

Item #11 - Enforcement Report



Michael McDonald, Chair
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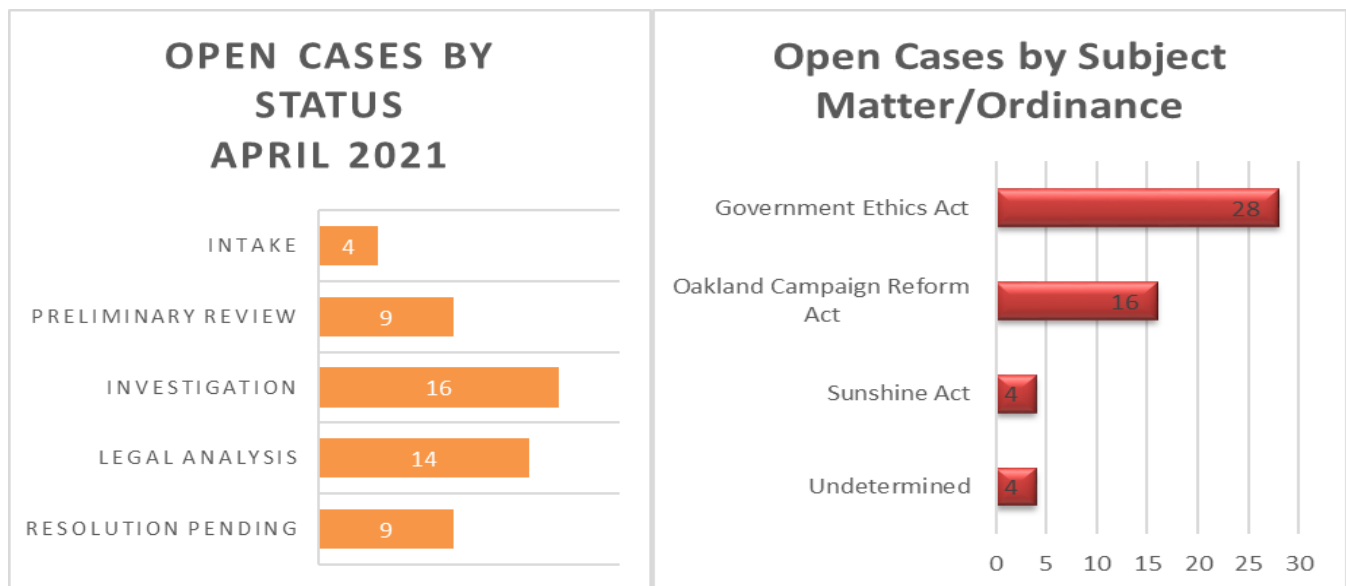
Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: March 18, 2021
RE: Enforcement Program Update for the April 5, 2021, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on March 1, 2021, Commission staff received two complaints. This brings the total Enforcement caseload to 52 open cases: 13 matter(s) in the intake or preliminary review stage, 16 matters under active investigation, 14 matters under post-investigation analysis, and 9 matters in settlement negotiations or awaiting an administrative hearing.

In addition, updates on public records requests for mediation, will be summarized in the Executive Director's report going forward.



Summary of Current Cases:

Since the last Enforcement Program Update in March 2021, the following status changes have occurred.

- 1. *In the Matter of Everett Cleveland Jr. (Case No. 20-03 (a)).*** On or about January 7, 2020, Former Assistant City Administrator Maraskeisha Smith reported to the PEC Staff that the City Attorney had contacted her about Housing Development Coordinator, Everett Cleveland Jr.'s alleged violation of the Government Ethics Act. She was notified by letter from the Oakland City Attorney that Everett Cleveland Jr. violated conflicts of interest ordinances when he decided or participated in deciding the award of funds by HCD to a nonprofit housing developer under the 2019 "Notice of Funding Availability" (NOFA) program. Cleveland had taken part in the decision-making process regarding NOFA applications submitted by a nonprofit housing development company called Community Housing Development Corporation, whose executive director, Don Gilmore is Cleveland's father-in-law. The PEC investigation found that Cleveland influenced or attempted to influence the review of NOFA applications submitted by CHDC. The investigation also found that Cleveland, although required to file an annual Statement of Economic Interest in 2019, failed to file a Form 700. After reviewing the facts, relevant law and Enforcement Procedures, Staff recommends that the Commission approve the Staff offer of a Diversion Agreement to resolve the violation. (See Action Items)
- 2. *In the Matter of Norma Thompson (Case No. 20-03(b)).*** On or about January 7, 2020, this matter was referred to the PEC by the City of Oakland's Assistant City Administrator Marakiesha Smith. Smith had received a letter from the Oakland City Attorney that informed her that Norma Thompson, a City of Oakland Housing Community Development staff member, violated conflicts of interest rules when she decided or participated in deciding the award of funds by HCD to a nonprofit housing developer under the 2019 "Notice of Funding Availability" (NOFA) program. The allegation was that Thompson was working as a paid consultant for Community Housing Development Corporation at the time that she took part in the decision-making process regarding CHDC's 2019 NOFA applications. The investigation also found that Thompson failed to file a Form 700 when she rejoined the City in 2019; that she failed to file a Form 700 upon leaving office; and that she violated the City of Oakland revolving-door provisions of the Government Ethics Act through her consulting work with CHDC. After reviewing the facts, relevant law and Enforcement Procedures, Staff recommends that the Commission approve the Staff offer of a Diversion Agreement to resolve the violation. (See Action Items)

3. ***In the Matter of Manuel Altamirano Sr. (Case No. 20-04(a))***. On February 4, 2020, Employee Relations Manager Janelle Smith reported to the Public Ethics Commission (PEC) Staff that a City Parking Control Technician was approached by a co-worker, Manuel Altamirano Sr., to retract/void two tickets that the technician issued for Use of a Counterfeit/Altered Disabled Placard and Use of Disabled Parking Space on Manuel Altamirano's wife's car in exchange for money. Commission Staff completed its review and investigation of the matter and found sufficient evidence that Manuel Altamirano Sr. violated the Government Ethics Act. After reviewing the facts, relevant law and Enforcement Procedures, Staff recommends that the Commission find probable cause that Manuel Altamirano Sr. Violated the Government Ethics Act and schedule this matter for a hearing. (See Action Items)

4. ***In the Matter of Andrew Altamirano (Case No.20-04(b))***. On February 4, 2020, Employee Relations Manager Janelle Smith reported to the Public Ethics Commission (PEC) Staff that, a City Parking Control Technician was approached by a co-worker, Manuel Altamirano Sr. to retract/void two tickets that the technician issued for Use of a Counterfeit/Altered Disabled Placard and Use of Disabled Parking Space on Manuel Altamirano's wife's car in exchange for money. The complaint also alleged that Andrew Altamirano engaged in the same conduct or aided and abetted Altamirano Sr. Commission Staff completed its review and investigation of the matter and after reviewing the facts, relevant law and Enforcement Procedures, Staff determined that the allegations do not allege sufficient conduct of Andrew Altamirano that constitutes a violation of the Government Ethics Act. The complaint against Andrew Altamirano was dismissed.
(See Attachments)

CITY OF OAKLAND



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Public Ethics Commission
Enforcement Unit

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March 26, 2021

Janelle Smith,
Employee Relations Manager
City of Oakland Human Resources Department
150 Frank H Ogawa Plaza
2nd Floor, Suite 2209
Oakland, CA 94612

Re: PEC Complaint No. 20-40(b); Dismissal Letter Regarding Andrew Altamirano

Dear Ms. Smith:

On February 4, 2020, the City of Oakland Public Ethics Commission (PEC) received your report (Complaint No. 20-40) that two City Parking Technicians Manuel Altamirano Sr. and Andrew Altamirano, approached a co-worker and offered a cash bribe (or thing of value) in exchange for the co-workers cooperation in the retraction or voiding of two parking violations. After reviewing the matter with you, interviewing witnesses, and analyzing the facts, relevant law and Enforcement Procedures, we found that there are insufficient facts to establish that the allegations against Andrew Altamirano allege conduct that constitutes a violation of the Government Ethics Act.

The City of Oakland prohibits a Public Servant from offering or making a bribe, and no Public Servant shall solicit or accept anything of value in exchange for the performance of any official act.

An Oakland Public Servant is also prohibited from using or permitting others to use public resources for personal or non-City purposes not authorized by law.

Moreover, a City employee or Public Servant is prohibited from using his or her position or prospective position, or the power or authority of his or her office or position, in any 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.

The investigation confirmed that, outside of making an initial telephone call to his co-worker, at Altamirano Sr.'s behest, there is insufficient information that Andrew Altamirano actively participated in or aided and abetted Altamirano Sr. in the attempted bribery, misuse of position or misuse of public resources.

Because Andrew Altamirano's alleged conduct does not constitute a violation of the

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Government Ethics Act, we are dismissing the allegations against him in the complaint pursuant to the PEC's Complaint Procedures. The PEC's Complaint Procedures is available on the PEC's website.

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 April 5, 2021, at 6:30 p.m. by teleconference as will be posted on the Commission's website in advance of the meeting. 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 call-in to that meeting to listen 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,

A handwritten signature in blue ink that reads "Kellie Johnson". The signature is written in a cursive style with a large, looping initial "K".

Kellie Johnson,
Enforcement Chief