

Item 8a - Dismissal Letter 22-19: In the Matter of Carroll Fife



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

January 13, 2023

Carroll Fife
Councilmember, District 3

[REDACTED]
[REDACTED]

Via email: [REDACTED]

Re: Public Ethics Commission Complaint No. 22-19; Notice of Dismissal

To Councilmember Carroll Fife:

On November 4, 2022, the City of Oakland Public Ethics Commission (PEC) received a complaint (#22-19) alleging that you had a position in, or derived financial benefit from, a nonprofit organization called Affect Real Change (ARC). The complaint further alleged that ARC is the same entity as, or closely related to, another entity called Community Ready Corps (CRC), and that:

1. CRC may have submitted a fraudulent application for federal Paycheck Protection Program (PPP) relief funds in or around 2020-2021; and
2. You had a conflict of interest when you voted on July 5, 2022, to approve a civil settlement between the City of Oakland and CRC, among other plaintiffs.

I am writing to inform you that the PEC has completed its preliminary review of the complaint and has dismissed it with no further action. We did this because there was either insufficient evidence to support the allegations, and/or the PEC lacks jurisdiction over a particular allegation. For more detail, you can consult the dismissal letter that we sent to the complainant, a copy of which is attached here pursuant to our Complaint Procedures.

No action is necessary on your part; this letter is just a courtesy notice.

We are required to inform the Public Ethics Commission of the resolution of this matter at an upcoming public meeting, as part of our regular monthly update on Enforcement actions. The date/time and agenda of that meeting will be posted on the Commission's website in advance

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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.

If you have any questions regarding this matter, please feel free to contact me at (510) 424-3200 or srussell@oaklandca.gov.

Sincerely,

Simon Russell

Simon Russell
Chief of Enforcement
City of Oakland Public Ethics Commission

/Enclosure

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January 13, 2023

Ryan Lester

[REDACTED]
[REDACTED]

Via email: [REDACTED]

Re: Public Ethics Commission Complaint No. 22-19; Notice of Dismissal

To Ryan Lester:

On November 4, 2022, the City of Oakland Public Ethics Commission (PEC) received your complaint (#22-19) alleging that City Councilmember Carroll Fife has a position in, or derives financial benefit from, a nonprofit organization called Affect Real Change (ARC). Your complaint further alleged that ARC is the same entity as, or closely related to, another entity called Community Ready Corps (CRC), and that:

1. CRC may have submitted a fraudulent application for federal Paycheck Protection Program (PPP) relief funds in or around 2020-2021; and
2. Councilmember Fife had a conflict of interest when she voted on July 5, 2022, to approve a civil settlement between the City of Oakland and CRC, among other plaintiffs.

The PEC has completed its preliminary review of the allegations and found that there is either insufficient evidence to support them, or the PEC lacks jurisdiction. I will explain our findings and reasoning for each allegation below.

Alleged Position in ARC

Your complaint states that Councilmember Fife was an officer of ARC from 2015-2019. Although not expressly stated in the complaint, the complaint implies that Councilmember Fife has continued to serve as an officer of ARC since 2019. If so, she may have had to report this on her annual Form 700 (Statement of Economic Interests) if ARC was a for-profit entity doing business in Oakland or if she received income of \$500 or more from ARC.

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However, ARC's business registration filings with the California Secretary of State confirm that she was no longer an officer of ARC at least as of December 4, 2020. Councilmember Fife did not assume office on the City Council until 2021, and she had no obligation to report any former business positions on her Form 700s after assuming office.

Before becoming a Councilmember, Fife did serve on the City's Affordable Housing & Infrastructure Bond Public Oversight Committee (I-BOND). As a member of that body, she was required to file Form 700s. However, because ARC is a nonprofit, she was not required to list her position with ARC as a "business position" on her Form 700.¹ She would have been required to report any income above \$500 received from ARC, but neither your complaint nor (as explained in more detail below) Councilmember Fife's tax records indicate that she received any income from ARC during her time on the I-BOND. Therefore, she was under no obligation to report ARC as a source of income.

Alleged PPP Fraud

Regarding the allegation of PPP fraud, the PEC has no jurisdiction over the PPP program and takes no position on that allegation. Allegations of PPP fraud should be made to the Office of the Inspector General at the federal Small Business Administration.² Furthermore, as explained below, there is no evidence that Councilmember Fife has a position in CRC, so the PEC also lacks personal jurisdiction over this allegation, as it appears that the alleged fraud concerns an entity in which she has no position.

More generally, none of the laws enforced by the PEC give us jurisdiction over allegations of private fraud, so long as the alleged fraud does not affect the City government or an Oakland electoral campaign. Allegations of private fraud should be made to the District Attorney.

Alleged Conflict of Interest re: CRC Settlement

Regarding Councilmember Fife's alleged conflict of interest in voting upon a civil settlement affecting CRC, your complaint provides no evidence that Councilmember Fife had any position in, or received any financial benefit from, CRC. ARC and CRC are separate entities, as evidenced by the documents included with your complaint (Secretary of State ID numbers 3903069 and 5117824, respectively).³ But even if they were related entities for purposes of Oakland's conflict of interest laws, there is no evidence that Councilmember Fife had a position with, or received any income from, either entity at the time she voted on the

¹ Cal. Govt. Code § 82005; FPPC Martin Advice Letter, No. 4-99-289.

² The complaint form can be found at <https://www.sba.gov/about-sba/oversight-advocacy/office-inspector-general/office-inspector-general-hotline>

³ As shown in your complaint, there is also an entity called Affect Real Change Safety Ready Corps (SOS ID # 4684464). The PEC downloaded all of its business registration filings from the Secretary of State; none of them make any reference to Councilmember Fife as an officer, director, or agent of the company.

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settlement in 2022. As noted in your complaint, Councilmember Fife has not been an officer of ARC since December 4, 2020, about a year and a half before the CRC settlement vote took place.

Your complaint also provides no evidence that Councilmember Fife received any form of income from either ARC or CRC in the twelve months leading up to the settlement vote. Nevertheless, the PEC did reach out to Councilmember Fife and she confirmed that she did not receive any income of \$500 or more (the threshold for a conflict of interest based upon income received) from either ARC, CRC, or any of the other named plaintiffs in the civil settlement.

Though not required to do so, Councilmember Fife also voluntarily provided the PEC with copies of her tax returns (Form 1040) and W-2 information covering tax years 2019-2021. Councilmember Fife's tax information confirms that she received no income in those years from ARC, CRC, or any other person or entity involved in the CRC settlement. Her tax returns also confirm that she was unmarried in 2019-2021, and therefore could not have had a conflict of interest via a spouse.

It should also be noted that your complaint erroneously states that CRC "received part of a \$1.5 million settlement" upon which Councilmember Fife voted. An examination of the settlement agreement available on the City Council's public online records database shows that CRC received \$0 in the settlement agreement.⁴ While the PEC finds no reason to doubt the accuracy of Councilmember Fife's statements to the PEC and tax information provided, the negligible financial impact of Councilmember Fife's vote upon CRC gives the PEC little reason to investigate further into the Councilmember's personal finances.

We are required to inform the Public Ethics Commission of the resolution of this matter at an upcoming public meeting, as part of our regular monthly update on Enforcement actions. That meeting date/time and agenda 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 other questions regarding this matter, please feel free to contact me.

⁴ <https://oakland.legistar.com/View.ashx?M=F&ID=11012394&GUID=41FD5142-E8DA-46C5-9D69-D6A66B471293>

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Sincerely,

Simon Russell

Simon Russell, Enforcement Chief
City of Oakland, Public Ethics Commission
(510) 424-3200
srussell@oaklandca.gov