



Note: Plain text is language from last year that will remain this year; italicized text is from last year that will be deleted this year; bold text is new this year.

# San Francisco Ethics Commission

## Annual Report July 1, 2011 - June 30, 2012

The Ethics Commission is pleased to present this report on the activities, progress, and accomplishments of its *sixteenth* **seventeenth** year of operation to the Mayor, Board of Supervisors, and citizens of San Francisco.

Benedict Y. Hur  
Chairperson

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**SAN FRANCISCO ETHICS COMMISSION  
ANNUAL REPORT FY 2011-2012**

The Ethics Commission serves the citizens of San Francisco, City employees, elected and appointed officials, and candidates for public office by enforcing the City's governmental ethics laws, providing education about their provisions, and serving as a repository for information.

The Commission acts as filing officer for campaign finance disclosure statements; audits statements for compliance with state and local laws; administers City laws regulating lobbyists and campaign consultants; investigates complaints alleging ethics law violations; serves as the filing officer for financial disclosure statements required from City officials; raises public awareness of ethics laws; researches and proposes ethics-related legislative changes; and provides ethics advice to candidates, office-holders, public officials, City and County employees and the general public.

The Commission is pledged to a high standard of excellence in government accountability, and to that end has worked not only to implement the law, but also to amend existing law or create new law that will further the principle of the voters' right to know and to ensure integrity in government decision-making and in the campaigns of those who wish to govern.

**HIGHLIGHTS OF THE SEVENTEENTH YEAR**

The Commission delivered a diverse array of work products and services to the citizens of San Francisco, managing to meet its mandates during a year of budget cutbacks and other resource limitations:

- *Enforced reporting requirements for political committees, campaign consultants, lobbyists, and City officials;*
- *Conducted compliance audits of candidate and ballot measure committees;*
- *Continued the constant review of the Campaign Finance Reform Ordinance, making recommendations to the Board of Supervisors on changes to strengthen, clarify, and update campaign finance law. Drafted and adopted regulations to implement such changes;*
- *Created a ballot proposal to update and streamline the Campaign Consultant Ordinance;*
- *Conducted on-going sessions of its educational program on conflicts of interest, incompatible activities, candidate and treasurer information, campaign finance, public finance, on-line filing, lobbying, and other issues under its jurisdiction;*
- *Provided informal written or oral advice and responded to requests for informal and formal written advice letters;*
- *Added improvements to the new web site at [www.sfethics.org](http://www.sfethics.org) and continued to extend the nature and number of documents available on-line;*
- *Facilitated interested persons meetings for the general public to provide input on issues under consideration by the Commission;*
- *Conducted hearings on requests for waivers from conflict of interest laws;*

- *Considered and adopted or provided comment on legislative changes recommended by the Board of Supervisors;*
- *Responded to hundreds of citizen inquiries; and*
- *Conducted an in-depth policy analysis and followed through with a number of policy updates and changes. Set the following policy priorities for the Commission and staff:*

1. *Mayoral Public Financing Program*
2. *Campaign Consultant Ordinance*
3. *Staff Building*
4. *Education and Outreach*

- **For the first time, the City began televising Ethics Commission meetings on SFGovTV. The Commission had to undergo some financial and scheduling challenges to make this happen, but was able to meet them and all Commission meetings are broadcast live when they occur. The City also airs “reruns” of Commission meetings, and all of them are available on demand at the SFGovTV web site. <http://www.sfgovtv.org/> The Commission approved changes to its Bylaws to provide that beginning in January 2012, the Commission’s regular meetings will be held on the fourth Monday of each month at 5:30 p.m. in Room 400 City Hall, and that such meetings shall be televised, except for portions of meetings that are held in closed session or otherwise required to be confidential.**
- **Draft amendments to the Campaign Consultant Ordinance, which were approved by the Ethics Commission in December 2010 and January 2011, were placed by the Board of Supervisors on the ballot as Proposition F in the November 8, 2011 election. The proposed amendments, which were not approved, would have:**
  - adopted an electronic filing system for reporting by campaign consultants;
  - required consultants to disclose information on a monthly basis;
  - changed the economic threshold for qualification as a campaign consultant;
  - modified the registration fees;
  - eliminated the client fees; and
  - enabled the Board of Supervisors to amend the Ordinance under certain circumstances.
- **In fulfilling its mandate under Charter section 15.105, the Ethics Commission this year held a hearing spanning eight meetings (three of which occurred in the new fiscal year beginning July 2012) related to the written charges of official misconduct filed by Mayor Ed Lee against Sheriff Ross Mirkarimi. The Commission addressed, among other things, procedural and evidentiary issues, the parties’ briefs, objections to evidence and witnesses, sworn declarations, direct testimony and questions raised on and responses to cross-examination, and the parties’ agreed-upon factual stipulations. At its meeting on August 16, after receiving public comment, the Commission voted to recommend to the Board of Supervisors that it sustain Counts 4 and 5 of the Amended Charges of Official Misconduct based upon Sheriff Mirkarimi’s conduct that occurred on December 31, 2011 and his subsequent conviction for false imprisonment.**

- In July 2011, the Commission approved amendments to section 1.144 of the Campaign Finance Reform Ordinance (CFRO) to address the U.S. Supreme Court's decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*. These amendments were introduced by Supervisors Farrell and Elsbernd at the Board of Supervisors. On September 27, 2011, the Board voted 7-3 to support the amendments. Because eight votes were needed for passage, the Board rescinded the vote. On October 4, the Board voted 6-5 in favor of the amendments. However, because eight votes were needed for passage, the amendments failed.
- At its January 23, 2012 meeting, the Commission approved by 4-0 vote new amendments to the CFRO. On January 24, 2012, Supervisors Kim, Campos, Mar and Avalos introduced these amendments as File No. 111082. The legislation amended the CFRO to establish new qualification requirements for candidates seeking public funds, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the matching funds formula, and continue with adjustable individual expenditure ceilings that start at \$250,000 for a candidate for the Board of Supervisors and \$1,750,000 for a candidate for Mayor.
- At its special meeting on March 9, 2012, the Ethics Commission approved amendments to File No. 111082, legislation to amend the CFRO to establish new qualification requirements for candidates seeking public funds, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the matching funds formula, continue with adjustable individual expenditure ceilings that start at \$250,000 for a candidate for the Board of Supervisors and \$1,475,000 for a candidate for Mayor, and cap the Election Campaign Fund at \$7 million. The legislation was subsequently approved by the Board of Supervisors.
- At its September 12 meeting, the Commission approved amendments to Ethics Commission Enforcement Regulations VIA and XIV.C to permit the Commission to calendar proposed dismissals or settlements of enforcement matters based on the request of one, rather than two, Commissioners. These amendments were forwarded to the Board of Supervisors and took effect on November 11, 2011.
- During the year, the Commission considered provisions in the Statements of Incompatible Activities (SIA) for the General Services Agency (GSA), the Department of Human Resources (DHR) and the San Francisco Public Library (SFPL). The Commission approved changes to the SIAs of the DHR, which asked that its SIA be amended so that it better aligns with the department's confidentiality policy; and the SFPL, which asked that certain provisions be narrowed so that they not unduly restrict employees from engaging in activities that actually inure to the benefit of the employees as well as advance the mission of the SFPL.
- The Commission considered waiver requests from the post-employment restrictions under the Government Ethics Ordinance (GEO). It approved a request by former

Deputy City Attorney Thomas Long for waivers from the post-employment bans against representing a non-City party before a court or administrative agency on matters in which he represented the City and against communicating with his former City department for one year with the intent to influence a governmental decision. The Commission adopted staff's recommendations supporting the waiver for appearances before a court or administrative agency and limiting the waiver of the one-year ban to Mr. Long's communications on behalf of his then-current employer, The Utility Reform Network ("TURN").

- The Commission also granted requests for waivers from two post-employment restrictions to Tiffany Bohee, Interim Director of the Redevelopment Agency of the City and County of San Francisco ("SFRA"), which permit Ms. Bohee, a former employee of the Office of Economic and Workforce Development ("OWED"), to continue to work on a pending legislative packet to fund redevelopment activities in San Francisco and to communicate with her former department on behalf of the SFRA.
- The Commission considered a request for a waiver from the one-year post-employment restriction that applies to legislative aides of the Board of Supervisors under sections 3.234(a)(2) and 3.234(b)(1) of the GEO. After receiving testimony from Robert Selna, a former legislative aide to former Supervisor Ross Mirkarimi, and members of the public, the Commission did not take a vote on Mr. Selna's request.

#### MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

*The Commission is managing to meet its mandates with 17 staff members, down from the 18 staff members who were present three years ago. Incremental budget decreases have led to a loss of staffing. The Commission manages to meet solidly its obligations but is limited in the number and scope of new initiatives and improvements that it can make due to budget shortfalls that currently affect all of City government. While accomplishments are not as sweeping as in prior years, the Commission managed to conduct its business and produce some new efficiencies and improvements.*

*On June 30, 2011, the Civil Grand Jury issued a report entitled "San Francisco's Ethics Commission: The Sleeping Watch Dog," which is available at <http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=2860>. On August 12, 2011, the Commission issued its response, which is available at <http://www.sfethics.org/ethics/2011/09/ethics-commission-response-to-the-2010-2011-civil-grand-jury-report.html>.*

#### Campaign Finance Regulation and Reporting

*The Commission enforces the City's Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq., which sets*

*voluntary ceilings on campaign expenditures by candidates and imposes mandatory limits on contributions to candidates.*

*The Commission regularly reviews the operation of the CFRO, enacts enabling regulations, and proposes substantive and operational changes. It also advises on amendments proposed by the Board of Supervisors.*

*This year, staff has continued its review of the CFRO, and conducted two interested persons meetings about possible amendments to consolidate several of the reporting requirements mandated under the Ordinance. These draft amendments will likely come before the Commission for review and discussion in October 2011. Recently, at its July 2011 meeting, the Commission approved amendments relating to the City's partial public financing program to place a cap on the amount of public funds that may be disbursed to each certified candidate. This legislation is pending before the Board of Supervisors.*

*Earlier in the year, at its October 2010 meeting, the Commission approved changes to section 1.126 of the CFRO. These amendments, if enacted, would allow campaign contributions to be made by individuals affiliated with non-profit organizations that contract with local agencies; allow such contributions to come from parties that contract with state agencies whose board members are appointed by local elected officials; refine the scope of the contractor contribution ban so that it applies only to contracts or a series of contracts worth \$100,000 or more; and amend related filing and disclosure requirements. At this point, the Board of Supervisors is not expected to consider these improvements and, therefore, they will not be enacted in the foreseeable future.*

*Under the Charter, the Commission serves as filing officer for five categories of local candidates and committees:*

- 1. Candidates seeking election to local office and their controlled committees,*
- 2. Committees formed or existing primarily to support or oppose candidates seeking election to local office,*
- 3. Committees formed or existing primarily to support or oppose qualification or passage of a ballot measure being voted on only in San Francisco,*
- 4. County general-purpose committees active only in San Francisco, and*
- 5. Candidates and candidate committees for county central committee office.*

*As filing officer, the Commission promotes compliance by candidates and committees and maintains records of reports filed. It audits campaign statements and imposes late fines and/or penalties for failure to adhere to filing deadlines and reporting requirements.*

*Regular semi-annual filings for active committees occurred on August 2, 2010 and January 31, 2011. Quarterly filing deadlines occurred on October 5 and 21, 2010 for committees primarily formed to support or oppose a ballot measure(s) not yet voted upon. The Commission reminded committees of the deadlines, sent out notices to delinquent filers, and posted reports on its web site, [www.sfethics.org](http://www.sfethics.org).*

*Staff continued to send out advance notices through mail, email and phone calls in order to reduce the number of late filings.*

*Campaign Finance* – (See discussions above.) *The Commission will consider staff recommendations to amend the CFRO at its October 2011 meeting.*

*Conflicts of Interest* – *The Commission continued to provide trainings on Statements of Incompatible Activities. Also, during the year, the Commission approved:*

- *An amendment to section 3.216(b)-5 of the Government Ethics Ordinance (“GEO”), San Francisco Campaign and Governmental Conduct Code section 3.200 et seq., to clarify that all gift cards and gift certificates are to be treated as cash under this section of the ordinance that addresses gifts from restricted sources.*
- *An amendment to section 3.234(b)(2) of the GEO to permit an appointed Mayor who does not seek candidacy for that office to obtain full-time City employment within one year of leaving office. The amendment restricts the former Mayor to obtaining a position that, in the first year, pays no more than the salary that he or she received immediately prior to appointment as Mayor.*
- *A request for a waiver from the one-year post-employment ban on compensation from contractors under GEO section 3.234(a)(3) by Doug Shoemaker, head of the Mayor’s Office of Housing, so that he could assume a position as President of Mercy Housing California.*
- *Requests for waivers from the one-year post-employment communications ban and the ban on compensation from contractors under sections 3.234(a)(2) and 3.234(a)(3) of the GEO, respectively, by Office of Economic and Workforce Development employee Kyri S. McClellan so that she could assume the executive director position on the San Francisco America’s Cup Organizing Committee.*

### **Campaign Finance Reform Ordinance**

**During the year, the Commission approved amendments to the Campaign Finance Reform Ordinance (“CFRO”) related to the public financing program for candidates to the Board of Supervisors and the office of the Mayor. In particular, the amendments sought to address issues raised by the U.S. Supreme Court’s June 27, 2011 decision in *Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett*, which held that Arizona’s matching public funds program “substantially burdens protected political speech without serving a compelling state interest and therefore violates the First Amendment.” Staff worked with Supervisor Kim and others to craft the amendments, which address not only the situation created by the *Bennett* decision but also concerns that were raised at Interested Persons meetings that candidates must do more to show viability before receiving public funds and that public funds should be disbursed beginning on a date later than February of the election year. The amendments establish new qualification requirements for candidates, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the qualifying and matching funds formula, and continue with an**

**adjustable individual expenditure ceiling. After consideration by the Board of Supervisors, the Commission approved three additional amendments that (1) lower the cap on the Election Campaign Fund from \$13.5 million to \$7 million, (2) make a conforming change in the provision addressing when the Executive Director must notify the Commission and the Board of Supervisors about the amount of funds available in the Election Campaign Fund and when the Executive Director may request a supplemental appropriation, and (3) leave the current Individual Expenditure Ceiling for publicly-financed Mayoral Candidates at the current level of \$1.475 million. These proposals all passed at the Board of Supervisors.**

**The Commission also approved amendments to the CFRO to delay certification of candidates for the Board of Supervisors who seek public funds for the November 2012 election until the Redistricting Task Force completed the new district boundaries on or around April 15. This provision also passed at the Board.**

**Finally, the Commission approved a number of substantive and technical amendments to the CFRO which were based on input from Interested Persons meetings. These amendments would have, among other things, set forth and consolidated disclaimer and disclosure requirements for communications that are paid for by third parties and that concern candidates for City elective office; establish the content and form of disclaimer statements on third party communications and require that disclaimers appear in 14-point font on written communications; establish a standard timing requirement for all disclosure reports to be filed by candidates and third parties who distribute communications regarding candidates for City elective office; excluded certain compliance costs from the determination of whether to lift the Voluntary Expenditure Ceiling or adjust the Individual Expenditure Ceiling; preserve the \$500 per person contribution limit to candidates, but adding language to require the Commission to adjust annually the limit according to changes in the Consumer Price Index from a February 2012 base, provided that the Commission ratifies any changes; deleted the overall limit on contributions that a person may make to all candidate committees; deleted the requirement that a candidate seeking public funds must have filed a statement that he or she intends to participate in the public financing program; and deleted a requirement that applicants for public financing agree (i) not to pay any campaign vendors or contractors in return for a contribution and (ii) not to make more than 50 total payments to a vendor or contractor that has made a contribution to the candidate. Unfortunately, these amendments did not pass at the Board.**

**During the year, the Commission, in considering the matter of the Progress for All Committee and Support Drafting Ed Lee for Mayor 2011 Committee, committees formed to urge Interim Mayor Ed Lee to run for Mayor, determined that Interim Mayor Lee was not a candidate within the meaning of the Political Reform Act by virtue of his appointed office. The Commission also held that persons who worked on or volunteered on the committees are not necessarily prohibited from working or volunteering on the Mayor Lee candidate committee. However, should facts surface that coordination occurred between Mayor Lee and such committees, such allegations will be investigated under the Commission's enforcement regulations. The Commission instructed staff to develop legislation or regulations to provide guidance in this area.**



## Public Financing

*For the November 2, 2010 election 22 candidates for the Board of Supervisors qualified to receive public funding totaling \$1,477,713, an average of \$67,169 per eligible candidate. While some of these funds were disbursed in FY 09-10, most of the disbursements, a total of \$1,081,472, occurred during FY 10-11. The per candidate available disbursement limit (PCADL) for the November 2010 election was \$293,288 and the highest amount of public funds distributed to any candidate was \$140,572. Candidate spending in the election totaled \$3,581,175 and third party spending totaled \$1,305,460. The highest level to which the Ethics Commission raised a candidate's Individual Expenditure Ceiling was \$493,000.*

*Beginning in February 2011, the Commission began the administration of the public financing program for candidates for Mayor in the November 2011 election. For the FY 10-11, the Commission disbursed a total of \$2,686,699 in public funds to eight eligible mayoral candidates.*

*The Commission conducted several trainings and provided other outreach on the supervisorial and mayoral programs.*

**For the November 8, 2011 election nine candidates for Mayor qualified to receive public funding. A total of \$11,094,247 in the Election Campaign Fund was available for disbursement. On the 59th day before the election the Executive Director was required to calculate the Per Candidate Available Disbursement Limit. Prior to this date, eligible candidates could receive up to \$900,000 each. The Per Candidate Available Disbursement Limit was determined to be \$1,232,694. However, at the time that the Commission notified Mayoral candidates of the Per Candidate Available Disbursement Limit, the Commission also informed candidates of pending legislation that would have capped the disbursements at \$900,000 per candidate in response to the Supreme Court's June 27, 2011 decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*.**

**The nine eligible candidates received a total of \$4,696,390 in public funds, an average of \$521,821 per candidate. Because the individual expenditure ceiling was raised for every publicly-financed candidate and the Per Candidate Available Disbursement Limit was greater than \$900,000, candidates were eligible to receive more than \$900,000 based on the amount of matching contributions raised; none of the nine publicly-financed candidates received more than \$900,000. The highest amount disbursed to any candidate was \$720,690.**

**Candidate spending in the election totaled \$11,360,605 and third party spending totaled \$2,569,035. The highest level to which the Ethics Commission raised a candidate's Individual Expenditure Ceiling was \$2,675,000.**

**In spring 2012, the Board of Supervisors approved changes to the public financing program in response to the decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*. The changes also involved raising the qualification threshold for Supervisorial candidates from \$5,000 to \$10,000 and raising the individual expenditure**

**ceiling for qualified Supervisorial candidates from \$143,000 to \$250,000. For the November 6, 2012 election, the Commission disbursed, in FY 11-12, a total of \$20,000 to one eligible candidate. The other participating candidates applied for and received public funding in the following fiscal year, FY 12-13.**

**The Commission conducted several trainings and provided other outreach on the supervisorial and mayoral programs.**

#### Audit Program

The Commission serves as the filing officer of campaign statements that are filed by San Francisco candidates and other committees that support or oppose local ballot measures or candidates. The Commission conducts audits of committees that are selected under a random selection process and mandatory audits of publicly funded candidates.

#### Statement of Economic Interests (SEI), Sunshine Ordinance Declaration, and Certificate of Ethics Training

*Elected officials, department heads, and members of decision-making boards and commissions file the SEI, Sunshine Ordinance Declaration, and Certificate of Ethics Training with the Ethics Commission to provide financial interest information and to verify that they have completed governmental ethics training. Some original SEIs filed by elected officials are forwarded to the Fair Political Practices Commission, the state agency that regulates SEIs.*

*On the SEIs, filers list financial interests such as stocks, investment property, gifts, and income. SEIs are public documents that provide financial interest information to ensure that public officials are not making governmental decisions that inure to their own benefit.*

*Both the Sunshine Ordinance Declaration and Certificate of Ethics Training verify that the filer has read the Sunshine Ordinance and watched the governmental ethics training video “Rules of Conduct for Public Officials.” This training, found on the City Attorney’s website, provides information on governmental ethics laws, public disclosure rules, and public meeting requirements. Customarily the Ethics Commission coordinates with the City Attorney’s office to present a revised training every two years. The “Rules of Conduct for Public Officials” training was last hosted on March 2, 2009, and the next training will be provided sometime in spring of 2012. In the mean time, filers may meet the requirements found on both forms by watching the most recent version available on the City Attorney’s web site or linked from the Commission’s web site.*

*The 693 SEIs, 414 Sunshine Ordinance Declarations, and 299 Certificates of Ethics Training filed with the Ethics Commission this year are available on the Commission’s website. As of June 30, 21 members of boards and commissions did not file their annual SEIs. (This number was reduced to three as of August 26, 2011.)*

**In the last two years, the Commission, with the help of a great team of volunteer interns, scanned and archived SEI files from 1975 to 2006. Although the Commission is only required to keep SEIs for 7 years, staff felt it was important to retain the SEI records for historical value. Having**

scanned archives of SEIs that go back to 1975 allows the public to view SEI filings from 1975 to 2006 in the public area from a computer station versus waiting for staff to search through boxes. Filings from 2007 to 2012 can be viewed on the Ethics Commission website.

The 570 Statements of Economic Interests, 418 Sunshine Ordinance Declarations, and 321 Certificates of Ethics Training filed with the Ethics Commission this year are available on the Commission's website. The reduction of numbers compared to last year is a result of the SEI SFEDS being restructured and organized by filer versus by position.

For example, if a commissioner served on more than one commission, the former system was organized in a way that staff was required to open multiple accounts for each position and data enter the SEI filings in multiple times. With the new structure, a filer has an account and staff can add multiple positions. This means that in this year, staff spent a substantial amount of time to comb through the data to make sure that each commissioner account was accurately transferred over and reflected all the filer's positions. Due to this technical, quality control, and clean-up work, staff's normal process of notification was not as rigorous; however, staff believes that its efforts will result in improved filer compliance in the long run.

Due to the exciting potential changes on the horizon for the SEI Program, staff focused on preparing the e-filing system to go paperless. Currently the California Senate is discussing an expedited bill to allow local jurisdictions to require e-filing for SEIs. So far, most of the various voting groups have unanimously chosen in favor of allowing local jurisdictions to go paperless. The status of this bill number 2062 can be tracked at (<http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml>)

By reviewing and updating 1,163 filer accounts and uploading filings as needed, staff is doing what it can to ensure that the very likely transition to paperless filings will go smoothly. If local jurisdictions are allowed to go paperless, this means that in 2013, instead of spending months to enter the approximately 1,500 SEI-related forms the Commission receives each year, the Commission will be able to focus its limited staff resources on tracking and notifying filers. Focusing staff efforts on educating commissioners and addressing issues with filers as soon as possible will result in better compliance.

#### Lobbyist Registration and Reporting

*Lobbyists are required by ordinance to register with the City and file monthly reports of any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure completeness and accuracy.*

*During its previous extensive review of the Lobbyist Ordinance, the Commission determined that it would move to an electronic filing format, which took effect on January 1, 2010. This change has allowed for more timely filings and greater public access to each lobbyist's disclosures. The electronic database allows the public to conduct customized searches for information rather than laborious manual searches through paper filings. Staff has worked with the filing system provider to streamline the electronic filing system and continues to listen to feedback by the*

*public and registered lobbyists to ensure both users and the public are able to access the system with greater ease.*

**Lobbyists are required by ordinance to register with the City and file monthly reports about any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure that they are accurate and complete.**

**The electronic filing process has enabled more timely filings and greater public access to individual lobbyist disclosure statements. The electronic database enables the public to conduct customized searches rather than tedious manual paper searches. Staff has worked with the filing system provider to streamline the system and continues to listen to feedback from the public and registered lobbyists to ensure that they are able to access the system with greater ease.**

#### Campaign Consultant Registration and Reporting

*The Campaign Consultant Ordinance, passed in 1997, requires any individual or entity that earns \$1,000 or more in a calendar year in exchange for providing campaign consultant services to register with the Ethics Commission and file quarterly disclosure statements. The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes without additional voter approval. A ballot measure with proposed amendments to the Ordinance will be on the November 2011 ballot.*

*Campaign consultants are required to report names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Staff prepares a summary of the quarterly statements and posts the summary on the Commission's website. For the 2010-2011 fiscal year, there was an average of 33 consultants registered with the Commission and over \$4.2 million in payments reported as promised or received.*

*In early August 2011, staff conducted an audit of all 2011 campaign statements filed with the Ethics Commission. Staff continues to ensure that all consultants required to be registered with the Commission file their registration forms and pay their registration fees.*

**The Campaign Consultant Ordinance, passed in 1997, requires any individual or entity that earns \$1,000 or more in a calendar year in exchange for providing campaign consultant services to register with the Ethics Commission and file quarterly disclosure statements. The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes without additional voter approval. A ballot measure with proposed amendments to the Ordinance was not passed by the voters during the November 2011 election.**

**Campaign consultants are required to report names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Staff prepares a summary of the quarterly reports and posts the summary on the Commission's website. Staff continues to ensure that all consultants**

required to be registered with the Commission file their registration forms and pay their registration fees.

**During the 2011-2012 fiscal year, there was an average of 44 consultants registered with the Commission and over \$5.1 million in payments reported as promised or received. In addition, during the campaign for the November 2011 election, the Commission had the highest number of registered consultants that it has had since 2003.**

### Investigations and Enforcement

*The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interests, lobbyists, campaign consultants, and governmental ethics. In addition, the Whistleblower Ordinance directs the Commission to investigate charges of retaliation directed against complainants. During the 2010-2011 fiscal year, staff resolved 20 cases. This number does not include the myriad of other cases that come before staff but that were determined not to be within the jurisdiction of the Commission. The Commission entered into six settlement agreements during the year.*

**The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interests, lobbyists, campaign consultants, and governmental ethics. In addition, the Whistleblower Ordinance directs the Commission to investigate charges of retaliation directed against complainants. During the 2011-2012 fiscal year, staff resolved 18 cases. This number does not include the myriad of other cases that come before staff but that were determined not to be within the jurisdiction of the Commission.**

### Enforcement Regulations

*Staff is currently reviewing and preparing updates of its enforcement regulations regarding complaints alleging willful violations of the Sunshine Ordinance. The Sunshine Ordinance Task Force delivered its recommendations on these proposed regulations on August 1, 2011. The Commission will likely consider these amendments in the near future.*

**Staff is currently reviewing and preparing updates of its enforcement regulations regarding complaints alleging violations of the Sunshine Ordinance. The Ethics Commission held a joint meeting with the members of the Compliance & Amendments Committee of the Sunshine Ordinance Task Force on April 13, 2012. The Commission will likely consider these amendments before the end of 2012.**

**The Commission approved amendments to Ethics Commission Enforcement Regulations sections VI.A and XIV.C to permit the Commission to calendar proposed dismissals or settlements of enforcement matters based on the request of one, rather than two, Commissioners.**

## Education and Outreach

*The Commission's commitment to educate the public about San Francisco's ethics laws and to support campaign reform and government accountability efforts is consistent with City and state policy.*

*In addition to in-person and web trainings, the Commission provides information to elected officials, members of boards and commissions, City departments, candidates, treasurers, lobbyists, campaign consultants, and members of the public about ethics-related laws and requirements on a day-to-day basis.*

*Compared to last year, staff conducted an additional 43 workshops. Of the total 68 trainings provided this year, 58 were in-person trainings or meetings. Ten trainings are videos available on the Commission's website.*

*Because the Educator/Outreach Coordinator continued to administer the Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training, all time-consuming tasks, resources were focused on producing online training videos that can be viewed anytime on the web. This year, the Commission posted web training videos that range from 26 minutes to 56 minutes each. The ten training videos on the web and in-person trainings have received positive feedback for their accessibility, usefulness, and ability to provide complex information in an approachable manner.*

**Staff provided or participated in 36 trainings or meetings related to matters within the jurisdiction of the Ethics Commission. Of the 36 trainings provided, 25 were in-person trainings or meetings and 11 were web training videos.**

**This fiscal year, the Educator/Outreach Coordinator continued to take on additional tasks of administering the Statements of Economic Interests and Sunshine Ordinance filings, which placed great demands on her time. Additionally beginning in June, the Educator/Outreach Coordinator began to administer the Commission's Internship Program. Because many of the trainings are made available on the web, she was able to focus her attention on training volunteers to assist in projects like the SEI archival project, and begin the process of writing educational manuals for volunteer interns and cross training for staff.**

**In addition, the Educator/Outreach Coordinator has worked with interns to generate projects and creative ways of educating various groups about the laws that the Commission regulates. One intern suggested incorporating positive psychology techniques in training City employees on Conflicts of Interest Rules, another suggested designing a mock trial for high school students to learn how to be engaged in local government. The Coordinator has created a prototype of an interactive board game covering governmental ethics and incompatible activities rules for City employees. Due to limited staffing, these fresh ideas cannot immediately be implemented, but these are projects that interns will be working on over the years to help foster interest and educate the Commission's various audiences.**

## Advice and Opinions

The Commission is charged with interpreting and applying the conflict laws under its jurisdiction, requiring that it consider requests for waivers, which it routinely does, and that it issue formal and informal written advice on matters requiring interpretation.

Commission staff is available each workday to answer public inquiries about San Francisco ethics laws. During the course of the year, the number of inquiries runs into the hundreds. *In the fiscal year, the Commission issued three informal advice letters, one relating to conflicts of interest, a second relating to the Lobbyist Ordinance, and a third relating to the Campaign Consultant Ordinance. All of the Commission's advice letters are available on its website.*

**During the year, the Commission issued three informal advice letters, two related to section 1.126 of the Campaign and Governmental Conduct Code and one on whether a political organization may serve as an intermediary for campaign contributions. The Commission's advice letters are posted on its website.**

#### Electronic Advances

*The Commission continued to expand its on-line services available to the public and aggressively pursue new technologies to enhance services despite significant budget constraints. The Commission renewed its contract with Netfile to maintain and enhance the Commission's campaign finance, Statement of Economic Interests, and lobbyist electronic filing systems. In FY 10-11, the electronic filing system processed over 2,000 campaign finance, Form 700, and lobbyist electronic filings, which were instantly made available to the public on the Commission's on-line database. In addition, the Commission scanned and made paper filings, including campaign consultant filings, available on-line.*

*During the winter, Commission staff actively worked with the Fair Political Practices Commission Chairman's Task Force to make recommendations to support paperless electronic filing statewide. In January 2011, the Commission enhanced its Interested Persons E-mail List to allow the public to sign-up on the Commission's web site and receive automated notices. A month later, the Commission launched an on-line payment system to pay fines, settlements, and registration fees by credit/debit card or e-check.*

*The Commission's web site remained a popular resource:*

- *Users visited the system 58,086 times during the year, a ten percent increase over FY 09-10; and*
- *There were 151,048 "pageviews" of the website, a nine percent increase over FY 09-10.*

*The Commission also made use of a variety of social networks and on-line services to disseminate information to the public including:*

- ***Interested Persons E-mail List:*** *The public may subscribe to the Ethics Commission's Interested Persons E-mail List to obtain important notices, press releases and meeting agendas via e-mail;*

- **Twitter:** Over 400 Twitter users receive news updates regarding the Commission's work on Twitter;
- **Facebook:** Over 250 Facebook users receive news updates regarding the Commission's work on Facebook;
- **YouTube:** Staff has developed trainings on video that members of the public and City staff can view from their office or home on the Commission's web site or YouTube channel;
- **Google Calendar:** A calendar is available on the Commission's web site to track important deadlines, interested persons meetings, training opportunities, events, and Commission meetings. The calendar can be viewed on the Commission's web site; or anyone may subscribe to the calendar and receive updates automatically from within his or her own calendar application or mobile phone;
- **RSS (Really Simple Syndication) Feeds:** Updates to the Commission's web site are published via RSS. Anyone may subscribe to all new postings to the web site, or to a variety of subtopics; and
- **Audio Recordings and iTunes:** Since June 2009, audio recordings of Commission meetings have been published on the web as a podcast and are accessible in the iTunes Podcast Directory. Audio recordings are usually posted to the Internet within 24-48 hours of the meeting. The public may subscribe to the podcast to receive notification when new recordings are available and listen to meetings on computers, mobile phones, and a variety of audio devices.

The Commission continued to look for opportunities to improve its electronic services and increase efficiency with a limited technology budget. Commission staff worked with the Mayor's office and Assemblyman Tom Ammiano to pass Assembly Bill (AB) 2452. The bill permits local filing officers to require electronic filing of state campaign finance forms and eliminate the paper filing requirement. AB 2452 will go into effect January 1, 2013.

In January, Commission staff worked with Netfile, the Commission's electronic filing system vendor, to release an application programming interface (API) for software programmers to access the Commission's lobbyist database. In April, Commission staff worked with the Department of Technology to synchronize the Commission's electronic lobbyist and campaign finance reports with the City's new data.sfgov.org web site. The web site allows the public to build interactive graphs and maps of the Commission's data using on-line tools and publish the information on other web sites. The graphs and maps automatically update when lobbyists and committees file new disclosure reports. In addition, the system has an API to access both the campaign finance and lobbyist data. The Commission's data on data.sfgov.org is also interoperable with similar data web sites set up in cities throughout the country.

The Commission's web site remained a popular resource. During the Commission's official misconduct hearings, Commission staff made all records submitted by attorneys available to the public on the Commission's web site.

- Users visited the web site 62,819 times during the year, an eight percent increase over FY 10-11; and



- There were 188,184 “pageviews” of the web site, a twenty-four percent increase over FY 10-11.

## **POLICY RECOMMENDATIONS**

*The Commission is charged with making policy recommendations on issues under its jurisdiction. The Commission endeavors to create new legislation that makes campaign finance and ethics laws and regulations more effective while being easier to comprehend and also works as a partner with the Board of Supervisors in effecting positive changes to the Administrative Code, the Campaign and Governmental Conduct Code and other statutes governing the City. Policy Priorities adopted for this year include:*

- 1. Mayoral Public Financing Program – staff has to be ready for an intensified season of what is already a very busy program that is highly technical and difficult to administer. Additional complications may well result because of the Supreme Court’s June 27, 2011 decision in Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett, which overturned Arizona’s public financing program. This will perhaps entail swift and complicated changes to how the program is administered in mid-election.*
- 2. Campaign Consultant Ordinance – once the Commission’s proposal for the ballot is ratified, the Commission may no longer express any public opinion for or against the ballot measure; the measure must speak for itself. If it passes, the Commission will then need to adopt regulations to govern the program and staff will have to implement the new procedures, including the development of software to integrate the new program into our current Online Filing System. Should the measure fail, the Commission may opt to “return to the drawing board.”*
- 3. Staff building – in prior discussions, the Commission has acknowledged that unexpectedly high staff turnover made it necessary to allow time for staff-building. The long-term stability and capability of the staff requires that newer employees develop a deft understanding of the laws we oversee and a stable performance record that the Commission – and the public – can count on. It also requires that long-term staff feel supported and energized in their duties and that all staff reflect high morale and satisfaction in order to achieve maximum productivity.*
- 4. Education and Outreach – the Commission has frequently restated its commitment to this area and conducted several discussions about it last year, essentially reaching the conclusion that work in this area is satisfactory but that it is also an ongoing priority.*

*The Commission never stops reviewing campaign finance laws and regulations, consistently performs research and outreach on conflict-of-interest issues, and is always mindful of the need for quality enforcement.*

## **AFFILIATIONS**

The Commission is a member of the Council on Governmental Ethics Laws (COGEL) but due to budget limitations no longer attends the annual convention.

## BUDGET

The Commission's annual approved budget totals are as follows:

FY 94 – 95	157,000
FY 95 - 96	261,000
FY 96 - 97	313,274
FY 97 - 98	394,184
FY 98 - 99	475,646
FY 99 - 00	610,931
FY 00 - 01	727,787
FY 01 - 02	877,740
FY 02 - 03	1,156,295
FY 03 - 04	909,518
FY 04 - 05	1,052,389
FY 05 - 06	1,382,441
FY 06 - 07	8,416,109* (1,711,835 non-grant funding)
FY 07 - 08	3,592,078 (2,261,877 non-grant funding)
FY 08 - 09	5,453,874 (2,241,818 non-grant funding)
FY 09 - 10	6,011,566 (2,283,368 non-grant funding)
FY 10 - 11	4,177,819 (2,201,325 non-grant funding)**
FY 11 – 12	8,348,537 (2,259,979 non-grant funding)***

\*Includes 6,704,274 front-loaded funding for Mayoral Election Campaign Fund

\*\*Agencies Citywide absorbed across-the-board budget cuts.

\*\*\*Includes annual deposit of \$2,009,451 for the Election Campaign Fund (ECF) plus a repayment of \$4,079,107 borrowed in previous years

## MEMBERSHIP AND ADMINISTRATION

Commission membership was as follows:

<u>Commissioner</u>	<u>Appointed By</u>	<u>Dates of Service</u>
Jamienne S. Studley	City Attorney	1-2007 to 2-2008 2-2008 to 2-2014
Dorothy S. Liu	Board of Supervisors	4-2011 to 2-2017
Beverly Hayon	Mayor	1-2011 to 2-2012 2-2012 to 2-2018
Charles L. Ward	District Attorney	7-2006 to 2-2007 2-2007 to 2-2011

Paul Renne

2-2012 to 2-2013

Benedict Y. Hur

Assessor-Recorder

3-2010 to 2-2016

Commissioner Ben Hur was re-elected to serve as Chair at the February 27, 2012 meeting and Commissioner Jamienne Studley was re-elected as Vice-Chair.

The Ethics Commission had a staff of 17, supported by interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng; Assistant Deputy Director Shaista Shaikh; Auditors Angeles Huang, Amy Li, and Cathy Davey; Public Finance Clerk Marvin Ford; Office Manager Jen Taloa; Campaign Finance Officer Jarrod Flores; Fines Collection Officer Ernestine Braxton; Campaign Finance Assistants Teresa Shew and Lawrence Shum; Chief Enforcement Officer Richard Mo (resigned in August 2011); Assistant Investigators Garrett Chatfield and Catherine Argumedo; IT Officer Steven Massey; and Education and Outreach Coordinator Judy Chang. During the fiscal year, we were fortunate to have had the services of several interns: **Alex Gudim, a student at University of San Francisco (USF); Johnny Hosey, a graduate of San Francisco State University (SFSU); Sade Jones, an intern with the SF Youth Works Program; Colby Payne, a graduate of USF; Perry Wong, a student at New York University; Samantha Sabo, a graduate of USF; Sahand Shahrabani, a student at USF; Abdullah Taleb, a student at SFSU; and Alana Taloa, a student at John C. Kimball High School.**

## FUTURE INITIATIVES

The Commission will continue to fulfill its mandated duties in the forthcoming years, with a particular focus on achieving the following priority objectives:

- *The Commission is dedicated to increasing public confidence in its mission and to delivering fairness both in its actions and the perception of its actions.*
- *The Commission will actively demonstrate its commitment to the education of the public, the regulated community, the City's leadership body and the employees of the City and County through continued educational forums, seminars, on-line tutorials and other outreach mechanisms in order to strengthen both the understanding of and adherence to the laws under the Commission's jurisdiction.*
- *The Commission will continue the ongoing process of reviewing, updating and renewing the Campaign Finance Reform Ordinance in order to keep pace with changes in policy, technology, civic needs and campaign modernization.*
- *The Commission will expand its communications and improve its relations with the general public and work to ensure that there is general understanding in the community about the Commission's work, mission and decision-making processes.*
- *The Commission will work continually to expand the scope of its enforcement and investigation activity, to analyze the needs and accomplishments in this area and to make productive use of staff and other resources.*

- *The Commission will place new emphasis on resolving conflicts of interest and also the appearance of conflicts of interest by City agencies, officials, department heads and candidates and campaigns through both the education and investigations processes.*
- *The Commission will continue to conduct reviews of the Lobbyist Ordinance and draft regulations related to the Campaign Consultant program in order to seek improved disclosure and reporting requirements.*
- *The Commission will continue to work with various City departments, boards and commissions to inform members and employees of the various ethics rules that govern them. The Commission and staff will take advantage of training, education and other opportunities that will help advance their capabilities.*
- *The Commission will endeavor to provide timely and comprehensible advice.*
- *The Commission will work to secure sufficient budget resources to meet its mandates.*
- *The Commission will continue to monitor the application of laws within its jurisdiction and will continue to propose amendments and regulations as appropriate.*
- **The Commission will provide an on-line self-registration web site for lobbyists to expedite lobbyist registration, payment of fees, and the establishment of electronic filing accounts.**
- **In accordance with the passage of AB 2452 by the California State Legislature, the Commission will consider amendments to section 1.112 of the Campaign Finance Reform Ordinance (CFRO) to require that all campaign statements submitted to the Ethics Commission be filed electronically. Passage of this legislation will require local candidates and committees to file campaign disclosure reports electronically, thereby eliminating the need for paper filings.**
- **The Commission will transition its server to a virtual environment hosted at the City's new data center as part of the City's server consolidation project.**
- **The Commission will provide interactive summary graphs and tables on its web site for the November 6, 2012 election. The web site will provide summaries of spending by race, public finance disbursements, expenditure ceilings, and third-party spending.**
- **The Commission plans to continue its consideration of regulations to set out the process of handling complaints related to the Sunshine Ordinance and referrals from the Sunshine Ordinance Task Force, which has been ongoing since August 2010.**
- **The Commission will address recommendations raised in the City's Budget and Legislative Analyst June 5, 2012 report to Supervisor Campos, which compared the City's ethics laws, policies and enforcement with those of the City of Los Angeles.**
- **The Commission will also seek to clarify the scope of section 1.126 of the CFRO; namely, that the ban on contributions applies to local officials seeking election to state office. This change will be consistent with informal advice given by Commission staff.**

- Staff anticipates proposing legislation to amend the CFRO to require a committee promoting an individual as a candidate to the voters to file reports and disclose its activities with the Commission as a primarily formed committee.
- Staff anticipates proposing regulations to clarify CFRO section 1.122 related to the use of campaign funds by candidates for City elective office.
- The Commission will likely consider regulations to establish an electronic filing system for campaign consultants.

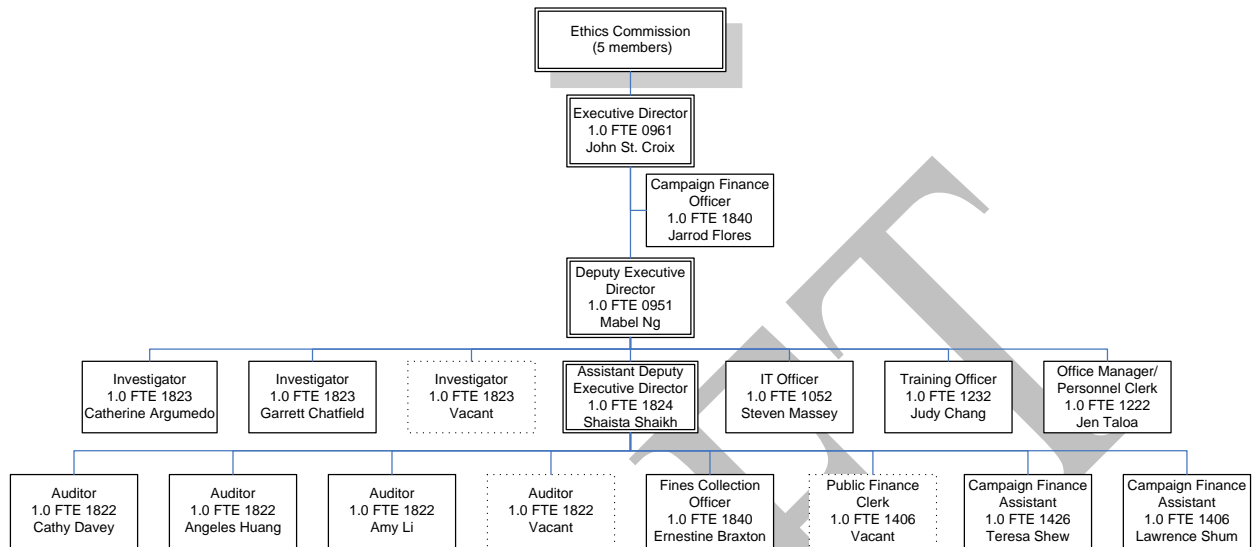
Respectfully Submitted,

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John St. Croix, Executive Director

# San Francisco Ethics Commission

FY 11-12  
(18 Positions)



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