

# Item 5 - Final Action on PEC Case No. 23-28



Francis Upton IV, Chair  
Tanya Bayeva, Vice Chair  
Alea Gage  
Ryan Micik  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: March 1, 2025  
RE: Commission Final Action - In Re Dabney (PEC Case No. 23-28)

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At its March 19, 2025, meeting, the Public Ethics Commission (Commission or PEC) will consider Hearing Officer Karun Tilak's Proposed Findings of Fact and Conclusions in PEC Case No. 23-28, *In the Matter of Michael Dabney*. The Commission shall review the attached proposed Findings of Facts and Conclusions and may adopt them in their entirety, or adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact, which may include different conclusions as to whether or not a violation occurred as to each count or assessing different penalties. The Commission's decision and order shall constitute closure of the administrative process for this complaint.

This memo summarizes the procedural posture of this case and the Commission's role and options in reviewing the Proposed Findings of Facts and Conclusions (FFCs). Attached to this memo are: (1) the Findings of Facts and Conclusions; (2) the Enforcement Unit's (Complainant's) response to the FFCs; and (3) Michael Dabney's (Respondent's) response to the FFCs.

## I. Background & Procedural Posture

On October 2, 2023, Public Ethics Commission (Commission or PEC) Enforcement Staff opened an investigation into allegations that a mobile food vendor named Michael Dabney (Respondent) attempted to bribe a City inspector. At the conclusion of its investigation, the Enforcement Unit of the PEC (Complainant) charged Mr. Dabney with two violations of the Government Ethics Act (GEA): (1) bribery (Oakland Municipal Code Sec. 2.25.070(A)) and (2) knowingly providing false information to the PEC (O.M.C. Sec. 2.25.080(C)(7)). On June 12, 2024, the Commission found that there was probable cause to believe a violation of GEA occurred and referred the case to an administrative hearing.

The hearing occurred on January 23, 2025, with Commissioner Karun Tilak serving as Hearing Officer. Deputy City Attorney Patrick Bears represented the Complainant and the Respondent. Michael Dabney represented himself at the hearing. The Respondent denied that he violated GEA. At the conclusion of the hearing, Hearing Officer Tilak drafted proposed Findings of Facts and Conclusions (FFCs) finding that the Respondent had violated GEA as to both counts and recommending a total penalty of \$1,750.

The Executive Director of the Commission provided both parties, the Complainant and the Respondent, with a copy of the proposed FFCs on January 30, 2025. Under the Commission's Complaint Procedures (CP), "No later than seven days after delivery, any party may submit a

written request to the Commission Chair that that the person(s) who conducted the hearing be directed to re-hear all or portions of the complaint.” (CP Sec. VII(1)(1)(a).) As neither party requested a re-hearing during that time, the Proposed FFCs will be considered by the full Commission at its March 19, 2025, meeting. The parties were notified of this meeting date on February 10, 2025, and were invited to provide up to a 5-page response to the FFCs for inclusion in the meeting packet. Both the Complainant and the Respondent submitted a response on March 6, 2025.

## **II. Hearing Officer’s Proposed Decision**

The Hearing Officer’s proposed decision finds that the Respondent, Michael Dabney, committed the following violations of the Government Ethics Act:

### Count 1: GEA § 2.25.070(A) (Bribery)<sup>1</sup>

Hearing Officer Tilak found that, in violation of O.M.C. § 2.25.070(A), the Respondent offered a City inspector cash in exchange for the issuance of a mobile food vendor permit or to persuade the inspector not to cite the Respondent for operating an unpermitted mobile food vending operation.

Hearing Officer Tilak recommends a penalty of **\$1,500** for this violation.

### Count 2: GEA § 2.25.080(C)(7) (Knowingly Providing False Statements)<sup>2</sup>

Hearing Officer Tilak found that, in violation of O.M.C. 2.25.080(C)(7), the Respondent intended to convey false information when he told the PEC Enforcement Unit that he was seeking a loan from a City inspector.

Hearing Officer Tilak recommends a penalty of **\$250** for this violation.

## **III. Possible Actions by the Commission**

Under the Commission’s Complaint Procedures, upon receipt of the Hearing Officer’s proposed Findings of Fact and Conclusions (FFCs), the Commission shall either adopt the FFCs “in their entirety” or, alternatively “adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact.” (Complaint Procedures Sec. VII(1)(2).) The Commission has discretion to “reach additional or different conclusions consistent with the Findings of Fact,

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<sup>1</sup> O.M.C. Sec. 2.25.070(A) provides: “Prohibition on Bribery. No person shall offer or make, and no Public Servant shall solicit or accept, anything of value in exchange for the performance of any official act.”

<sup>2</sup> O.M.C. Sec. 2.25.080(C)(7)(a) provides: “False Charges and Information. A person shall not knowingly and intentionally furnish false or fraudulent complaints, evidence, documents, or information to the Public Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Commission, District Attorney or City Attorney of an alleged violation of this Act.”

including the full range of options from dismissal, with or without a warning letter, through assessment of maximum penalties, including other remedial measures.” (Ibid.) The Commission’s enabling ordinance specifies that the Commission 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.” (O.M.C. Sec. 2.24.070(C); see also Complaint Procedures Sec. VII(I)(4).)

If the Commission decides to adopt the Hearing Officer’s 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 \$1,750.

*Alternatively*, if the Commission decides that the Hearing Officer’s factual findings warrant a different legal conclusion and/or a different penalty, the Commission may adopt the Hearing Officer’s proposed factual finding and additional or different legal conclusions and/or impose a different penalty.

Whether the Commission decides to adopt the proposed Findings of Fact and Conclusions in its entirety or adopt different legal conclusions and/or penalties, the Commission’s decision and order will constitute the closure of the administrative process for this matter. (Complaint Procedures Sec. VII(J); O.M.C. Sec. 2.24.070(C).) Under the City Charter, “[f]inal 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 (4) members.” (Charter Sec. 603(f)(2).

**Attachments:**

1. **Hearing Officer’s Proposed Findings of Fact and Conclusions**
2. **Enforcement’s Response to the FFCs**
3. **Respondent’s Response to the FFCs**

**PEC Policies Links:**

4. **Complaint Procedures:** [https://cao-94612.s3.us-west-2.amazonaws.com/documents/PEC-Complaint-Procedures-effective-January-7-2024\\_2025-01-07-003518\\_bwru.pdf](https://cao-94612.s3.us-west-2.amazonaws.com/documents/PEC-Complaint-Procedures-effective-January-7-2024_2025-01-07-003518_bwru.pdf)
5. **Penalty Guidelines:** [https://cao-94612.s3.us-west-2.amazonaws.com/documents/Enforcement-Penalty-Guidelines-effective-8.11.2024\\_2025-01-07-003752\\_ndud.pdf](https://cao-94612.s3.us-west-2.amazonaws.com/documents/Enforcement-Penalty-Guidelines-effective-8.11.2024_2025-01-07-003752_ndud.pdf)

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**BEFORE THE CITY OF OAKLAND**  
**PUBLIC ETHICS COMMISSION**

ENFORCEMENT UNIT OF THE CITY OF  
OAKLAND PUBLIC ETHICS COMMISSION,  
  
Complainant,  
  
v.  
  
MICHAEL DABNEY,  
  
Respondent.

} Case No.: 23-28  
} **FINDINGS OF FACT AND**  
} **CONCLUSIONS**

1. Hearing Officer Karun Tilak heard this case on January 23, 2025, at 6:30p.m. at Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, California, in Hearing Room 2. Patrick Bears, Deputy City Attorney, represented the Petitioner, the Public Ethics Commission (“PEC”) Enforcement Unit (“Petitioner”). Respondent Michael Dabney (“Mr. Dabney”) represented himself.

2. The record was closed and the case submitted on January 23, 2025.

3. As discussed further below, I find that it is more likely than not that Respondent Mr. Dabney made an offer to Moises Campos, an employee of the City of Oakland (“City”), of something of value in exchange for an official act. I also find that Mr. Dabney subsequently knowingly provided false information to the Public Ethics Commission as part of its investigation. As such, I conclude that Mr. Dabney engaged in conduct in violation of the Government Ethics Act (“GEA”) §§ 2.25.070(A) and 2.25.080(C)(7). I further recommend penalties in the amount of \$1,500 for the violation of GEA § 2.25.070(A) and \$250 for the violation of GEA § 2.25.080(C)(7).

1     **I. SUMMARY OF EVIDENCE PRESENTED**

2     **A. PETITIONER’S CASE**

3     4.     Petitioner is the Enforcement Unit of the PEC.

4     5.     On January 17, 2025, Petitioner submitted a 15-page Hearing Brief. Petitioner  
5 also submitted seven exhibits (labeled E1-A, E2-B, E3-C, E4-D, E5-E, E6-F, and E7-G). Each  
6 of these exhibits was admitted into the record and is attached to and incorporated into these  
7 Findings and Conclusions as **Appendix A**.

8     6.     Petitioner presented the testimony of two witnesses, Moises Campos and Nancy  
9 Marcus.<sup>1</sup>

10     i.     **Moises Campos**

11     7.     Mr. Campos works as a Special Activity Permit Inspector for the Special Activity  
12 Permits Division, a role he has had for seven years. In this role, Mr. Campos is responsible for  
13 conducting inspections for various categories of businesses, including as relevant here, mobile  
14 food vendors. Mr. Campos’s role does not involve handling permitting applications or processing  
15 payments.

16     8.     Under the City’s regulations, mobile food vendors must have permits from the  
17 City. As an inspector, Mr. Campos conducts inspections to make sure vendors have the required  
18 permits. For those vendors who do not have a permit, Mr. Campos first engages in education  
19 and outreach to bring them into compliance. If that does not work, citations may be issued with  
20 fines ranging from \$250 to \$1500, depending on the number and seriousness of the violations.  
21 In certain cases of continuing violations, a vendor’s food may be seized.

22     9.     Mr. Campos has conducted inspections of mobile food vendors at Lake Merritt  
23 starting in at least 2020, and it appears that Mr. Campos and Mr. Dabney have had several  
24 interactions during the course of these inspections. Mr. Campos could not recall exactly how  
25 many times they had met but estimated he had met Mr. Dabney a couple of times. Text message  
26 correspondence between Mr. Campos and Mr. Dabney goes back to at least July 2020, though  
27 the text messages are infrequent. *See Exhibit E4-D*.

28     <sup>1</sup> Both Petitioner and Respondent’s witnesses were sequestered during the proceeding so that they did not hear each other’s testimony.

1           10. Mr. Campos testified that in July 2023 he was conducting an inspection at Lake  
2 Merritt and saw that Mr. Dabney was operating a mobile food vending stand without the required  
3 mobile food vending permit. Mr. Campos told Mr. Dabney he was not in compliance and that if  
4 he continued to vend without the required permit, he could be subject to citations.

5           11. During this encounter, Mr. Campos informed Mr. Dabney about a program  
6 through the Feed the Hunger Fund (“FTHF”), an entity not associated with the City that provides  
7 loans to small food businesses. Mr. Campos suggested that FTHF may have funding available  
8 to help Mr. Dabney bring his business into compliance. Mr. Dabney subsequently followed up  
9 by email to ask about the FHTF program, and Mr. Campos sent him a flyer with relevant  
10 information. *See Exhibits E6-F and E7-G.*

11           12. To Mr. Campos’s knowledge, neither the City nor Mr. Campos’s division  
12 provides money to mobile food vendors.

13           13. Subsequently, on August 17, 2023, Mr. Dabney texted Mr. Campos “Rainbow  
14 Italian Ice calling you. Hit me back if you got a minute.” *See Exhibit E4-D.*

15           14. On August 18, 2023, Mr. Campos and Mr. Dabney spoke on the phone. Mr.  
16 Campos was in his office at the time. Mr. Campos’s recollection of the call is that Mr. Dabney  
17 indicated that he wanted to discuss “business.” At this point, Mr. Campos walked over to his  
18 colleague, Ms. Marcus, and placed the call on speakerphone. Mr. Campos testified that he asked  
19 Mr. Dabney what kind of business he wanted to discuss, and Mr. Dabney said it involved him  
20 paying Mr. Campos in cash. Mr. Campos informed Mr. Dabney that he could not accept any  
21 money and ended the call. The call lasted approximately one minute. *See Exhibit E5-E.*

22           15. Mr. Campos denied that Mr. Dabney asked for a loan during the call. Based on  
23 his recollection, there was no background noise to suggest that Mr. Dabney was driving during  
24 the call.

25           16. Mr. Campos stated that when Mr. Dabney said he wanted to discuss “business,”  
26 this raised Mr. Campos’s suspicions because he did not have a relationship with Mr. Dabney that  
27 would make it likely Mr. Dabney would want to talk business. Mr. Campos also stated that he  
28 has previously had experience with other entities he inspected trying to offer him money, and

1 “discussing business” was used as a hint to suggest a bribe. He stated that in these kinds of  
2 circumstances, it was his practice to have another person witness the phone call to be able to  
3 confirm what occurred.

4 17. On August 20, 2023, Mr. Campos sent an email to his supervisor recounting the  
5 phone call. In the email, Mr. Campos stated that Mr. Dabney said he wanted to “discuss  
6 business” and said that “it involved him paying [Mr. Campos] in cash.” **Exhibit E1-A.**

7 18. Mr. Campos denied having a social relationship or extensive relationship with Mr.  
8 Dabney, although he acknowledged meeting him a few times prior to July 2023 in the course of  
9 prior inspections.

10 ii. **Nancy Marcus**

11 19. Ms. Marcus is an Administrator Analyst with the Special Activity Permits  
12 Division, a role she has had for sixteen years. In her role, Ms. Marcus is responsible for handling  
13 permit applications and processing payments, including for mobile food vendors.

14 20. Ms. Marcus testified that Mr. Dabney had applied for a mobile food vendor permit  
15 in 2020, but the permit was never issued because Mr. Dabney did not have proof of worker’s  
16 compensation (a requirement to obtain a permit).

17 21. Ms. Marcus indicated that Mr. Dabney’s mobile food vendor permit application  
18 ended when the State lifted certain COVID restrictions, which she believed happened in 2022.  
19 After that, a new permit would have to be submitted, subject to new fees.

20 22. Ms. Marcus recalled the phone call between Mr. Campos and Mr. Dabney on  
21 August 18, 2023. She indicated that Mr. Campos came over to her with the phone on  
22 speakerphone. In her recollection, Mr. Dabney said he would give Mr. Campos the money if he  
23 gave Mr. Dabney a permit. Mr. Campos said he could not accept the money and ended the call.

24 23. Ms. Marcus said that she had prior experience witnessing phone calls for Mr.  
25 Campos and other inspectors because they have previously been offered bribes by regulated  
26 entities.

27 24. Ms. Marcus denied that Mr. Dabney asked Mr. Campos for a loan. She also did  
28 not recall hearing background noise during the phone call that would suggest Mr. Dabney was

1 on speakerphone while driving. But she acknowledged it was possible that there would not be  
2 background noise if it was quiet in the car.

3 25. Ms. Marcus initially testified that there was no reason for Mr. Dabney to pay for  
4 a permit because the City Council waived permit fees during the pandemic. However, in  
5 subsequent testimony, she clarified that the waiver of fees ended in 2022, so that by the time of  
6 the phone call in August 2023, the City was once again charging for permits.

7 26. Ms. Marcus also explained that at one point the City tried to create a pilot program  
8 to coordinate the vendors at Lake Meritt. The City hired an organizer who tried to get an event  
9 sponsor permit that would cover certain approved vendors at the Lake (so those vendors would  
10 not be required to obtain individual permits from the City). However, the program manager was  
11 unsuccessful in getting the required information from vendors at the Lake and the program fell  
12 through.

13 **B. RESPONDENT'S CASE**

14 27. Respondent is Mr. Michael Dabney.

15 28. Mr. Dabney provided no written argument. Mr. Dabney provided one exhibit, a  
16 sworn affidavit of Christopher Williams (labeled R-1). Exhibit R-1 was admitted into the record  
17 and is attached and incorporated into these Findings and Conclusions as **Appendix B**.

18 29. Mr. Dabney presented his own testimony as well as the testimony of Christopher  
19 Williams.

20 i. **Michael Dabney**

21 30. Mr. Dabney has operated his business for twenty years. Most of his business is  
22 operated at public and private events, such as festivals or fairs, and very little of his business is  
23 done as a street vendor. However, when the COVID-19 pandemic hit in 2020 and the normal  
24 sources of revenue for his business dried up, Mr. Dabney opened up as a mobile food vendor at  
25 Lake Merritt.



1           31.     Mr. Dabney applied for a mobile food vendor permit in 2020. However, getting  
2 worker's compensation proved to be cost prohibitive, so he did not pursue his application any  
3 further.<sup>2</sup>

4           32.     As the COVID-19 restrictions lifted, Mr. Dabney's business once again began to  
5 focus on events and shows, and street vending again became an insignificant part of his business.  
6 Mr. Dabney indicated that by 2023, he would only operate at Lake Merritt on the few days when  
7 he had no other events. He stated that he no longer needed to operate at Lake Merritt as part of  
8 his business and thus had no need of a mobile food vendor permit from the City. However, he  
9 did not dispute that he was vending at Lake Merritt in July 2023 without a permit.

10          33.     Mr. Dabney stated that he was experiencing personal financial difficulties in 2023.  
11 He agrees that he spoke with Mr. Campos on August 18, 2023, but said it was only for the purpose  
12 of asking for a \$500 loan. Mr. Campos said he could not provide a loan, and that was the extent  
13 of the conversation. Mr. Dabney stated that he was driving during the phone call and put the call  
14 on speakerphone, and that Chris Williams was in the car with him.

15          34.     Mr. Dabney explained that he reached out to Mr. Campos for money because they  
16 had engaged in numerous conversations at Lake Merritt during the course of Mr. Campos's  
17 inspections, had talked about non-work related matters, and had a collegial relationship. In Mr.  
18 Dabney's account, he had spoken with Mr. Campos hundreds of times prior to August 2023. Mr.  
19 Dabney said he asked for and obtained the loan he was seeking from others.

20          35.     Mr. Dabney testified that former PEC Enforcement Chief Simon Russell  
21 subsequently interviewed him about the PEC's investigation. Mr. Dabney provided the same  
22 account described above, except that he did not mention that he was in the car or that Mr.  
23 Williams had witnessed the call. At the time, Mr. Dabney thought nothing of it. It was only after  
24 he was notified that the Enforcement Unit would be seeking a probable cause determination from  
25 the PEC that Mr. Dabney began to understand the severity of the matter and obtained the affidavit  
26 from Mr. Williams (**Exhibit R-1**).

27 <sup>2</sup> In his 2020 mobile food vendor permit application, **Exhibit E3-C**, Mr. Dabney stated he had 5 employees. In his  
28 testimony, however, Mr. Dabney stated that he only had independent contractors, not employees, and therefore may  
not have needed worker's compensation insurance. The specific characterization of whether Mr. Dabney hires  
independent contractors or employees to work at his business is immaterial for purposes of the charges at issue here.

1           ii.    **Christopher Williams**

2           36.    Mr. Williams has worked for Mr. Dabney for several years. Mr. Williams has  
3 also lived with Mr. Dabney for at least a couple of years and pays him rent.

4           37.    Mr. Williams worked at the Lake Merritt stand for Mr. Dabney’s business from  
5 2017 to present, but he did not have a specific recollection of the July 2023 encounter with Mr.  
6 Campos. Mr. Williams did not remember Mr. Campos by name, and could not recall if he had  
7 previously met Mr. Campos during the course of any inspections at Lake Merritt

8           38.    Mr. Williams said he often rode with Mr. Dabney to or from events, and that Mr.  
9 Dabney would often take phone calls on the car’s hands-free system.

10          39.    Mr. Williams confirmed Mr. Dabney’s account of the phone call with Mr.  
11 Campos.<sup>3</sup>

12          40.    Mr. Williams said he wrote the affidavit, **Exhibit R-1**, and reviewed it before  
13 signing.

14    **II.    EVIDENTIARY STANDARD**

15          41. The standard of proof applied in this hearing is a preponderance of the evidence.<sup>4</sup> The  
16 burden of proof is on the petitioner.<sup>5</sup> This means that the petitioner must demonstrate that the  
17 weight of the evidence shows that it was more likely than not—i.e., more than 50% likely—that  
18 the respondent violated the law.

19          42. To withstand a request for re-hearing, the proposed Findings of Fact may not contain a  
20 material error of fact that necessarily affects one or more conclusions and the conclusions must  
21 be supported by substantial evidence.<sup>6</sup>

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26 <sup>3</sup> As the recording of the hearing will reflect, in questioning Mr. Williams, Mr. Dabney stated as a factual matter that  
27 they were driving and he placed a phone call on speakerphone to Mr. Campos and asked for a loan, and Mr. Campos  
28 refused. Mr. Dabney asked if that was Mr. Williams’s recollection, and Mr. Williams concurred.

<sup>4</sup> Cal. Evid. Code §115; PEC Complaint Procedures § VII.I.4.

<sup>5</sup> Cal. Evid. Code §500

<sup>6</sup> PEC Complaint Procedures §VII.I.1.a.

1 **III. FINDINGS AND CONCLUSIONS**

2 **A. Findings of Fact**

3 43. Based on the testimony and exhibits in the record, certain facts are undisputed. Mr.  
4 Dabney operated a mobile food vending operation at Lake Merritt from at least 2020 through at  
5 least July 2023. He initially applied for a mobile food vendor permit in 2020, but never  
6 completed the permit process because he was required to obtain Worker’s Compensation  
7 insurance and did not (or could not) do so. His permit lapsed sometime in 2022, and as of July  
8 2023 he had no pending permit application. In July 2023, Mr. Dabney was operating at Lake  
9 Merritt without a permit. His stall was inspected by Mr. Campos. Mr. Campos then sent him  
10 the FTHF flyer shortly thereafter. A few weeks later Mr. Dabney texted Mr. Campos and then  
11 they spoke on the phone on August 18, 2023.

12 44. The crux of the dispute is what exactly was said during the August 18, 2023 phone call.  
13 Rashomon-like, we are presented with radically differing accounts of the phone call. As  
14 discussed above, Mr. Campos and Ms. Marcus testified that Mr. Dabney offered to pay Mr.  
15 Campos cash. Mr. Dabney and Mr. Williams testified that Mr. Dabney asked for a personal loan  
16 of \$500. Resolving these discrepancies will entail making credibility determinations regarding  
17 the witnesses and their accounts.

18 45. Ultimately, I find it more likely than not that Mr. Dabney offered Mr. Campos cash  
19 during the phone call. I make this finding for the following reasons.

20 46. First, while I find Mr. Dabney credible when he testified to experiencing personal  
21 financial difficulties, I find Mr. Dabney’s reasons for seeking a personal loan from Mr. Campos  
22 specifically are not credible. While Mr. Dabney claims to have a jovial relationship with Mr.  
23 Campos and have interacted with him hundreds of times, their text message conversations  
24 suggest only sporadic conversations between 2020 and 2023—a few texts in July and October  
25 2020 and then a text in August 2023. *See Exhibit E4-D.* Mr. Campos also testified that while  
26 he did not remember the exact number of times he had interacted with Mr. Dabney, it was likely  
27 only a handful. While Mr. Dabney and Mr. Campos certainly interacted prior to July 2023, in  
28 my view they did not have the kind of relationship that Mr. Dabney described. It is also notable

1 that Mr. Dabney has never contended that he was following up about the FHTF program for a  
2 business loan, which might lend some plausibility to his reason for calling Mr. Campos. He has  
3 consistently maintained that he called Mr. Campos for a personal loan, which is not plausible  
4 given the evidence regarding their relationship.

5 47. Second, I found both Mr. Campos and Ms. Marcus’s account of the phone call to be  
6 credible. Mr. Campos in particular described prior experience being offered bribes by regulated  
7 entities, and the use of “discussing business” as a potential euphemism for a bribe. Mr. Campos  
8 and Ms. Marcus both explained their practice of having someone witness a phone call with a  
9 regulated entity when there may be illicit conduct discussed. Their conduct in this case appears  
10 to be consistent with their practice when dealing with potentially illegal requests by regulated  
11 parties.

12 48. Third, Mr. Campos and Ms. Marcus created a near-contemporaneous record of the phone  
13 call. On August 20, 2023, Mr. Campos emailed his supervisor, Greg Minor, regarding his call  
14 with Mr. Dabney. **Exhibit E1-A**. That record is consistent with the testimony offered by Mr.  
15 Campos and Ms. Marcus.

16 49. Fourth, I did not find Mr. Williams’s testimony to be credible. This finding is *not* based  
17 on the fact that Mr. Williams works for Mr. Dabney and lives with him. Rather, my finding of a  
18 lack of credibility is based on the fact that Mr. Williams appeared to lack any independent  
19 recollection about the phone call. He simply concurred with facts stated to him by Mr. Dabney.

20 50. Fifth, I found credible Mr. Campos and Ms. Marcus’s consistent accounts of not hearing  
21 background noise or anything to suggest that Mr. Dabney was driving.

22 51. As such, on balance, I find it more likely than not that Mr. Dabney offered Mr. Campos  
23 cash during the August 18, 2023 phone call.

24 52. There is a lack of evidence in the record to determine the amount of cash Mr. Dabney  
25 offered. Neither Mr. Campos nor Ms. Marcus testified as to the specific amount that Mr. Dabney  
26 offered to pay. The email Mr. Campos wrote to his supervisor, **Exhibit E1-A**, likewise does not  
27 indicate the amount of the proposed bribe.

1 53. As to what specifically Mr. Dabney was seeking in return for the bribe, I note that Mr.  
2 Campos and Ms. Marcus’s accounts differ. In his testimony, Mr. Campos did not state that Mr.  
3 Dabney specifically asked for a permit in return for the bribe. Ms. Marcus, however, claimed  
4 that Mr. Dabney asked for a permit in exchange for the money.

5 54. Nevertheless, I find that Mr. Dabney offered to pay Mr. Campos cash for one of two  
6 purposes: either to obtain a permit or to persuade Mr. Campos not to issue any citations to Mr.  
7 Dabney. While I found Mr. Dabney credible in his testimony that he had shifted most of his  
8 business away from Lake Merritt by 2023, he conceded that he was operating there in July 2023  
9 and he stated that he continued to operate at the lake on days when he had no other events. Mr.  
10 Williams also testified that he worked for Mr. Dabney at the lake to the present day. As such,  
11 even if Mr. Dabney did not anticipate operating at Lake Merritt on a regular basis. Mr. Dabney  
12 still contemplated some operations as a mobile food vendor at the lake. To continue these  
13 operations, even sporadically, Mr. Dabney would need a permit or would need inspectors to look  
14 the other way.

15 55. In light of the above findings, I also find that the information submitted by Mr. Dabney  
16 to the PEC Enforcement Unit was false and that Mr. Dabney knew it to be false when he  
17 submitted it. Specifically, Mr. Dabney falsely informed the PEC’s Enforcement Unit that he  
18 asked for a loan on the August 18, 2023 call and procured a false affidavit to support his story.

19 **B. Conclusions**

20 i. **Count 1: GEA § 2.25.070(A) (Bribery)**

21 56. GEA § 2.25.070(A) states that “No person shall offer to make, and no Public Servant  
22 shall solicit or accept, anything of value in exchange for the performance of any official act.” To  
23 prove a violation of this provision, the Petitioner must prove three elements: (1) an offer; (2) of  
24 a thing of value; (3) in exchange for an official act. Each element is satisfied here.

25 57. **Offer:** As stated above, Mr. Dabney made an offer of cash to Mr. Campos.

26 58. **Thing of Value:** Cash is a thing of value. The fact that Mr. Dabney apparently did not  
27 state a specific amount for the bribe does not affect this conclusion. (*See, e.g.*, Judicial Council  
28 of California Criminal Jury Instructions No. 2600 [“The thing offered does not need to actually

1 be given, exist at the time it is offered, *or have a specific value,*” emphasis added]; *see* O.M.C. §  
2 2.25.070(A) [not specifying a threshold amount for a thing of value].). Based on the context in  
3 which it was offered, it is reasonable to conclude that the cash that Mr. Dabney offered to Mr.  
4 Campos was a thing of value.

5 **59. Exchange for an Official Act:** As stated above, I find that the offer of a bribe was made  
6 in exchange either for the issuance of a permit or to persuade Mr. Campos not to issue any  
7 citations to Mr. Dabney. That the offer was not explicit is immaterial. (*See People v. Vollman*  
8 (1946) 73 Cal.App.2d 769, 786 [“The offer or solicitation of a bribe need not be stated in express  
9 language as such; it is sufficient that the words used carried the import of a bribe and were  
10 evidently intended to bear that meaning,” citation omitted].). Given the context of their prior  
11 interactions, including that Mr. Dabney did not have a permit and had been inspected by Mr.  
12 Campos in July 2023, it is more likely than not that the money was offered to implicitly seek the  
13 issuance of a permit or to avoid future citations. It is not necessary to decide the specific act that  
14 Mr. Dabney sought from Mr. Campos. For purposes of the statute, it is sufficient that the offer  
15 was made in connection with multiple possible official acts that could come before the Special  
16 Activity Permits Division. (*See People v. Gaio* (2000) 81 Cal.App.4th 919, 921, 932.)

17 ii. **Count 2: GEA § 2.25.080(C)(7) (Knowingly Providing False Statements)**

18 60. GEA § 2.25.080(C)(7) states that “A person shall not knowingly and intentionally furnish  
19 false or fraudulent complaints, evidence, documents, or information to the Public Ethics  
20 Commission . . . or knowingly and intentionally misrepresent any material fact . . . relevant to an  
21 investigation by the Commission . . . of an alleged violation of this Act.” This provision has  
22 three elements: (1) submitting false information or misrepresenting material facts to the PEC; (2)  
23 knowingly and intentionally; (3) in connection with a PEC investigation into a violation of the  
24 GEA. Each element is satisfied.

25 **61. Submission of False Information/Misrepresentation of Material Fact:** Based on my  
26 findings of fact, I conclude that Mr. Dabney’s statements about seeking a loan and his  
27 procurement of an affidavit from Mr. Williams to that effect are false and misrepresent material  
28 facts.

1       **62. Knowing and Intentional:** Mr. Dabney acted knowingly and intentionally in making the  
2 statements. Mr. Dabney clearly knew the substance of his conversation with Mr. Campos and  
3 intended to convey false information when he told the PEC Enforcement Unit that he was seeking  
4 a loan. He also knew that the PEC was investigating when he spoke with Mr. Russell, even if he  
5 did not appreciate the seriousness of the allegations.

6       **63. Investigation into Violation of the Act:** The charges here relate to violations of the GEA  
7 (see Count 1 above), and Mr. Dabney submitted false information and misrepresented material  
8 facts in connection to the alleged GEA violation.

9       IV.    **RECOMMENDED PENALTIES.**

10       64. Having concluded that Mr. Dabney violated both GEA § 2.25.070(A) and GEA §  
11 2.25.080(C)(7), I must now recommend penalties for each violation.

12       65. The PEC has adopted Enforcement Penalty Guidelines (“Guidelines”) that govern this  
13 proceeding. These Guidelines provide a non-exhaustive list of mitigating and aggravating  
14 circumstances that must be considered when setting a penalty amount. This list includes:

- 15       • The seriousness of the violation, including, but not limited to, the extent of the public  
16        impact or harm;
- 17       • The presence or absence of any intention to conceal, deceive, or mislead;
- 18       • Whether the violation was deliberate, negligent, or inadvertent;
- 19       • Whether the violation was isolated or part of a pattern;
- 20       • Whether the respondent has a prior record of violations and/or demonstrated  
21        knowledge of the rule or requirement at issue;
- 22       • The extent to which the respondent voluntarily and quickly took the steps necessary  
23        to cure the violation (either independently or after contact from the PEC);
- 24       • The degree to which the respondent cooperated with the PEC’s enforcement activity  
25        in a timely manner;
- 26       • The relative experience of the respondent;
- 27       • The respondent’s ability to pay the contemplated penalty without suffering undue  
28        financial hardship. This factor shall not apply to the portion of a penalty that

1 constitutes a repayment or disgorgement of the unlawful amount, except in cases of  
2 extreme financial hardship.

3 66. As the Hearing Officer, I have broad discretion in evaluating a violation and determining  
4 the appropriate penalty based on the totality of circumstances. This list of factors to consider is  
5 not an exhaustive list, but rather a sampling of factors that could be considered. There is no  
6 requirement or intention that each factor—or any specific number of factors—be present in an  
7 enforcement action when determining a penalty.

8 67. The Guidelines do not indicate who bears the burden of proof of providing evidence as  
9 to these factors.

10 68. The Guidelines also set forth two administrative penalty schemes: Streamline and  
11 Mainline. Streamline Penalties are reserved for cases that settle and are therefore inapplicable  
12 here. Mainline Penalties apply to cases that are brought to hearing. The Mainline Penalty  
13 provides a “base level” penalty per violation that can be adjusted downwards or upwards based  
14 on the factors discussed above.

15 **A. Recommended Penalty for Count 1 (GEA § 2.25.070(A))**

16 69. For cases of bribery under the GEA, the Guidelines set a base level penalty of \$5,000 or  
17 three times the amount at issue (whichever is greater). Here, we do not know the amount of the  
18 bribe at issue, so I will use \$5,000 as the baseline penalty. I can modify this amount based on  
19 my consideration of the various aggravating and mitigating factors discussed above.

20 70. Here, there are some aggravating factors, including that attempted bribery is a serious  
21 offense, the deliberate and intentional nature of the violation, and the lack of voluntary steps to  
22 correct the violation.

23 71. However, there are several mitigating factors, including the fact that this appears to be an  
24 isolated incident and there is no evidence that Mr. Dabney has a record of prior violations of the  
25 GEA or any of the other statutes enforced by the PEC.

26 72. The ability to pay is an important factor for me to consider, but there is very little  
27 information in the record. And, as stated above, the Guidelines do not indicate whether a  
28 petitioner or respondent has the burden of putting on evidence as to this factor. The only



1 information in the record on this point shows that Mr. Dabney operates a small business, that his  
2 business experienced financial struggles during the COVID-19 pandemic, and that he was  
3 experiencing personal financial difficulties as recently as 2023.

4 73. Ultimately, weighing these factors with an eye to the guiding principle of ensuring  
5 fairness in the PEC’s enforcement actions, I recommend a penalty amount of \$1,500. This  
6 number is sufficiently severe given the seriousness of Mr. Dabney’s conduct, but it is not so large  
7 as to impose a financial difficulty, particularly for a small business owner who has testified as to  
8 recent financial strain. Indeed, based on the testimony in the record, \$1,500 is the maximum  
9 citation for continuing to vend without a mobile food vendor permit—the very outcome Mr.  
10 Dabney may have been trying to avoid by offering Mr. Campos a bribe.

11 **B. Recommended Penalty for Count 2 (GEA § 2.25.080(C)(7))**

12 74. The Guidelines provide no mainline penalty amount for violations of GEA §  
13 2.25.080(C)(7). I am still obligated to weigh the factors discussed above and come to a fair  
14 assessment of a penalty.

15 75. The assessment of factors for this violation overlaps to a considerable extent with Count  
16 1. While the submission of a false information to the PEC is certainly a serious matter and  
17 evinces a deliberate intent to mislead the PEC, weighed against that is the fact that Mr. Dabney  
18 does not have a history of any violations before the PEC, and the evidence described above  
19 tending to suggest a limited ability to pay.

20 76. As such, weighing the above factors, I recommend a penalty of \$250 for this violation.  
21  
22  
23  
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V. CONCLUSION

77. Based on all the foregoing, I find that Mr. Dabney offered Mr. Campos cash in exchange for the issuance of a mobile food vendor permit or to persuade Mr. Campos not to cite Mr. Dabney for operating an unpermitted mobile food vending operation. I also find that the information provided by Mr. Dabney to the PEC Enforcement Unit stating that he requested a loan from Mr. Campos is false. I conclude that Mr. Dabney violated GEA § 2.25.070(A) and recommend a fine of \$1,500 for this violation. I further conclude that Mr. Dabney violated GEA § 2.25.080(C)(7) and recommend a fine of \$250 for this violation.

Dated: January 28, 2025

By: /s/Karun A. Tilak  
Commissioner Karun Tilak

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# Item 5 - Final Action on PEC Case No. 23-28

In the Matter of Michael Dabney; Case No. 23-28

## **APPENDIX A**

**Exhibit List**

<b>Exhibit No.</b>	<b>Description</b>	<b>Page No.:</b>
E1-A	Email to Greg Minor	1
E2-B	Emails Mobile Food Vending Permit	2-3
E3-C	Mobile Food Vending Application	4
E4-D	Text Messages 2020-2023	8-9
E5-E	Log of Phone Call 8.18.23	10
E6-F	Email Thread 7.24.2023	10
E7-G	Flyer Food Truck Program	11

## Item 5 - Final Action on PEC Case Exhibit 5-28

**From:** [Minor, Gregory](#)  
**To:** [Campos, Moises](#)  
**Cc:** [Marcus, Nancy](#); [Flores, Gladylen](#); [Navarro, Sofia](#); [Russell, Simon](#)  
**Subject:** Re: Bribery 8/18/2023  
**Date:** Monday, August 21, 2023 7:04:37 AM

---

Thank you Moises for reporting this and for your integrity.  
Gladylen or Simon do you recommend any next steps? FYI mr. Dabney is a mobile food vendor who needs to obtain a permit from our office.

Thank you,  
Greg

Sent from my iPhone

On Aug 20, 2023, at 7:26 PM, Campos, Moises <MCampos2@oaklandca.gov> wrote:

Hi Greg,

On August 18<sup>th</sup>, I received a phone call from Michael Dabney, the owner of Italian Ice Cream, who stated that he wanted to discuss business with me. I asked what type of business and he said it involved him paying me in cash. I immediately told him that I could not take cash and he said okay and hung up the phone. I had the conversation on speaker phone with Nancy, who also heard the encounter.

I just wanted to bring this up to your attention.

Best,

Moises

## Item 5 - Final Action on PEC CaE&Nbit522B

**From:** [Mobile Food Vending](#)  
**To:** [Michael Dabney](#)  
**Cc:** [Mobile Food Vending](#)  
**Subject:** FW: APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)  
**Date:** Wednesday, October 7, 2020 12:43:56 PM

---

The status of your application is on hold until you provide the appropriate insurance certificate with Worker's Compensation. (See email below)

*Nancy Marcus*

Special Business Permits  
Office of the City Administrator  
1 Frank H. Ogawa Plaza – 1st Fl.  
Oakland, CA 94612  
510-238-3294  
510-238-7084 (fax)

**HOME OF THE 2015, 2017 & 2018**

**NBA CHAMPIONS – WARRIORS**

**City offices are currently closed, but we are working remotely.**

---

**From:** Mobile Food Vending <MobileFoodVending@oaklandca.gov>  
**Sent:** Friday, October 2, 2020 2:44 PM  
**To:** Michael Dabney <[REDACTED]> Mobile Food Vending <MobileFoodVending@oaklandca.gov>  
**Subject:** RE: APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)

Thank you for your application.

Your insurance certificate does not show Worker's Compensation. You identified you had 5 employees, and therefore are required to show Worker's Compensation coverage. Please send us this document at your earliest convenience.

Thanks,

*Nancy Marcus*

Special Business Permits  
Office of the City Administrator  
1 Frank H. Ogawa Plaza – 1st Fl.  
Oakland, CA 94612  
510-238-3294  
510-238-7084 (fax)

**HOME OF THE 2015, 2017 & 2018**

**NBA CHAMPIONS – WARRIORS**

**City offices are currently closed, but we are working remotely.**

---

**From:** Michael Dabney <[REDACTED].com>  
**Sent:** Thursday, October 1, 2020 11:51 AM  
**To:** Mobile Food Vending <[MobileFoodVending@oaklandca.gov](mailto:MobileFoodVending@oaklandca.gov)>; Mobile Food Vending <[MobileFoodVending@oaklandca.gov](mailto:MobileFoodVending@oaklandca.gov)>  
**Subject:** APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

YOUR URGENT ACTION REQUESTED:

Morning,

Attached is my application (again) for Mobile Food Vending Permit.

Required attachments and supporting documentation also attached.

I am and have been a key vendor as part of the Lake Merritt Vending Pilot Program.

Please expedite this application as best as possible.

Please advise if you require any additional information.

Regards,

Michael Dabney

Rainbow Italian Ice

*Bringin' the Flavor...Not the Fat!*

f: [REDACTED]

Insta: [REDACTED]

Tw: [REDACTED]



# APPLICATION FOR FOOD AND BEVERAGE VENDING PERMIT

## VENDING PERMIT

Special Activity Permits: 1 Frank H. Ogawa Plaza, Suite 123, Oakland, CA 94612  
City Administrator's Office: 510-238-2273

*You can submit your application via email to [mobilefoodvending@oaklandca.gov](mailto:mobilefoodvending@oaklandca.gov) or in person by calling (510)238-2273 to schedule an appointment. Please note only completed applications will be accepted. City of Oakland vending regulations during COVID-19 can be found on the Mobile Food Vending Program website: <https://www.oaklandca.gov/topics/food-and-mobile-vending-permits>*

### 1. GENERAL INFORMATION

BUSINESS NAME: Rainbow Italian Ice

DAYS OF WEEK / HOURS OF OPERATION: 11a-8pm

TYPE OF VENDING:  Roaming  Stationary (Public Right of Way)  Private Property

TYPE OF VEHICLE:  Sidewalk Trailer \_\_\_\_\_  Food Truck \_\_\_\_\_  Attached Trailer \_\_\_\_\_  
(License Plate #) (License Plate #) (License Plate #)

Pushcart  Other Stationary Cart NUMBER OF EMPLOYEES: 5 (Not including vendor.)

### 2. VENDOR INFORMATION

Vendor Name: Rainbow Italian Ice

Vendor Mailing Address: \_\_\_\_\_

City/State: San Leandro Zip: 94577

Vendor Phone No.: \_\_\_\_\_ Vendor E-mail: \_\_\_\_\_

Have you identified an authorized agent to submit the application on your behalf? If no, skip to Section 3. If yes, please complete below.

(Authorized Agent) Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ E-mail: \_\_\_\_\_

### 3. VENDING LOCATION

If Vending on Private or City Owned Property, Please List the Proposed Address:  
El Embarcadero, Oakland (tween Lakeshore & Grand Ave)

- Attach, approved zoning clearance form from the Planning Department
- Attach lease, or letter of authorization from property owner.



**4. SCHOOL WAIVER** To be completed only if vendor obtains a school waiver as detailed below.

Vendors may **not** sell within 300 feet of any school, between 7 a.m. and 6 p.m., Monday through Friday, unless a waiver from the school's **supervising entity\*** to serve healthy food is on file with the City of Oakland.

Applicant must complete this section if they are requesting a waiver from a school's supervising entity\* to help the supervising entity make a determination:

**Name of School:** \_\_\_\_\_

**Address of School:** \_\_\_\_\_

*I, the undersigned, have attached a copy of the menu, which shows that the vendor will only sell "healthy foods," such as fruits; non-fried vegetables; dairy foods; food made from nuts, seeds, legumes, cheese; foods made from whole grains (defined as 51% or more); foods which do not contain trans-fat. Beverages for sale in this definition include: water; 100% fruit or vegetable juice; nonfat and 1% milk; and non-dairy milk, such as soy. Sugar-sweetened beverages, candy and soda are not considered "healthy" under these guidelines.*

\_\_\_\_\_  
*Signature of Vendor*

\_\_\_\_\_  
*Date*

**TO BE COMPLETED BY SCHOOL'S SUPERVISING ENTITY\* (if waiver is granted):**

**Specify if there is any time of day when food vending is prohibited:** \_\_\_\_\_

**Please list any Restrictions:** \_\_\_\_\_

**School's Supervising Entity\*:** \_\_\_\_\_  
*(Printed Name, Title)*

\_\_\_\_\_  
*(Phone Number)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Date)*

\*For Oakland Unified School District schools (and certain Charter schools served by OUSD Nutrition Services), the supervising entity is the Executive Director of OUSD Nutritional Services.

*\*For Oakland Unified District schools (and certain Charter schools served by OUSD Nutrition Services), the supervising entity is the Executive Director of OUSD Nutritional Services.*

**5. RESTAURANT WAIVER**

To be completed if Food Truck or Attached Trailer is vending within 300-feet of a brick and mortar restaurant.

To be completed if Sidewalk Roaming vendor will be vending within 100-feet of a brick and mortar restaurant.

**Vendor must complete this section if they are requesting a waiver from a brick and mortar Restaurant:**

*For the owners of a restaurant or café within a buffer distance of a site where a food vendor is seeking a permit to vend food: With my signature, I authorize this application from a food vending business to sell Within the above-described buffer distances.*

**Café/Restaurant #1**

Restaurant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Contact information: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Café/Restaurant #2**

Restaurant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Contact information: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Café/Restaurant #3**

Restaurant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Owner's Name: \_\_\_\_\_

Contact information: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**6. SEND SUBMISSION REQUIREMENTS TO [MOBILEFOODVENDING@OAKLANDCA.GOV](mailto:MOBILEFOODVENDING@OAKLANDCA.GOV) OR IF YOU NEED AN IN PERSON APPOINTMENT CALL 510-238-2273**

**The following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.**

- (1) Mobile Food Vending Application (signed and completed)
- (2) Photographs - showing front, side view and back (including the license plate and Alameda County Health decal) of the vending vehicle
- (3) Proposed Menu (of items to be offered at the food vending vehicle)
- (4) Copy of Health Permit(s) from Alameda County's Department of Environmental Health
- (5) Verified Insurance Certificate

**If applicable:**

- (6) Proof of Fire Permit and/or Inspection Report
- (7) Lease, or letter of authorization from property owner (vending on private property)

<sup>1</sup> This fee is currently waived for the COVID-19 Applications. Permits issued are subject to change without prior notice. Note: Fees may apply for the permits or clearances required by other departments or agencies as part of this submittal.

*I certify that I am the vendor and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of food vending permits as determined by the City Administrator's Office. I understand that approval of this application does not confer any form of permanent land use entitlement to the person, group, entity or property associated with this permit. I also understand that the COVID-19 permit cannot be transferred or otherwise assigned to another person or entity. I agree to abide by all local, State and Federal requirements, including, but not limited to those listed in an associated Approval Letter issued by the City of Oakland, buffer, clearance and permission requirements related to the location of vending, and those laws relating to minimum wage and sick leave for employees.*

**I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.**



29 Sep 2020  
Date



Michael >



Jul 31, 2020 at 4:41 PM

Michael - Rainbow calling

Oct 7, 2020 at 11:02 AM

Michael-Rainbow Italian Ice calling.  
Call when you get a minute

Oct 7, 2020 at 2:12 PM

Hey Michael could you give me a call

Oct 7, 2020 at 3:17 PM

Sorry, I can't talk right now.

Read 10/7/20

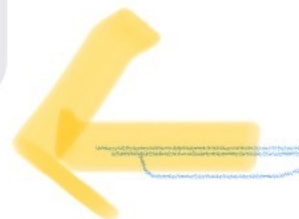
No worries. I was on phone long time with sacto earlier

Oct 7, 2020 at 4:45 PM

If you did get a status you can txt me. Know it's your off day so deal manana

Thursday 5:33 PM

Rainbow Italian ice calling you. Hit me back if got a minute





# Michael Italian Ice Cream



August 18, 2023

10:37 AM **Outgoing Call**  
1 minute

phone RECENT



FaceTime



**From:** [Campos, Moises](#)  
**To:** [Russell, Simon](#)  
**Subject:** Fwd: Rainbow Italian Ice  
**Date:** Wednesday, August 23, 2023 4:27:48 PM  
**Attachments:** [Flyer FTHF Abril 2023.pdf](#)

---

Here you go.

Moises Campos  
Special Activity Permits Division  
250 Frank H. Ogawa Plaza, 3rdFloor  
Phone: (510) 238-6521  
Cell: (510) 913-7029  
Email: [mcampos2@oaklandca.gov](mailto:mcampos2@oaklandca.gov)

---

**From:** Campos, Moises  
**Sent:** Monday, July 24, 2023 2:27:52 PM  
**To:** Michael Dabney <[REDACTED]>  
**Subject:** RE: Rainbow Italian Ice

Hi Michael,

Please see the attached.

Best,

Moises

---

**From:** Michael Dabney <[REDACTED]>  
**Sent:** Monday, July 24, 2023 2:23 PM  
**To:** Campos, Moises <[MCampos2@oaklandca.gov](mailto:MCampos2@oaklandca.gov)>  
**Subject:** Rainbow Italian Ice

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Moises,  
Per our conversation Sunday, share that financial info.  
Thank you

--  
Michael Dabney  
*Bringin' the Flavor...Not the Fat!*  
Rainbow Italian Ice

f: [REDACTED]  
Insta: [REDACTED]  
Tw: [REDACTED]



## ATTENTION

### FOOD ENTREPRENEURS

*Unique opportunity to obtain very low-interest loans.*

#### *About us:*

*Feed The Hunger Fund (FTHF) is a certified Community Development Financial Institution committed to providing free business assistance and low-interest flexible loan capital to food production entrepreneurs in California.*

#### *Type of Businesses:*

*cafes, restaurants, food trucks, small markets, and small health food stores.*

#### *Loans:*

- up to \$100,000*
- 5% fixed interest*
- 5-year term*

### COMERCIANTES DE COMIDA

*Oportunidad única préstamos a muy bajo interés.*

#### *Quienes somos:*

*El Fondo (FTHF) es una organización financiera de desarrollo comunitario comprometida a proveer asistencia de negocios gratuita y préstamos flexibles de bajo interés a negocios de producción de comida en California.*

#### *Tipos de negocios:*

*Cafés, restaurantes, camiones o carritos de comida, mercados y alimentos saludables.*

#### *Prestamos:*

- Hasta \$100,000*
- interés fijo del 5% anual*
- a pagar en 5 años máximo*

### *Mas información/Inquiries:*

*Meche Sansores.*

*Meche@feed-hunger.com 415-533-7171*

## Item 5 - Final Action on PEC Case No. 23-28

In the Matter of Michael Dabney; Case No. 23-28

# APPENDIX B



**IN RE MICHAEL DABNEY**

**PEC CASE NO. 23-28**

---

## Respondent's Exhibit List

**R1.** Sworn Affidavit of Christopher Williams

### Affidavit of Christopher Williams

State of California

County of Alameda

Christopher Williams, being duly sworn deposes and states as follows under penalty of perjury:

1. My name is Christopher Williams. I am presently 34 years old, and my current address of residence is [REDACTED] San Leandro, California 94577.
2. The purpose of this Affidavit is to Swear witness to a phone conversation of Michael Dabney with Moises Campos, City of Oakland employee on August 18, 2023.
3. I was with Michael Dabney at the time of the phone call received by Michael from Moises Campos. Michael was driving and the phone was on hands free speaker. Moises asked Michael what his call/txt about. Michael asked Moises if he would consider lending \$500 on a short term basis to help Michael out as personal loan. Moises stated that he couldn't do anything in the way of a loan to Michael and wished him the best with finding help. That was the end of the call.

I hereby Swear or affirm that the information above is true, accurate and complete to the best of my knowledge, and that no relevant information has been omitted.

Dated:

05/09/2024

Signature of Individual:



SEE ATTACHED FOR NOTARIZATION

Notary Public

\_\_\_\_\_

Title and Rank

\_\_\_\_\_

Date of Commission Expiry:

\_\_\_\_\_

CALIFORNIA JURAT

GOVERNMENT CODE § 8202



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on this 09 day of May, 2021, by  
*Date Month Year*



(1) Christopher Williams

(and (2) \_\_\_\_\_),  
*Name(s) of Signer(s)*

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature [Signature]  
*Signature of Notary Public*

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_



**Enforcement's  
Reply to the Findings of Facts and  
Conclusions**

# Item 5 - Final Action on PEC Case No. 23-28



Ryan Micik, Chair  
Francis Upton IV, Vice-Chair  
Tanya Bayeva  
Alea Gage  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Patrick W. Bears, Attorney for Enforcement Unit of the Public Ethics Commission  
DATE: March 6, 2025  
RE: *In the Matter of Michael Dabney (Case No. 23-28)*; Post Hearing Recommendation for the March 19, 2025, PEC Meeting

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## INTRODUCTION

The Enforcement Unit of the City of Oakland Public Ethics Commission (“Complainant”) brought this action to address violations of the Government Ethics Act (“GEA”) by local mobile food vendor Michael Dabney (“Respondent”). Complainant charged Respondent with two violations of the City of Oakland’s GEA: Soliciting a Bribe from a Public Official to Perform an Official Act and Lying to an Enforcement Officer During the Course of an Official Investigation. A hearing before Hearing Officer Karun Tilak occurred on January 23, 2025. Complainant was required to show that the violations occurred by a preponderance of the evidence.

Complainant presented evidence consisting of witness testimony by two city staff members and supporting documentary evidence showing Respondent violated the GEA. Complainant also recommended a base-level penalty amount of \$5,000 per GEA violation pursuant to the Public Ethics Commission (“PEC”) Penalty Guidelines, for a total of \$10,000.

Respondent also presented witness testimony and denied that he committed any violations of the GEA.

Hearing Officer Tilak submitted a recommendation to the Commission with findings of fact that conclude Respondent violated two provisions of the GEA and a recommended an administrative penalty in the amount of \$1,750.

Complainant reviewed the Hearing Officer’s report and joins in the recommendation that the Commission adopt the findings of facts as determined by the Hearing Officer. Complainant will defer to the Commission on the imposition of an appropriate penalty amount.

## I. BRIEF HISTORY

Respondent owns a mobile food vending company and operates throughout the Bay Area. From 2020 to July 2023, Respondent operated his business in the Lake Merritt area of the city even though he did not have a mobile food vending permit required by the City. Respondent applied for a mobile food vending permit in the fall of 2020, however, City staff never issued the permit because he did not meet the City’s

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requirements. Despite never issuing the permit for mobile food vending, City staff documented Respondent operating without a permit on multiple occasions from 2020 to July 2023 and warned him that he could be fined if he continued to operate in Oakland.

In August 2023, Respondent contacted a City Special Permit Inspector about his mobile food operation. On August 18, 2023, Respondent offered that City staff member money to assist with his unpermitted mobile food vending business. This conversation was overheard by two City staff members; they immediately reported the bribery attempt to the PEC resulting in an official investigation occurring from 2023-2024.

During the investigation, PEC Enforcement Investigator Simon Russell interviewed Respondent at his home. Respondent denied the bribery incident occurred and claimed that he asked City staff for a loan. Months later Respondent contacted PEC Investigator Russell and informed him of the existence of a witness that could corroborate his version of events. Following the interviews with Respondent, PEC Investigator Russel interviewed City staff again and they denied that Respondent asked for a loan. The staff members reiterated that Respondent attempted to bribe the Special Permit Inspector.

### II. PROPOSED DECISION

#### a. VIOLATIONS

The Hearing Officer's proposed decision finds Respondent, Michael Dabney, committed the following violations of the GEA:

##### 1. Count 1: Soliciting Bribes from a Public Official to Perform an Official Act

On August 18, 2023, Respondent violated O.M.C. § 2.25.070(A) by attempting to bribe a City Special Permit Inspector by offering money in exchange for help with his unpermitted business.

On August 18, 2023, Respondent violated Section 2.25.070(A) of the GEA by 1) making an offer 2) for a thing of value (money) 3) in exchange for an official act. Respondent offered money to one of Oakland's Special Permit Inspectors in exchange for help with his business, to either avoid enforcement penalties or to obtain a permit despite not meeting the City's requirements.

##### 2. Count 2: Lying to an Enforcement Officer During the Course of an Official Investigation

From October 1, 2023, through June 1, 2024, Respondent violated O.M.C. § 2.25.080(C)(7) provided false statements to the PEC during an official investigation.

Respondent violated Section 2.25.080(C)(7) of the GEA because he 1) submitted false information/misrepresentation of a material fact 2) knowingly and intentionally 3) to PEC investigator during an official investigation. Respondent on multiple occasions knowingly and deliberately provided false information to PEC Investigator Simon Russell while he was investigating Respondent's bribery allegations. Respondent knowingly provided false statements to PEC investigator Russell during an initial interview and months later during another conversation.

### **b. PENALTY**

The Hearing Officer's proposed decision recommends that the Commission impose a total administrative penalty of **\$1,750** for the two violations of the GEA. The decision recommends a penalty of \$1500 for the first violation (bribery) and \$250 for the second violation (providing false statements to PEC's enforcement unit).

### **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 § VII(I)(2).)

If the Commission decides to adopt 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 \$1,750.

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 § VII(J).)

#### **a. Aggravating Factors and Mitigating Factors**

The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty

For serious violations, such as Bribery and violations that do not qualify for a warning letter or the streamlined stipulation program, the PEC will start a penalty amount with a "base-level" amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action. The PEC's guidelines for Bribery start with a recommended penalty of \$5,000; the guidelines do not have a recommended amount for lying to an enforcement officer during an official investigation.

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### 1. Aggravating Factors

Here, the circumstances of Respondent's conduct demonstrate the following aggravating factors:

1. Respondent is a mobile food vendor that attempted to bribe staff so that he could operate without a mobile food vending permit. The permit is designed to protect Respondent's employees and the public by requiring certain health and safety standards Respondent was unable to attain;
2. Respondent attempted to deceive PEC staff member Simon Russell by providing a false statement about the bribery incident;
3. Respondent's conduct was deliberate as he knowingly and willing attempted to bribe a city official and deceive the PEC;
4. Respondent failed to take any steps to cure any of the enumerated violations. He never attempted to obtain a mobile food vending permit to legally operate in the City nor did he provide truthful information to the PEC.

### 2. Mitigating Factors

There are also mitigating factors present consistent with the penalty assessed in the findings of fact and conclusions:

1. The bribery attempt was an isolated incident;
2. Respondent has no history of ethics violations with the City of Oakland;
3. Respondent testified at the hearing that his business was struggling financially.


Complainant believes that it is necessary to impose some penalty for Respondent's violations as it will deter future violations by him and other potential offenders. However, Complainant will defer to the PEC on the appropriate amount of civil penalties based upon how it decides to weigh the aggravating and mitigating factors.

## IV. COMMISSION RECOMMENDATION

Complainant recommends that the Commission adopt the Hearing Officer's proposed factual and legal findings. Complainant will defer to the Commission the imposition of the appropriate administrative penalty.

Dated: March 6, 2025

Ryan Richardson, City Attorney

By:   
PATRICK W. BEARS, Deputy City Attorney  
Attorneys for Complainant,  
CITY OF OAKLAND PUBLIC ETHICS COMMISSION



**Respondent Michael Dabney's  
Reply to the Findings of Facts and  
Conclusions**

PEC CASE 23-28

March 6, 2025

It is a serious travesty that City officials/employees decided to lie and falsely accuse me of offering to bribe one Moises Campo. I had no motivation at the time to bribe Moises as I had no need of any services or actions by him for my business operations. The City of Oakland is wrong for building a case on such unfounded basis and wasting time and money when their resources could be better served rounding up the myriad of illegal food operators around the greater Oakland area. With the exception of the short time during COVID shut-down, I have operated my business compliant with requirements for permits, licenses, and other rules. In 20 years of operations, I never needed a Vendor Permit for Oakland except to try to comply during the COVID response around lake merritt. Which is why I initiated the Vendor Permit application. Except for the operations around lake merritt, my business does not require such permit as 99% of my business operations are performed under special event permits by event coordinators or promoters all over Northern California. For which an Oakland Vendor permit is not relevant. Unfortunately, the Commissioner has ruled in favor of the PEC. So now I'm just a wrongly accused black man/business owner.

I do not regret my actions with Moises as it was a harmless request for a loan and not to offer HIM money. He lied as if he had a vendetta and incorporated a co-worker to corroborate. The city attorney simply made every effort to push the allegations through.

This is my story and I'm sticking to it. I will never admit to being guilty of these findings.

**Fact:**

In Oct 2020 I did initiate an application for a permit to properly vend around lake merritt. This was at the height of COVID. Lake Merritt had become a prime location to operate, given all other routine and normal revenue sources were shut down.

The application, however, stalled because I would be required to purchase Workers Comp Insurance to complete the application. This coverage was simply cost prohibitive at the time, so I did not continue to pursue the permit.

**Fact:**

Three years later, by August 2023, I was no longer operating around lake merritt as COVID restrictions were long since lifted and my business had resumed normal operations at public events. The need for a City Permit no longer existed.

**Fact:**

In 2023, I was experiencing some final hardship. I contacted Moises solely to ask him if he would loan me \$500 to help. He simply stated that he could not do this, I said ok and that was the extent of the phone call. I did not offer to give him money. I had no need to attempt to bribe a city official. There was nothing I needed from Moises during this time. So I had no reason or cause or objective that be could be aided by Moises. I simply was not needing to complete the permit application or needing assistance with any other city related matters.

**False:**

I never offered Moises money.

I never asked Moises to perform any official act related to my business

I provided a true statement to city investigator that I “simply asked Moises to loan me money”. Nothing in this one-time call involved me “offering” Moises money.

**Statement:**

I regret that Moises felt a need to twist my request for a loan into an offer of money! I regret that the City has spent all this time and money to build a case of “bribery” on a statement/allegation. That I had motivation or need to offer money to Moises is unfounded. That I would be so unsophisticated and unprofessional to attempt to establish that I would try to bribe a City official even where there is no real purpose or need, is an insult and borders on attempt to strike a blow or defame a proper Oakland Small Business.