

# Item 13a - Enforcement Report



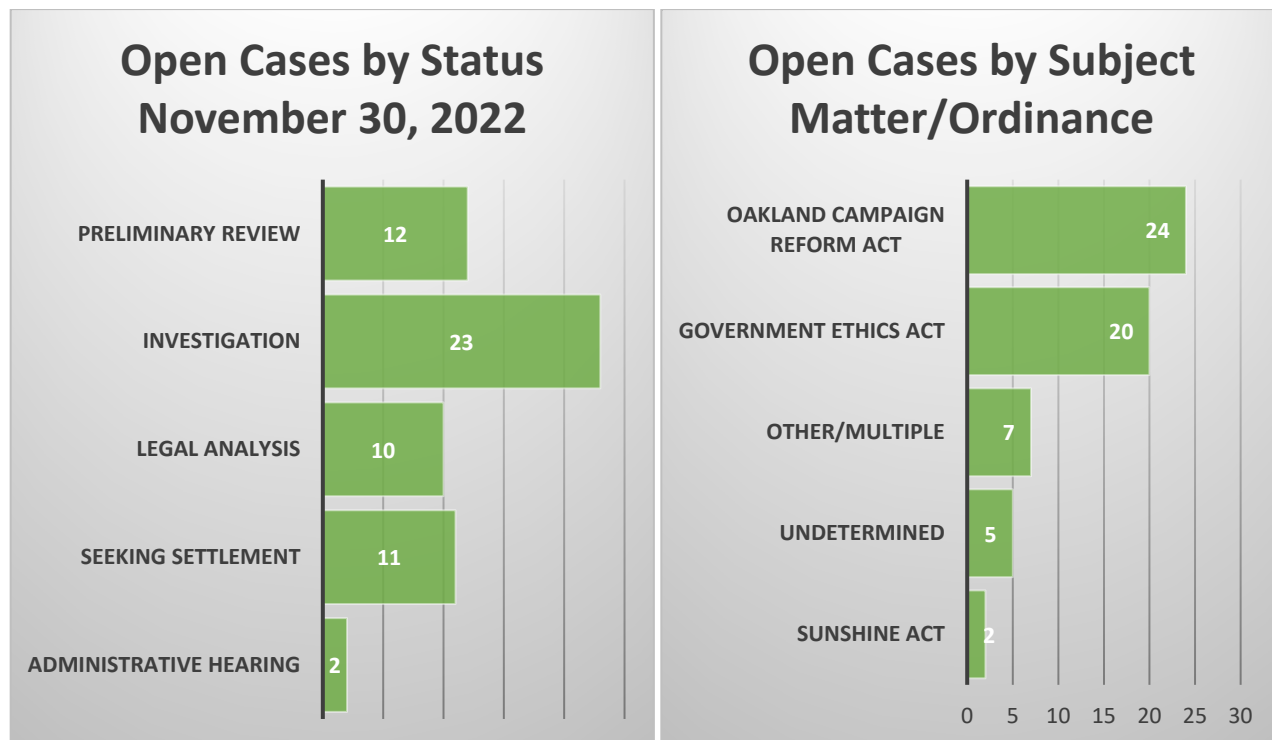
Arvon Perteet, Chair  
Charlotte Hill  
Ryan Micik  
Joseph Tuman  
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission  
FROM: Simon Russell, Enforcement Chief  
DATE: November 30, 2022  
RE: Enforcement Unit Program Update for the December 14, 2022, PEC Meeting

## Current Enforcement Activities:

Since the last Enforcement Unit Program Update submitted to the Commission on October 27, 2022, Commission staff received 7 formal complaints (two of which have been consolidated into a single complaint due to similarity in the allegations), dismissed 2 formal complaints, opened 1 new investigation, and is submitting one case to the Commission for settlement. This brings the total Enforcement caseload to 58 open cases: 12 matters in the intake or preliminary review stage, 23 matters under active investigation, 10 matters under post-investigation analysis, 11 matters in settlement negotiations, and 2 matters awaiting an administrative hearing.



### Case Resolutions or Submissions

Since the last Enforcement Unit Program report on October 27, 2022, the following cases have been resolved or submitted to the Commission:

- 1. In the Matters of Dan Kalb (PEC Case No. 16-08a); Abel Guillen (PEC Case No. 16-08b); Lynette Gibson McElhaney (PEC Case No. 16-08c); Annie Campbell Washington (PEC Case No. 16-08d); Noel Gallo (PEC Case No. 16-08e); Desley Brooks (PEC Case No. 16-08f); Larry Reid (PEC Case No. 16-08g); Rebecca Kaplan (PEC Case No. 16-08h); Libby Schaaf (PEC Case No. 16-08i).** On June 7, 2016, Enforcement staff opened a proactive investigation to determine whether City officials' use and reporting of free tickets received by the City to events at the Oracle Arena and the Oakland Coliseum were in violation of the Oakland Government Ethics Act. In light of substantially improved compliance with the City's ticket distribution policy and changes to the law meant to address prior violations, Enforcement staff recommends that these matters be closed without any further action.
- 2. In the Matter of Rebecca Kaplan (PEC Case No. 20-40).** On February 22, 2021, Enforcement staff opened an investigation based upon a formal complaint, to determine whether Oakland City Councilmember At-Large Rebecca Kaplan failed to report her partial ownership interest in an Oakland condominium her Form 700 and/or made, participated in making, or attempted to influence a decision of the City concerning the expansion of a park next to her property, in violation of the Oakland Government Ethics Act. Enforcement staff and the Respondent have reached a stipulated agreement, and Staff recommends that the Commission approve the stipulation and impose a financial penalty in the amount of \$19,000.
- 3. In the Matter of Carroll Fife, Cat Brooks, W. Kamau Bell, Lateefah Simon, Julian Glover (Case No. 21-07).** On June 23, 2021, the City of Oakland Public Ethics Commission (PEC) received a formal complaint that alleged a violation of the Sunshine Act in connection with a private event attended by a City Councilmember. The complainant withdrew the complaint within days of filing, and PEC staff chose not to pursue the allegation any further. Due to a clerical error, PEC staff did not change the status of this complaint on its complaint database to "Closed" (it remained as "Preliminary Review"), nor was a notice of dismissal placed on the PEC agenda as required under the Complaint Procedures. PEC staff is correcting that error now. The status of this case is now "Closed." (See Attachments)
- 4. In the Matter of the Public Ethics Commission (Case No. 22-21).** On November 8, 2022, the City of Oakland Public Ethics Commission (PEC) received a formal complaint alleging that the PEC discussed an item at its public meetings of August 10 and September 14, 2022, that were not properly agendized under the Sunshine Act. After determining that it was permissible for the Enforcement Chief to review the complaint pursuant to the PEC's Complaint Procedures regarding complaints against the PEC itself, the Enforcement Chief found insufficient evidence to open an investigation and has dismissed the complaint with no further action. The status of this case is now "Closed." (See Attachments)

### Legal Actions

Since the last Enforcement Unit Program report on October 27, 2022, the following public court actions have been submitted or scheduled by or on behalf of the Enforcement Unit:

1. **In the Matter of Mike Hutchinson for School Board 2016, Mike Hutchinson, Harriet Hutchinson (Case No. 17-09).** A hearing on a Petition To Enforce Investigative Subpoena in Alameda County Superior Court case no. 22CV019951, *City of Oakland Public Ethics Commission v. Harriet Hutchinson*, is scheduled for December 6, 2022, at 10:00 AM in Department 14.
2. **In the Matter of Andy Duong (Case No. 19-14).** On November 9, 2022, the PEC filed a “Status Update re Hearing on Contempt” in Alameda County Superior Court case no. RG20070117, *City of Oakland Public Ethics Commission v. Charlie Ngo*. A hearing was held on the matter on November 16, 2022. On November 30, 2022, the PEC filed a “[Proposed] Order to Show Cause Regarding Contempt of Court” in the same matter. Another hearing on the matter has been scheduled for January 25, 2023, at 1:30 PM in Department 511.
3. **In the Matter of Andy Duong (Case No. 19-14).** On November 16, 2022, the PEC filed a “Second Status Update re Noncompliance with Subpoenas” in Alameda County Superior Court case no. RG20075526, *City of Oakland Public Ethics Commission v. Margaret Yang*. There are no upcoming hearings on the matter.
4. **In the Matter of Andy Duong (Case No. 19-14).** On November 16, 2022, the PEC filed a “Second Status Update re Noncompliance with Subpoenas” in Alameda County Superior Court case no. RG20075540, *City of Oakland Public Ethics Commission v. Mark Hung Tran*. There are no upcoming hearings on the matter.

Except where otherwise noted, no allegations have yet been proved or admitted in any of the above matters, and the existence of these cases and associated litigation should not be taken as an indication that the potential respondent(s) necessarily violated any laws. This information is being provided for the PEC’s informational purposes only.