.

For several years, Oakland Promise existed as a partnership of organizations that individually and collaboratively developed programs toward the shared goal of tripling the number of low-income Oakland public school graduates who complete a post-secondary education. In 2016, the partnership gained more organizational capacity when one of the partner organizations – the Ed Fund – lent its status as an established nonprofit organization to set up a restricted account to receive donations and make payments on behalf of Oakland Promise, an unincorporated association. This fiscal sponsorship arrangement enabled Oakland Promise to obtain funding to staff and administer its programs. On June 27, 2019, the California Secretary of State filed articles of incorporation designating Oakland Promise as an independent nonprofit organization.”

The City Auditor’s investigation concluded that:

“The City’s financial contributions to Oakland Promise – though complex and hard to follow – were neither prohibited nor irregular. The City Council authorized \$1,518,054 of financial contributions to Oakland Promise through the Oakland Fund for Children and Youth (OFCY) for the ‘Brilliant Baby’ and ‘College and Career Access and Success’ programs. As of the date of this report (November 19, 2019), the City paid \$1,117,011 toward these Oakland Promise programs. • The City Council has authorized \$2,150,000 from the City’s General-Purpose Fund to Oakland Promise’s ‘K2College’ program. As of the date of this report, none of the authorized funding for Oakland Promise’s ‘K2College’ program has been paid.”

The Oakland Government Ethics Act section O.M.C. 2.25.060 (A) (1) prohibits a Public Servant from using, permitting others to use public resources for a campaign activity or for personal or non-city purpose not authorized by law. Further, section O.M.C. 2.25.060 (A)(2) prohibits a Public Servant from using his or her position or the power or authority of his/her office or position, in a manner intended to induce or coerce any person to provide any private advantage, benefit, or economic gain to the City Public Servant or candidate or any other person.

On these facts, even though the “Fiscal Sponsorship Agreement” between Oakland Promise and the Ed Fund was complicated, the complaint provides no information or evidence that members of the City Council, by approving funds to the Ed Fund for the purpose of assisting an Oakland Promise program, was for personal or non-city purposes. Further, the complainant provides no information that any particular councilmember used their position to coerce or induce a person to provide a private advantage, benefit or economic gain to the councilmember or any other person.

Because the allegations in your complaint, if true, do not constitute a violation of the Government Ethics Act, we are dismissing your complaint pursuant to our Complaint Procedures. The PEC’s Complaint Procedures are available on the PEC’s website, and a copy has been included with this

ATTACHMENT 16

PEC Complaint No. 19-19; Dismissal Letter
Page 2

letter for your reference. I am also including a complete copy of the Oakland City Auditor's Report on Oakland Promise, issued in November 2019. In the Auditor's Report, the City Auditor explains the complicated but lawful Fiscal Sponsorship Agreement.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

A large black rectangular redaction box covers the signature area. Above the box, there are faint, handwritten scribbles that appear to be the initials 'M' and 'S'.

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Rebecca Kaplan
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612


November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Kaplan,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 1 2019

Staff Initials: 19-19
Complaint #: 04

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

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A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
- Oakland Campaign Reform Act
- Oakland Limited Public Financing Act
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- Not sure which specific law, ordinance or regulations apply

ATTACHMENT 16

ATTACHMENT 16

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

- **Name of the person or persons you are alleging committed a violation.** Please include any known address, phone number, email address, title, employment address, etc.:
Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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demonstrates tha OP is a 501(c)3, Public Benefit Corporation nor have OP provided any 990 Tax Forms/and no EIN.

- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:
Past and Present Councilmembers since 2016 through the present

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.

While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Dan Kalb
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Kalb,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

A handwritten signature in black ink, appearing to read "Kellie Johnson". The signature is written in a cursive style and is followed by a long horizontal line that extends to the right.

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | **Public Ethics Commission**
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19
Complaint #: 02

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

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A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: [REDACTED]
City: ^{Oakland} _____ State: ca. Zip Code: 94610
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
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- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
- Oakland Government Ethics Act
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ATTACHMENT 16

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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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Budget Cycles for 16-17, 17-18 ,18-19, and 19-20. OAKLAND PROMISE has not produced any documentation that
demonstrates tha OP is a 501(c)3 , Public Benefit Corporation nor have OP provided any 990 Tax Forms/and no EIN.

- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:

Past and Present Councilmembers since 2016 through the present

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While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Larry Reid
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Reid,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

A handwritten signature in black ink, appearing to be "Kellie Johnson". The signature is stylized and extends across the width of the page.

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, | Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19
Complaint #: *at*

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

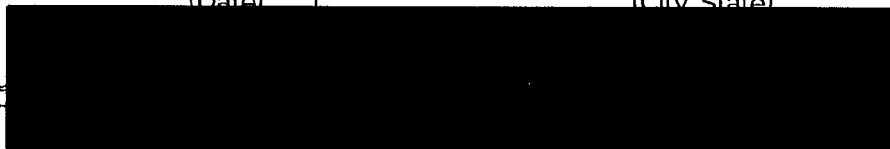
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Past and Present Councilmembers since 2016 through the present

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While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a
Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government
Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

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NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Nikki Fortunato Bas
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Fortunato Bas,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall | Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 1 2019

Staff Initials: *10-19*
Complaint #: *00*

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

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Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019

(Date)

at Oakland, California

(City, State)

Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

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NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Lynette Gibson McElhaney
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

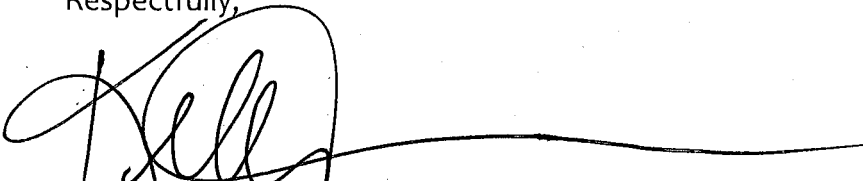
November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Gibson McElhaney,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials:
Complaint #:

19-19
au

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: [REDACTED]

City: Oakland State: ca. Zip Code: 94610

Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
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- Oakland Limited Public Financing Act
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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)

Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Loren Taylor
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Taylor,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19
Complaint #: 00

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

If you would like to submit a complaint that is within the Commission's jurisdiction, please complete this form, which becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this complaint will be made available to the persons identified in the allegations below. For more information about the Commission's complaint process, see the Commission's Complaint Procedures.

A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

An Informal Complaint is a complaint that does not meet all the requirements of a Formal Complaint. Informal Complaints, such as anonymous complaints and complaints without all of the information required above do not require action or notification to the complainant upon final action. Commission staff reviews informal complaints and can determine whether the complaint should move forward to investigation. Informal tips can be submitted to Commission staff by phone, email, or fax.

Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: [REDACTED]
City: Oakland State: ca. Zip Code: 94610
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
- Oakland Campaign Reform Act
- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
- Oakland Government Ethics Act
- Not sure which specific law, ordinance or regulations apply

ATTACHMENT 16

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

▪ **Name of the person or persons you are alleging committed a violation.** Please include any known address, phone number, email address, title, employment address, etc.:
Members of the Oakland City Council

▪ **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

Members of the Oakland City Council has approved illegal budget amounts to OAKLAND PROMISE during the following
Budget Cycles for 16-17, 17-18 ,18-19, and 19-20. OAKLAND PROMISE has not produced any documentation that
demonstrates tha OP is a 501(c)3 , Public Benefit Corporation nor have OP provided any 990 Tax Forms/and no EIN.

▪ **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:
Past and Present Councilmembers since 2016 through the present

▪ Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.
While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a
Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government
Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Sheng Thao
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

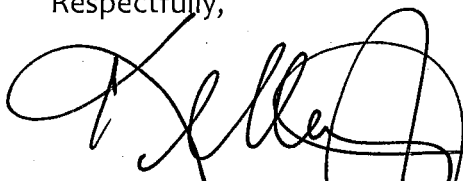
November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Thao,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

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ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19
Complaint #: [Signature]

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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An Informal Complaint is a complaint that does not meet all the requirements of a Formal Complaint. Informal Complaints, such as anonymous complaints and complaints without all of the information required above do not require action or notification to the complainant upon final action. Commission staff reviews informal complaints and can determine whether the complaint should move forward to investigation. Informal tips can be submitted to Commission staff by phone, email, or fax.

Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: [Redacted]
City: Oakland State: ca. Zip Code: 94610
Email: [Redacted] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
- Oakland Campaign Reform Act
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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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Budget Cycles for 16-17, 17-18, 18-19, and 19-20. OAKLAND PROMISE has not produced any documentation that

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Past and Present Councilmembers since 2016 through the present

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.

While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Noel Gallo
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Gallo,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

A handwritten signature in black ink, appearing to read "Kellie Johnson". The signature is fluid and cursive, with a long horizontal line extending to the right.

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

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ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19

Complaint #: [Signature]

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [Redacted]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [Redacted] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

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Members of the Oakland City Council

▪ **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

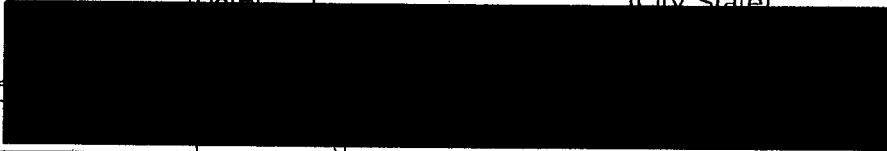
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Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government
Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

Raven Bays



Re: PEC Complaint No. 19-21; Dismissal Letter

Dear Ms. Bays:

On November 26, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (#19-21) alleging that an Oakland City employee with Public Works Department (maintenance/grounds keeping) violated the Oakland Government Ethics Act by engaging in harassing, profane and racially incendiary conduct against you. The alleged conduct does not fall within the PEC's enforcement jurisdiction, and we have therefore dismissed your complaint.

Since the alleged conduct concerns the failure of a City Public Servant to adhere to professional, nondiscriminatory conduct, you may want to contact the City of Oakland's Public Works Department to share your concerns. You can reach the Public Works Department at (510) 238-3961.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kellie Johnson, Enforcement Chief
City of Oakland, Public Ethics Commission

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Will Sandman
Rubicon Point Partners
55 2nd Street, Suite 1900
San Francisco, CA 94105

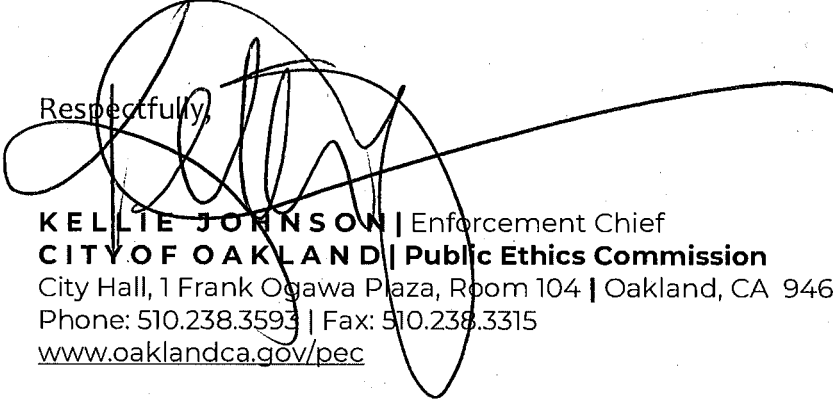
December 3, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-22

Dear Mr. Sandman :

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 26, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Mike Rivera
City of Oakland Planning and Building
250 Frank H Ogawa Plaza,
2nd fl. Suite 2114
Oakland, CA 94612

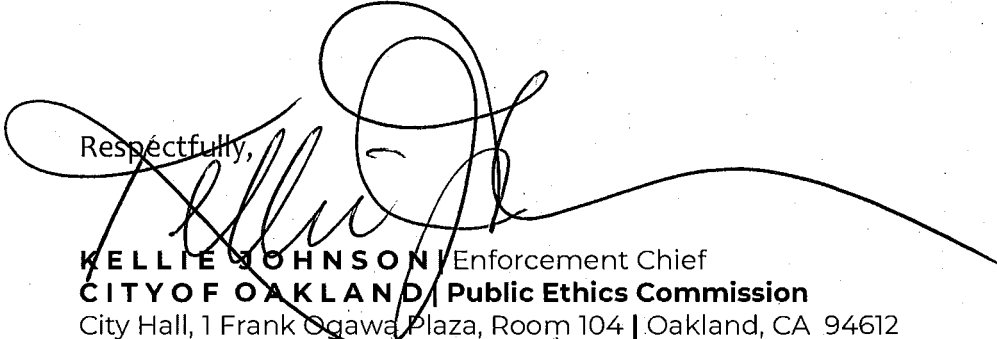
December 3, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-22

Dear Mr. Rivera :

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 26, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

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CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 13, 2019

Joseph Hornof

Re: PEC Complaint No. 19-22; Dismissal Letter

Dear Mr. Hornof:

On November 26, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (19-22) alleging that on November 22, 2019, Mike Rivera, a Public Servant with the City of Oakland Planning and Building Department violated an Oakland Public Meeting ordinance when he emailed you and others a notice of a “Public Hearing” for an appeal to the City Council scheduled to occur on December 10, 2019 at 5:30 p.m. The complaint further alleged that the Public Meeting notice was false and misleading because, in fact, the appeal was not scheduled on the City’s Rules and Legislative Committee Agenda. After reviewing your complaint and the law, we have determined that the allegation you set forth does not constitute a violation of the City of Oakland Sunshine Act or the Brown Act and therefore are dismissing the complaint.

The Oakland Planning Code provides, “the Oakland City Council, within 10 days after the date of a decision by the City Planning Commission on an application for approval of a preliminary or final development plan, or for modification or amendment of any such plan, an appeal from such decision may be taken to the City council by the applicant, or any other interested party. Upon receipt of such appeal, the Council shall set the date for consideration thereof.”¹

Our investigation found that the Planning Commission’s practice has been to post a tentative date or a date in which they anticipate the Rules and Legislation Committee would host an appeal on the agenda. In this case, the Planning Commission submitted a written request to the Rules Committee on November 18, 2019, for a hearing on December 10, 2019. The Rules Committee agenzied the consideration of the appeal on November 21, 2019. Subsequently, the Rules Committee cancelled that meeting.

A review of the pre-posted Rules Committee Agenda for November 21, 2019, did indicate that item number three (3) on the Rules Committee Agenda was a “Motion to direct staff to prepare a

¹ Oakland Planning Code 17.140.070

ATTACHMENT 16

PEC Complaint No. 19-22; Dismissal Letter
Page 2

resolution for future City consideration to uphold the appeal, on the December 10, 2019, Special City Council Agenda as a Public Hearing.” Unfortunately, since the Rules Committee was cancelled on that day, the hearing did not get approved for the December 10, 2019, City Council Agenda.

Although the Planning and Building Department could have done a better job at notifying you and any interested party that the date posted was an anticipated date and that it is subject to change by the Rules Committee, neither the department nor its employees have control over the Rules and Legislation Committee. In this case, the cancellation of the consideration of the motion for appeal occurred as a result of a decision of the Rules committee, not the Planning Department or Mr. Rivera.

Because your complaint failed to establish a violation to the Oakland Sunshine Ordinance, we must dismiss your complaint pursuant to our Complaint Procedures. The PEC’s Complaint Procedures are available on the PEC’s website, and a copy has been included with this letter for your reference. I am also including a copy of the “Request to Schedule Agenda Item” and the “pre-post agenda” that was made in this case, for your information.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,


Kellie F. Johnson, Enforcement Chief

ATTACHMENT 16

CITY OF OAKLAND MEMORANDUM

DATE: November 18, 2019
TO: Rules & Legislation Committee
ATTN: City Administrator/Assistant City Administrator
FROM: Mike Rivera
PHONE NO.: (510) 238-6417
DEPT: Planning and Building Bureau
SUBJECT: REQUEST TO SCHEDULE AGENDA ITEM

(Times New Roman, Size 12, Capitalize Each Word, Do Not Use Abbreviations)

Subject: 1750 BROADWAY PROJECT (APPEAL BY RESIDENTS OF 1770 BROADWAY)

Recommendation: ADOPT ONE OF THE FOLLOWING THREE OPTIONS:

1) A RESOLUTION DENYING THE APPEAL BY THE RESIDENTS OF 1770 BROADWAY LED BY JOSEPH HORNOF (APL19010) AND UPHOLDING THE PLANNING COMMISSION'S ENVIRONMENTAL DETERMINATION AND APPROVAL OF A MAJOR CONDITIONAL USE PERMIT FOR BUILDING CONSTRUCTION OVER 200,000 SQUARE FEET AND REGULAR DESIGN REVIEW FOR THE PROJECT LOCATED AT 1750 BROAWAY, OAKLAND CA (PLN18369); OR

PROVIDED THE CITY COUNCIL CAN MAKE THE APPROPRIATE FINDINGS:

2) A MOTION TO DIRECT STAFF TO PREPARE A RESOLUTION FOR FUTURE CITY COUNCIL CONSIDERATION TO DENY THE APPEAL WITH ADDITIONAL CONDITIONS; OR
3) A MOTION TO DIRECT STAFF TO PREPARE A RESOLUTION FOR FUTURE CITY COUNCIL CONSIDERATION TO UPHOLD THE APPEAL

SCHEDULING RECOMMENDATION:

Meeting Body:

A. Committees:

Meeting Date:

Finance Public Works Community & Economic Development

Life Enrichment Public Safety Rules & Legislation

B. City Council:

Meeting Date: December 10, 2019

City Council Specify: Ceremonial Consent Non-Consent

Redevelopment Agency

PUBLIC HEARING REQUIRED: Yes No **Meeting Date:** December 10, 2019

(For City Employees Only)

ATTACHMENT 16

Presenter: Mike Rivera, Planner II PowerPoint Presentation: No PowerPoint Time Requested: _____

Is there a statutory, regulatory, financial or grant deadline? No Specify: _____

Is a staff report required/requested? Yes What is the fiscal impact on the City/Agency? None

If the ten-day (Sunshine Ordinance) agenda deadline cannot be met, please indicate reason:

- Item is an **emergency**. To place item on Supplemental (72-hour) agenda requires majority vote of Rules Comm. that emergency exists, based on facts placed in the record related to crippling disaster, work stoppage or other activity which severely impacts public health and/or safety.
- Item is **urgent**. To place item on Supplemental (72-hour) agenda requires 2/3 vote of Rules Comm. based on facts placed in the record that the need to take immediate action came to the attention of the local body after the 10-day agenda was posted **AND** that the immediate action:
 - is required to avoid a substantial adverse impact that would occur if action was deferred to a subsequent special or regular meeting;
 - relates to federal or state legislation;
 - relates to ceremonial or commendatory item.

ATTACHMENT 16

Johnson, Kellie

Subject: FW: 1750 Broadway appeal

Here is a snip from the Rules Committee agenda for November 21, 2019, demonstrating that the appeals were intended to be considered at that meeting for placement on the 12/10/19 City Council agenda:

Subject: 1750 Broadway, Appeal By East Bay Residents For Responsible Development

From: Planning And Building Department

Recommendation: Adopt One Of The Following Three Options:

1) A Resolution Denying The Appeal (APL 19013) By East Bay Residents For Responsible Development (EBRD) Led By Adams Broderick Joseph & Cardoso And Upholding The Planning Commission's Environmental Determination And Approval Of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland Ca (PLN18369); OR 18-2484

Provided The City Council Can Make The Appropriate Findings:

2) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Deny The Appeal With Additional Conditions; OR 18-2485

City of Oakland

Page 11

Revised on 11/19/2019 7:18:08 AM

Rules & Legislation Committee

Meeting Agenda -
SUPPLEMENTAL

November 21, 2019

3) A Motion To Direct Staff To Prepare A Resolution For Future City Consideration To Uphold The Appeal, On The December 10, 2019 Special City Council Agenda As A Public Hearing 18-2486

Subject: 1750 Broadway Project (Appeal By Residents Of 1770 Broadway)
From: Planning And Building Department
Recommendation: Adopt One Of The Following Three Options:

1) A Resolution Denying The Appeal By The Residents Of 1770 Broadway Led By Joseph Horroff (APL 19010) And Upholding The Planning Commission's Environmental Determination And Approval Of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland Ca (PLN18369); Or 18-2490

Provided The City Council Can Make The Appropriate Findings:

2) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Deny The Appeal With Additional Conditions; Or 18-2491

3) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Uphold The Appeal, On The December 10, 2019 Special City Council Agenda As A Public Hearing 18-2492

Of course, the 11/21/19 Rules Committee meeting was cancelled (as noted on Legistar).



Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill M. Butler
Gail Kong
Joe Tuman
Nayeli Maxson Velázquez
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: December 19, 2019
RE: Executive Director's Report

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities since the Commission's last regular meeting that are not otherwise covered by other staff program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and activities for 2019-20 for each program area.

Ethics Analyst III Classification

Commission staff joined the Department of Human Resources Management at the December 19, 2019, Civil Service Board meeting to present the new job classification to expand the Ethics Analyst series to include a third level of the analyst position. The Civil Service Board approved the new classification, and the next step is approval of a revised salary ordinance by City Council. This new classification will provide the Commission with an additional, higher level analyst classification option available for promotion of existing staff as well as for potential use upon allocation of a new position in the Commission's budget.

Council of Governmental Ethics Laws

Enforcement Chief Kelli Johnson attended the annual Council of Governmental Ethics Laws (COGEL) conference in December. COGEL is the premier organization of government ethics, campaign finance, elections, and transparency practitioners across the United States and Canada. The conference included 4 days of seminars and workshops for ethics lawyers, government agency staff, and related practitioners.

Complaint Procedures

Following the November meeting, Commission staff transmitted a copy of the Commission's newly revised and adopted Mediation and Complaint Procedures to City Council for their review and option to veto pursuant to O.M.C section 2.24.070. Absent City Council action, the procedures become effective 60 days after adoption by the Commission (January 3, 2020).

Attachment: Commission Programs and Priorities

ATTACHMENT 17

PUBLIC ETHICS COMMISSION Programs and Priorities 2018-19

Program	Goal	Desired Outcome	Key Projects for 2019-20
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. Adoption of PEC-drafted City Ticket Distribution policy and process changes 2. Campaign Finance/Public Financing Act Project to expand participation in the campaign process 3. Government Integrity Data partnership
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ol style="list-style-type: none"> 1. Online ethics training for Form 700 filers – ensure training delivered to a) elected officials, b) City employees (1000), b) board/commission members, and c) consultants 2. Board/Commission member/liaison support/guidance; Sunshine/Meeting agenda posting Compliance Review v 3. Ongoing: advice calls, in-person trainings, ethics orientation for new employees (12), supervisor academy (3-4), and PEC newsletter (2) 4. Sunshine and Lobbyist education materials
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Outreach to client groups: -City staff/officials -people doing business with the City 2. Sustain/enhance general PEC social media outreach 3. PEC Roadshow – focus on CF project outreach (Commissioners) 4. Engage Boards/Commissions regarding Sunshine requirements (ensure/review agenda postings online)
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ol style="list-style-type: none"> 1. Lobbyist Registration – pilot new e-filing system, create online open data format for public accessibility 2. Form 803 Behested Payments – implement e-filing process, create online open data format for public accessibility 3. Initiate/develop project plan to establish contractor database 4. Open Disclosure 2020 – campaign data visualization project 5. Government Integrity Data Project planning and development
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-	Public servants, candidates, lobbyists, and City contractors are motivated to comply with	<ol style="list-style-type: none"> 1. Focus on ethics violations, proactive investigations 2. Conduct complaint intakes within 2 weeks 3. Collaborate with other government law enforcement agencies

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	compliance with laws within the PEC's jurisdiction.	the laws within the PEC's jurisdiction.	4. Conduct audits to identify common, across-the-board compliance issues
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ol style="list-style-type: none"> 1. Conduct hearings as needed 2. Complete City ticket cases 3. Expedite Sunshine Mediations ✓ 4. Amend Complaint Procedures ✓ 5. Resolve all 2014 and 2015 cases ✓ 6. Streamline and expand enforcement systems to incorporate broader tools
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ol style="list-style-type: none"> 1. Revise PEC Enabling Ordinance 2. Publish performance goals and data on PEC website – dashboards 3. Review data to adjust activities throughout the year 4. Ongoing: professional development and staff reviews ✓