

1 DENNIS J. HERRERA, State Bar #139669  
City Attorney  
2 ANDREW SHEN, State Bar #232449  
JOSHUA S. WHITE, State Bar #237223  
3 Deputy City Attorney  
City Hall, Room 234  
4 1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4682  
5 Telephone: (415) 554-4661  
Facsimile: (415) 554-4745  
6 E-Mail: joshua.white@sfgov.org

7 Attorneys for Plaintiff  
DENNIS J. HERRERA, in his Official Capacity  
8 as San Francisco City Attorney

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO  
11 UNLIMITED JURISDICTION

12 DENNIS HERRERA, in his Official Capacity  
13 as San Francisco City Attorney,

14 Plaintiff,

15 vs.

16 MICHAEL YAKI, and DOES 1-100,  
17 inclusive,

18 Defendants.

Case No.  
**COMPLAINT FOR CIVIL PENALTIES  
FOR VIOLATIONS OF SAN FRANCISCO'S  
LOBBYIST ORDINANCE**

19  
20  
21 **INTRODUCTION AND SUMMARY OF ALLEGATIONS**

22 1. This is an action against Michael Yaki, a former member of the Board of Supervisors  
23 ("the Board"), for violating the City and County of San Francisco's ("City's" or "San Francisco's")  
24 lobbyist ordinance, an ordinance that Yaki himself voted for in 2000 when he was a Board member.  
25 The lobbyist ordinance aims to bring transparency to City government by requiring lobbyists to  
26 disclose who is paying them, the amount they are getting paid, and each attempt they make to  
27 influence City officials.

1           2.     Yaki spent over a year lobbying Board members, the Mayor's Office, members of the  
2 Fire Commission, and the Fire Department on behalf of his client, Rescue Air Systems, Inc. Yet  
3 despite making more than 70 lobbying contacts, Yaki flouted the lobbyist ordinance in every way: he  
4 failed to register as a lobbyist, failed to disclose who was paying him to lobby and how much he was  
5 paid, and failed to disclose any of his lobbying contacts. With his identity as a paid lobbyist  
6 undisclosed, Yaki sometimes misrepresented who he worked for. When trying to convince two  
7 members of the Board to meet with him, Yaki told them that he was "working with constituents  
8 concerned about . . . fire safety," and he told three other Board members that he was the "attorney for a  
9 firm that advocates for increased safety engineering for firefighters."

10           3.     The reality was far different. Yaki's client – Rescue Air Systems – paid him to  
11 persuade City officials not to modify a requirement in the City's Fire Code that certain high rises  
12 install a product made exclusively by Rescue Air Systems. That product is called a "firefighter air  
13 replenishment system" (FARS), and its purpose is to provide firefighters a way to re-fill their portable  
14 oxygen tanks by connecting them to filling stations located on every other floor of buildings that have  
15 the system installed.

16           4.     Yaki lobbied vigorously on behalf of Rescue Air Systems. He urged Mayor Edwin  
17 Lee, through his Chief of Staff Steve Kawa, to support the FARS requirement. Yaki tried to convince  
18 Fire Chief Joanne Hayes-White and other senior Fire Department officials to appear before the Fire  
19 Commission and advocate for retaining the FARS requirement. Yaki also tried to persuade Fire  
20 Commissioners to recommend to the Board that the FARS requirement remain in the Fire Code.  
21 Yaki's lobbying efforts with the Fire Department and the Fire Commission were unsuccessful; the Fire  
22 Commission passed a motion to recommend altering the FARS requirement and providing developers  
23 with the choice to install either FARS or another method of oxygen delivery called a firefighter service  
24 elevator.

25           5.     Unable to convince the Fire Department or the Fire Commission to support the FARS  
26 requirement, Yaki sought to convince members of the Board directly, and through their aides, to reject  
27 the Commission's recommendation and instead enact legislation preserving the FARS requirement.  
28 Yaki sent more than 40 emails to Board members and their aides and organized more than 10

1 meetings. But ultimately the Board voted to allow the alternative recommended by the Fire  
2 Commission.

3 6. Despite having over 70 lobbying contacts with City officials on behalf of Rescue Air  
4 Systems, Yaki failed to register as a lobbyist, failed to disclose who was paying him and how much he  
5 was paid, and failed to disclose his lobbying contacts – all in violation of the lobbyist ordinance.

#### 6 PARTIES

7 7. Plaintiff San Francisco City Attorney Dennis J. Herrera, in his official capacity,  
8 prosecutes this action under San Francisco Campaign and Governmental Conduct Code Section  
9 2.145(c),<sup>1</sup> which empowers the City Attorney to bring civil actions to enforce the lobbyist ordinance.

10 8. Defendant Michael Yaki is now and was at all relevant times an individual and resident  
11 of San Francisco. Yaki's principal place of business at all relevant times was in San Francisco.

12 9. The true names and capacities of defendants sued herein under the fictitious names  
13 Does 1 through 100, inclusive, are unknown to Plaintiff. Plaintiff will seek leave of court to amend  
14 this Complaint to allege such names and capacities as soon as they are ascertained.

#### 15 JURISDICTION AND VENUE

16 10. The Superior Court has jurisdiction over this action. This action is authorized by  
17 Section 2.145(c).

18 11. Venue is proper in this Court because Yaki's lobbying occurred in San Francisco and  
19 because Yaki's residence and principal place of business are in San Francisco.

#### 20 FACTUAL BACKGROUND

##### 21 I. SAN FRANCISCO'S LOBBYIST ORDINANCE.

22 12. Enacted unanimously in 2000 by a Board that included Yaki himself, the lobbyist  
23 ordinance aims to bring transparency to local government by requiring lobbyists to disclose the nature  
24 and extent of their lobbying efforts. The ordinance enables San Francisco residents to know how  
25 much, if at all, corporations and other entities are attempting to influence the decisions of City  
26 officials.

27 \_\_\_\_\_  
28 <sup>1</sup> All further statutory references are to the San Francisco Campaign and Governmental  
Conduct Code, except as otherwise indicated.

1           13.    The ordinance requires a person who qualifies as a lobbyist to register with the San  
2 Francisco Ethics Commission within five days of qualifying as a lobbyist and pay a \$500 registration  
3 fee. Section 2.110(a). A lobbyist is someone who “receives or is promised economic consideration of  
4 \$3,000 or more within three consecutive calendar months for lobbyist services; and on behalf of the  
5 persons providing the economic consideration, makes any contact with an officer of the City and  
6 County.” Section 2.105(g). The ordinance defines “officer of the City and County” as “any officer  
7 identified in San Francisco Administrative Code Section 1.50, as well as any official body composed  
8 of such officers.” Section 2.105(k). Under Administrative Code Section 1.50, City officers include  
9 elected officials and members of Commissions appointed by the Mayor, one of which is the Fire  
10 Commission. Charter Section 4.108.

11           14.    “Lobbyist services” are “services rendered for the purpose of influencing local  
12 legislative or administrative action, including but not limited to contacts with officers of the City and  
13 County of San Francisco.” Section 2.105(h). “[L]ocal legislative or administrative action” includes  
14 “the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or  
15 denial by any officer of the City and County of any resolution, motion, appeal, application, petition,  
16 nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.”  
17 Section 2.105(i).

18           15.    Every month, lobbyists must file with the Ethics Commission a disclosure that includes  
19 information such as who paid the lobbyist for lobbying services, how much the lobbyist was paid for  
20 those lobbying services, and each lobbying contact between the lobbyist and City officials during that  
21 month. Section 2.110(c). The term “contact” means “communication, oral or written, including  
22 communication made through an agent, associate or employee, for the purpose of influencing local  
23 legislative or administrative action.” Section 2.105(d). If a lobbyist testifies at a public hearing on  
24 behalf of his client, the lobbyist must identify the client on whose behalf the testimony is offered.  
25 Section 2.105(d)(1)(B).

26           16.    The ordinance applies equally to lawyers and nonlawyers. A lawyer who attempts to  
27 influence local legislative action has engaged in lobbying and is subject to the same disclosure  
28

1 requirements as non-lawyers, unless the lawyer is “performing a duty or service that can be performed  
2 only by an attorney.” Section 2.105(d)(1)(C).

3 **II. RESCUE AIR SYSTEMS HIRED YAKI TO CONVINCCE CITY OFFICIALS NOT TO**  
4 **ALTER THE FARS REQUIREMENT.**

5 17. Rescue Air Systems is a San Carlos-based company that makes a product called a  
6 Firefighter Air Replenishment System (“FARS”). The purpose of FARS is to supply firefighters with  
7 a safe and reliable source of air while they fight fires inside high-rise buildings. FARS consists of a  
8 network of pipes containing pressurized air. Firefighters can connect to those pipes at filling stations  
9 located on every other floor of buildings where the system is installed and re-fill their portable oxygen  
10 tanks. Rescue Air Systems and its President and Chief Executive Officer Anthony Turiello own  
11 patents on this system and are FARS’ exclusive manufacturers.

12 18. In 2004, the City added a provision to the Fire Code requiring new buildings more than  
13 75 feet tall to install a “self-contained breathing air replenishment system.” *See* S.F. Fire Code § 511.2  
14 (2004). Rescue Air Systems is the only company to manufacture a system meeting that description.

15 19. In 2012, then-Fire Marshal and Assistant Deputy Fire Chief Thomas Harvey began to  
16 explore the possibility of removing the FARS requirement from the City’s Fire Code and instead  
17 requiring a different method of oxygen delivery. One alternative to FARS was to require new  
18 buildings over 75 feet tall to install strengthened and pressurized firefighter service elevators, which  
19 state law already requires for buildings over 120 feet tall. At the November 20, 2012 meeting of the  
20 San Francisco Fire Commission, Fire Marshal Harvey indicated that he would be proposing  
21 amendments to the Fire Code at the Commission’s December 13, 2012 meeting.

22 20. Faced with the prospect of an amendment to the City’s Fire Code that would allow  
23 developers to choose an alternative to its product, Rescue Air Systems hired Yaki, who had served on  
24 the Board from 1996 until 2001, to convince City officials of the merits of FARS and persuade them  
25 that firefighter safety was best served by retaining the FARS requirement in the Fire Code.

26  
27  
28

1       **III. FOR OVER A YEAR, YAKI LOBBIED ON BEHALF OF RESCUE AIR SYSTEMS**  
2       **WITHOUT REGISTERING AS A LOBBYIST OR MAKING ANY DISCLOSURES OF**  
3       **HIS LOBBYING ACTIVITY.**

4           21. Starting no later than the summer of 2012 and continuing for over a year, Yaki  
5 embarked on a lobbying campaign on behalf of Rescue Air Systems that included more than 70  
6 lobbying contacts. Yaki's lobbying efforts included emails, texts, phone calls, and in-person meetings  
7 with members of the Board and their aides, employees of the Mayor's Office including the Mayor's  
8 Chief of Staff, at least three members of the Fire Commission, senior members of the Fire Department,  
9 and the Fire Chief.

10          22. Although Yaki is a lawyer, his lobbying contacts did not involve performing a service  
11 that can be performed only by an attorney. His lobbying mainly involved attempting to persuade  
12 policymakers that Rescue Air Systems' product met the needs of firefighters better than other  
13 products.

14          23. Plaintiff is unaware of the precise amount that Rescue Air Systems has paid Yaki for  
15 lobbying services or has promised to pay Yaki for lobbying services. On information and belief,  
16 Plaintiff alleges that Rescue Air Systems promised to pay Yaki, or did pay Yaki, more than \$3,000 to  
17 perform lobbying services in a consecutive three month period. That three month period began on or  
18 before July 31, 2012.

19           **A. Yaki Convinced City Officials to Delay the Fire Commission's Consideration of**  
20           **the FARS Requirement.**

21          24. The Fire Commission originally planned to take up at its meeting on December 13,  
22 2012 the issue of whether to modify the FARS requirement.

23          25. Yaki's lobbying efforts began at least several months before that when, on July 31,  
24 2012, he met with Supervisor Scott Wiener, his aide Andres Powers, and Rescue Air Systems CEO  
25 Turiello. By the time that meeting occurred, Yaki had already learned that the Fire Department  
26 supported eliminating the FARS requirement from the Fire Code. Yaki advocated that when the Fire  
27 Code amendments reach the Board, Supervisor Wiener should reject the recommendation of the Fire  
28 Department and vote to preserve the FARS requirement.

1           26.     Yaki was required to register as a lobbyist with the San Francisco Ethics Commission  
2 within five business days of his initial lobbying contact and before making any other lobbying  
3 contacts. Yaki never did so.

4           27.     One of Yaki's lobbying goals was to urge the Board to put off consideration of the  
5 FARS requirement as long as possible. In November 2012, Yaki asked both Chief Hayes-White and  
6 Fire Marshal Harvey to have the Commission delay its consideration of the FARS requirement until  
7 2013.<sup>2</sup> In a November 30, 2012 email to Judson True, an aide to Board President David Chiu, Yaki  
8 stated that he had succeeded in "pressuring" Fire Marshal Harvey to delay the discussion. The same  
9 day, Yaki wrote to Andrea Bruss, an aide to Supervisor Malia Cohen, informing her that "Harvey  
10 finally relented and agreed not to push this in December, unless he tried to double cross me."

11           28.     Yaki made other requests to Chief Hayes-White and Fire Marshal Harvey to postpone  
12 consideration of the FARS requirement, and ultimately the Fire Commission did not take up the issue  
13 until its May 2013 meeting.

14           **B.     Yaki Urged Mayor Edwin Lee, Through his Chief of Staff, to Support Rescue Air**  
15           **Systems' Product.**

16           29.     It is unclear when Yaki first contacted the Mayor's Chief of Staff, Steve Kawa, and  
17 urged the Mayor's Office to support preserving the FARS requirement, but it apparently was before  
18 January 23, 2013. On that date, Yaki emailed Sally Leung, an assistant in the Mayor's office, and  
19 asked

20                     Can you remind Steve he was going to set up a meeting with the Fire Chief and  
21                     me? Also, please let him know (you can just print this up) that we now have  
22                     contractors breaking contracts to install Firefighter Air Systems in new  
23                     buildings and SFGH b/c someone in SFFD has put the word out he's going to  
24                     remove it, which raises interesting issues of potential liability, not to mention  
25                     who makes policy for the City.

26           30.     Kawa arranged a meeting with Yaki and Chief Hayes-White for February 8, 2013. In  
27 advance of that meeting, Yaki emailed to Kawa, via Leung, a list of "talking points" designed to  
28 address concerns that Chief Hayes-White and Fire Marshal Harvey might raise during the meeting.

---

<sup>2</sup> Attached hereto as Exhibit A is the declaration of Fire Chief Hayes-White.

1 For example, one of the anticipated issues was whether firefighter service elevators were an adequate  
2 alternative to FARS. Yaki's "talking point" on that topic was:

3 FACT 6: There is no "equivalent" Fire Safety elevator. After the 2007 hearing  
4 before the Board of Supes, when the SFFD admitted that no such thing existed,  
5 the National Institute of Fire Training has said that development and testing  
6 (still underway) of a Fire Elevator is to get occupants to safety, and does not  
7 replace a rigid/fixed FARS for firefighter safety. Plus, our elevators required to  
8 go OUT of service during a Seismic event, so if there were a mass seismic event  
9 w/ Fires (think of all the new high-rises which have gas stoves – which include  
10 Infinity, One Rincon, and Millenium), elevators wouldn't work anyway.

11 **C. Yaki Lobbied Chief Hayes-White to Support the FARS Requirement.**

12 31. On February 8, 2013, Yaki, Kawa, and Chief Hayes-White met in City Hall, as  
13 planned. At the meeting, Yaki tried to convince Chief Hayes-White to oppose modifying the FARS  
14 requirement. Yaki discussed what he claimed to be the merits of the FARS requirement and  
15 maintained that fire departments across the country were requiring buildings to install FARS. Yaki  
16 also encouraged Chief Hayes-White to meet with Turiello, but Chief Hayes-White refused given  
17 Turiello's vested interest in ensuring the preservation of the FARS requirement.

18 32. Even after the February 8 meeting, Yaki continued to lobby Chief Hayes-White. On  
19 May 22, 2013, Yaki emailed the Chief asking her to once again to postpone the Fire Commission's  
20 consideration of the FARS requirement and purporting to summarize what transpired at their February  
21 8 meeting.

22 33. Yaki orchestrated a meeting on May 22, 2013 between Rescue Air Systems lobbyist  
23 and former State Fire Marshal Ruben Grijalva and Chief Hayes-White. Grijalva endeavored  
24 throughout the meeting to convince the Chief not to alter the FARS requirement, and tried to address  
25 her concerns about FARS. During the meeting with Chief Hayes-White, Grijalva denied that he was  
26 working for Rescue Air Systems, but when he spoke at the Fire Commission meeting five weeks later,  
27 he admitted in response to a question from a Fire Commissioner that he did work for Rescue Air  
28 Systems.



1           **D.    Yaki Lobbied Fire Commission President Michael Hardeman to Preserve the**  
2           **FARS Requirement.**

3           34.    With the Fire Commission's consideration of the FARS requirement delayed until May  
4           2013, Yaki lobbied three members of the Fire Commission to preserve the FARS requirement.<sup>3</sup>

5           35.    Yaki focused his efforts on Fire Commission President Michael Hardeman, who Yaki  
6           texted, emailed, and called between 50 and 100 times on behalf of Rescue Air Systems. Yaki also met  
7           in person with President Hardeman twice and urged him to meet with other Rescue Air Systems  
8           lobbyists on two other occasions.

9           36.    The first meeting with Yaki and President Hardeman took place on October 24, 2012.  
10          Also present were Turiello and Thomas O'Connor, the President of the San Francisco Firefighters'  
11          Union, Local 798. Yaki ran the meeting, the purpose of which was to persuade President Hardeman to  
12          support preserving the FARS requirement in the City's Fire Code. Yaki and Turiello gave a  
13          presentation about the benefits of FARS, including an explanation of how the system worked and  
14          where it was used. Yaki also provided President Hardeman with brochures about FARS and letters  
15          from individuals who supported it.

16          37.    Yaki set up another meeting with President Hardeman on January 23, 2013. In between  
17          the first and second meetings, Yaki called, texted, and emailed President Hardeman repeatedly to  
18          lobby on behalf of Rescue Air Systems. In these communications, Yaki encouraged President  
19          Hardeman to vote to preserve the FARS requirement: Yaki told President Hardeman about more  
20          people and organizations who supported FARS; he urged President Hardeman to meet with former  
21          State Fire Marshal Ronny Coleman (another paid lobbyist for Rescue Air Systems); he tried to  
22          convince President Hardeman to tour buildings in which FARS was installed; and he generally touted  
23          FARS and argued it was necessary to save firefighters' lives.

24          38.    President Hardeman, Yaki, and O'Connor attended the meeting on January 23, 2013.  
25          This meeting followed the same pattern as the October 24 meeting and lasted about an hour. Yaki  
26

27                   <sup>3</sup> Attached hereto as Exhibits B, C, and D are, respectively, the declarations of Fire  
28          Commission President Michael Hardeman and Fire Commissioners Andrea Evans and Francee  
Covington.

1 advocated on behalf of Rescue Air Systems' product and made arguments similar to those he had  
2 made at the October 24 meeting. Yaki insisted that President Hardeman meet with Coleman.

3 39. After the January 23, 2013 meeting, the intensity and frequency of Yaki's lobbying  
4 efforts increased to the point that President Hardeman stopped answering his phone when he saw that  
5 Yaki was calling.

6 40. Yaki also facilitated a tour on June 10, 2013 of two buildings with FARS installed. In  
7 attendance were President Hardeman, Fire Commissioner Andrea Evans, Fire Marshal Harvey, and  
8 other senior members of the Fire Department. Yaki did not participate in the tour, but he had invited  
9 and strongly encouraged the Fire Commissioners to participate.

10 **E. Yaki Lobbied Other Fire Commissioners on Behalf of Rescue Air Systems.**

11 41. Yaki tried to convince other Fire Commissioners to preserve the FARS requirement. In  
12 about May 2013, Fire Commissioner Evans agreed to speak with Yaki by telephone. During that call,  
13 Yaki tried to persuade her to oppose modifying the FARS requirement. Yaki praised FARS as a way  
14 to save firefighters' lives and told Fire Commissioner Evans that more and more fire departments  
15 across the country were using this system. Yaki also tried to address Fire Commissioner Evans'  
16 concern that firefighters would not use FARS because they could not trust that the air coming from it  
17 was safe to breathe.

18 42. On June 3, 2013, Yaki had a similar call with Fire Commissioner Francee Covington,  
19 which lasted about 35 minutes. As with Fire Commissioner Evans, Yaki tried to convince Fire  
20 Commissioner Covington to vote to keep the FARS requirement in the City's Fire Code. Yaki  
21 discussed the superiority of the FARS systems over other methods of oxygen delivery and described a  
22 trend across the country towards adoption of the FARS requirement.

23 43. Yaki also lobbied the commissioners in writing. Yaki sent several emails to Fire  
24 Commission secretary Monica Quattrin and asked that she forward them to the personal email  
25 accounts of the Fire Commissioners. For example, Yaki had Quattrin distribute a letter from Grijalva  
26 that responded to concerns about the cost effectiveness of FARS. Yaki also sent a link to a video  
27 showing the Phoenix Fire Department training on the air replenishment system to address the concern  
28 that fire departments never actually used the system.

1           **F.     Yaki Spoke at Three Fire Commission Meetings Without Identifying Himself as a**  
2           **Paid Lobbyist for Rescue Air Systems.**

3           44.     The Fire Commission took up the FARS requirement at three meetings - May 23, June  
4           13, and June 27, 2013. Yaki provided public comment at each of those meetings and encouraged the  
5           Fire Commissioners to vote to preserve the FARS requirement, but Yaki failed to indicate that he was  
6           speaking on behalf of Rescue Air Systems. These public comments constituted to lobbying contacts,  
7           and Yaki failed to report them.

8           45.     Ultimately, the Fire Commission voted on June 27, 2013 to recommend that the Board  
9           replace the FARS requirement with the "San Jose option," which allows developers of new high rises  
10          that are between 75 and 120 feet tall to install either FARS or a firefighter service elevator.

11           **G.     Yaki Lobbied Members of the Board to Reject the Fire Commission's**  
12           **Recommendation.**

13          46.     Long before the Fire Commission voted to recommend that the Board adopt the "San  
14          Jose option," Yaki lobbied at least eight members of the Board, directly and through their aides, on  
15          behalf of Rescue Air Systems.<sup>4</sup> Yaki attempted to set up meetings with three other supervisors and  
16          their aides, but those meetings never took place.

17          47.     Part of Yaki's lobbying strategy when attempting to set up meetings with Board  
18          members and their aides was to conceal the fact that he was a paid lobbyist of Rescue Air Systems.  
19          For instance, Yaki sent emails to Supervisors Jane Kim and John Avalos on November 12, 2012  
20          asking to set up meetings with them. Yaki claimed that he was "working with constituents concerned  
21          about Fire Dep't changes in fire safety that are opposed by the Local 798 and which trend against  
22          national code reforms." Supervisor Kim responded the next day and asked Yaki "which constituents  
23          you are working with." Yaki wrote, "One of the constituents is me. :-). Others include firemen, and  
24          people I've worked to organize on this."

25          48.     Similarly, in October 2012, Yaki wrote to Supervisors David Campos, Eric Mar, and  
26          Malia Cohen, claiming to be the "attorney for a firm that advocates for increased safety engineering

27          <sup>4</sup> Attached hereto as Exhibits E through O are, respectively, the declarations of Board of  
28          Supervisors President David Chiu and his aide Judson True, Supervisor Wiener and his aide Andres  
29          Power, Supervisor Mar and his aide Victor Lim, Supervisors Avalos, Campos and Yee, Supervisor  
30          Kim's aide Sunny Angullo, and Supervisor Cohen's aide Andrea Bruss.

1 for firefighters.” In emails to President Chiu and Supervisor Wiener to set up meetings, Yaki never  
2 mentioned that he was contacting them as a paid lobbyist for Rescue Air Systems.

3 49. From October 2012 through at least August 2013, Yaki emailed eight supervisors,  
4 directly and through their aides, in an effort to persuade them to reject the Fire Commission’s  
5 recommendation and to vote to retain in the Fire Code the mandatory use by high rise developers of  
6 Rescue Air Systems’ FARS product. For example, in the November 12, 2012 email to Supervisor  
7 Kim in which Yaki claimed to be working for “constituents” and “firemen,” Yaki urged Supervisor  
8 Kim to oppose the Fire Department’s proposed amendment:

9 The proposed change is to effectively – by administrative rule, not statute –  
10 nullify a technological advance that will save firefighters’ lives in a catastrophic  
11 high-rise fire. As a cost of building, it is less than 1/2 of 1% of a building cost.  
12 But the fires of 9/11 and the hazards that high rise smoke poses to First  
13 Responders is proven, and this technology allows firefighters and first  
14 responders to continue receiving breathable air without having to wait for  
15 someone to run up many floors to deliver fresh bottles of air – which, as you can  
16 imagine, might be the difference between life and death. This technology will be  
17 adopted into the International Fire Code this year, so the idea of nullifying it in  
18 San Francisco by administrative act of the Fire Dep’t makes no sense  
19 whatsoever. The Fire Marshal seems all over this, which makes no sense  
20 whatsoever since it has been in adoption for 8 years.

21 50. Similarly, on November 30, 2012, Yaki claimed in an email to Supervisor Campos that  
22 FARS was “the only system endorsed nationwide by fire service and fire fighter organizations as a  
23 technology which will save firefighter lives.” Yaki argued that Fire Marshal Harvey’s opinion that the  
24 FARS requirement should be eliminated “makes no sense.”

25 51. On December 4, 2012, Yaki wrote to Judson True, criticizing Fire Marshal Harvey’s  
26 recommendation that reinforced, fire-proofed elevators are a better method of oxygen delivery than  
27 FARS. Yaki stated that Fire Marshal Harvey’s view

28 “is contrary to what the National Institute on Safety Training (NIST) had  
concluded. Fire elevators are to get people down out of high rises quickly, not  
to stop and wait and transport stuff up, and, more importantly, NIST has said it  
is ‘no substitute’ for FARS. Plus, the fact is the ‘Fire Elevator’ is still being  
tested – no working model exists. Plus, our Code requires elevator shutdown in  
a Seismic event. If we have a quake and a fire (which go together in this town)  
the elevators won’t work anyway.”

52. On December 18, 2012, Yaki wrote to Nate Allbee, an aide to Supervisor Campos,  
“that a ‘fire safety’ elevator is not a substitute for FARS” and that he “would appreciate the

1 Supervisor's assistance after the New Year and before the 22nd of January." About a month later,  
2 Yaki wrote to Allbee, "I'm going to need some help here. We now have contractors refusing to install  
3 the Firefighter Air system, even though it's law, b/c the fire marshal is telling people he's going to  
4 remove it."

5 53. In all, Yaki sent approximately 40 emails to Board members and their aides to influence  
6 the Board to reject the Fire Commission's recommendation and vote to preserve the FARS  
7 requirement. Yaki also had more than 10 in-person meetings with Board members and their aides. At  
8 each of those meetings, Yaki argued vigorously in favor of the FARS requirement and attempted to  
9 address concerns raised by the Board members.

10 54. Ultimately, Yaki failed to convince the Board members and their aides to reject the Fire  
11 Commission's recommendation. In September 2013, the Board adopted amendments to the City's  
12 Fire Code that would require buildings between 75 and 120 feet tall to install either FARS or  
13 firefighter service elevators.

#### 14 CAUSE OF ACTION FOR VIOLATION OF THE LOBBYIST ORDINANCE

15 55. Plaintiff incorporates by reference the allegations contained in each paragraph above, as  
16 if those allegations were fully set forth herein.

17 56. As of July 31, 2012 or earlier, Yaki was as a lobbyist within the meaning of Section  
18 2.105(g). On information and belief, Rescue Air Systems promised to pay Yaki, or did pay Yaki,  
19 more than \$3,000 to perform lobbying services in a consecutive three month period.

20 57. As a lobbyist for Rescue Air Systems, Yaki made more than 70 lobbying contacts with  
21 officers of the City and County of San Francisco, as defined in Section 2.105(k) and Administrative  
22 Code Section 1.50. The purpose of these contacts was to influence City officials to vote to preserve  
23 the FARS requirement in the City's Fire Code and sometimes to encourage City officials to delay  
24 consideration of the FARS requirement.

25 58. Yaki knowingly or negligently failed to register as a lobbyist with the San Francisco  
26 Ethics Commission, as required by Sections 2.110(a) and (b).

27 59. Yaki knowingly or negligently failed to pay any lobbyist registration fees, as required  
28 by Section 2.110(e).



## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Plaintiff Dennis J. Herrera in his official capacity as San Francisco City Attorney ("Plaintiff") and Defendant Michael Yaki ("Defendant"). Plaintiff and Defendant are referred to collectively herein as the "Parties."

### DEFINITIONS

1. The "Action" refers to Dennis J. Herrera, in his Official Capacity as San Francisco City Attorney v. Michael Yaki, Case No. CGC-13-535880, filed in the Superior Court of the State of California, City and County of San Francisco, on or about December 4, 2013.
2. "Court" means the Superior Court of the State of California, City and County of San Francisco.
3. The "Complaint" refers to the complaint filed by Plaintiff in Dennis J. Herrera, in his Official Capacity as San Francisco City Attorney v. Michael Yaki, Case No. CGC-13-535880, filed in the Superior Court of the State of California, City and County of San Francisco, on or about December 4, 2013.

### RECITALS

- A. Defendant is an attorney and political consultant who has worked in the field of government relations within the City and County of San Francisco.
- B. The Action alleges that Defendant violated various provisions of the San Francisco Campaign and Governmental Conduct Code, Article II, Chapter I ("Regulation of Lobbyists").
- C. Defendant denies any liability for all allegations described in the Action.
- D. The Parties wish to end and resolve any and all pending or potential disputes, known or unknown, related to the Action.
- E. In consideration of the promises, covenants, warranties, representations and agreements set forth herein, and each of them, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

### AGREEMENT

#### F. EFFECTIVE DATE

This Agreement shall become effective on the last date of the fulfillment of all Conditions Precedent described in Paragraph I.

#### G. NON-ADMISSION OF LIABILITY

The Parties acknowledge and agree in good faith that this Agreement is the result of a compromise. This Settlement Agreement is not an admission of liability. Defendant denies any liability for all allegations described in the Action.

## H. CONSIDERATION

1. Nature of Consideration. The consideration for this agreement is a function of the remedies available under Campaign and Governmental Conduct Code section 2.145(c), the late fees available under Campaign and Governmental Conduct Code section 2.145(a), the lobbyist registration fees required by Campaign and Governmental Conduct Code section 2.110(e)(1), and the financial condition of Defendant and his wife.

2. Economic Consideration. Defendant agrees to pay Plaintiff an amount of \$75,000. Payment shall be made according to the following timeline:

(a) \$74,000, paid in installments of \$8,222.22, on or before each of the following dates: February 28, 2015; February 28, 2016; February 28, 2017; February 28, 2018; February 28, 2019; February 28, 2020; February 28, 2021; February 28, 2022; and February 28, 2023.

(b) On or before February 28, 2015, Defendant shall deliver a check for \$1,000 to the San Francisco Ethics Commission. This sum is equivalent to the cost of retroactive registration as a lobbyist for the years of 2012 and 2013, as referenced in section H.5.(a) of this Agreement.

(c) Of the economic consideration set forth in sections H.2.(a), \$6,000 of it is attributable as an equivalent to late fees for Defendant's alleged failure to register as a lobbyist.

3. Real Estate Lien. The installment payments described in Paragraph H.2.(a) shall be documented in a promissory note secured by a lien on the real estate located at [REDACTED]. The settlement is contingent on Plaintiff obtaining the real estate lien. The lien shall be recorded in [REDACTED].

(a) If any installment payment is not paid by the specified date, the entire remaining amount shall accelerate and become due immediately, plus 10% annual interest that would begin to accrue as of the date of this agreement.

(b) Upon request by Defendant, Plaintiff shall record a satisfaction of the lien within 30 days from the date the Defendant has completed all payments due under this Settlement Agreement.

(c) The address, city, state, county, and zip code of the real estate referenced in paragraph H.3. above shall be redacted from any public copies of this Settlement Agreement. This redaction shall include the county of the listed Assessor's Office.

4. Prepayment Option. Defendant may, at any time, prepay any portion of the economic consideration described in Paragraphs H.2.(a) and H.2.(b).

5. Other Consideration.



(a) Defendant shall, without admitting liability, within ninety days of the date he signs this Agreement, register as a lobbyist with the Ethics Commission for the years of 2012 and 2013 in a manner that complies with Campaign and Governmental Conduct Code sections 2.110(a) and (b). As described in Paragraph H.2.(b), the registration fees shall not be due until February 28, 2015.

(b) Defendant shall, without admitting liability, within ninety days of the date he signs this Agreement, file monthly lobbyist disclosures that comply with the requirements set forth in Campaign and Governmental Conduct Code section 2.110(e) for each month from July 2012 up to and including August 2013 and for any subsequent month in which he engaged in any lobbying. The Defendant shall, in good faith, include in these disclosures, at a minimum, each of the contacts with City officials specifically identified in the Complaint and all exhibits thereto.

(c) Defendant shall, without admitting liability, complete a lobbyist training session offered by the Ethics Commission within one year from the date of registration described in Paragraph H.5.(a) above.

6. Stipulated Judgment. Within ten business days of the Effective Date of this Agreement, the Parties shall file a stipulation for entry of judgment and proposed judgment in this Action.

7. Future compliance. Defendant agrees to comply with the Campaign and Governmental Conduct Code at all times in the future when he is engaging in activities regulated by that Code.

8. Releases.

(a) General Release. Plaintiff releases Defendant as well as Michael Yaki Consulting from any and all claims, causes of action, liabilities, and damages, that Plaintiff now has or may in the future have against Defendant arising from or related to any act, event, or occurrence related to the Action (but excluding each Defendant's obligations under this Agreement, which are not released), and this General Release includes without limitation any claim that has been or could have been asserted in the Action.

(b) Release of Unknown Claims. The Parties understand that the facts in respect of which release is made in this Agreement may hereafter turn out to be other than, or different from, the facts now known or believed by them to be true, and hereby accept and assume the risk of the facts turning out to be different, and agree that this instrument shall be and remain in all respects effective and not subject to termination or rescission by virtue of any such difference in facts. The Parties acknowledge that they have been advised by legal counsel and are familiar with the provisions of California Civil Code section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Parties, being aware of said code section, expressly agree to waive any right they may have thereunder, as well as under any other statute or common law principle of similar effect.

I. CONDITIONS PRECEDENT

The Parties each understand and agree that this Agreement and all terms herein are contingent upon approval of the Agreement by the San Francisco Board of Supervisors and the San Francisco Ethics Commission, each in their own discretion.

J. BINDING EFFECT; MODIFICATION; ATTORNEYS' FEES

This Agreement is an integrated, binding, and enforceable agreement, represents the entire agreement between the Parties, and supersedes any prior oral or written agreement between the Parties, to the extent any exist. In entering into this Agreement, the Parties represent and warrant that they have not relied on any oral or written statements of the other Party not expressly enumerated in writing in this Agreement. This Agreement may be modified only in a writing signed by the Parties. In the event of litigation to enforce the terms of this Agreement or to recover damages for breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs of suit.

K. VENUE, ENFORCEMENT, AND CHOICE OF LAW

This Agreement is being executed in the State of California, and it shall be deemed to be made under, and shall be interpreted in accordance with, the internal laws of the State of California. The Parties agree that, in the event of any dispute concerning this Agreement, suit may be brought only in the Superior Court of California for the County of San Francisco. To the extent possible, the Parties agree that the Superior Court for the County of San Francisco shall have continuing jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure § 664.6. The Parties agree, as part of the motion for a stipulated judgment, to request that the Court retain jurisdiction to enforce this Agreement pursuant to Code of Procedure § 664.6.

L. LEGAL REPRESENTATION

The Parties acknowledge that they each have had the benefit and advice of independent legal counsel in connection with the Agreement and understand its terms and consequences. The Parties further acknowledge that they have carefully read the foregoing Agreement and the contents thereof, and are duly authorized to execute it. For purposes of interpretation, the Agreement shall be deemed to be jointly drafted by the Parties hereto.

M. SEVERABILITY

If any provision of this Agreement or the application thereof to any Party or circumstance is held invalid or unenforceable, the remaining provisions of the Agreement and the application of such provisions to other parties or circumstances shall not be affected thereby, and to the extent possible shall remain in full force and effect, the provisions of this Settlement Agreement being severable in any such instance.

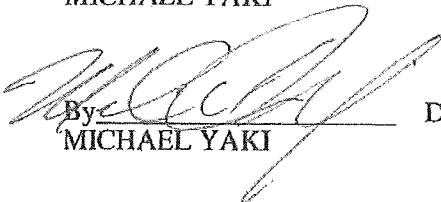
*(Remainder of page intentionally left blank)*

N. COUNTERPARTS

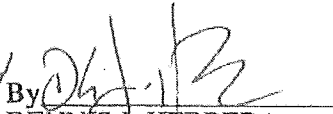
This Agreement may be executed in counterparts, each of which is, and when so executed and delivered shall be, an original, such counterparts together constituting one and the same instrument. Facsimile signatures or signatures contained in electronic copies of this Agreement may be used with the same force and effect as original signatures.

MICHAEL YAKI

DENNIS J. HERRERA


  
By \_\_\_\_\_  
MICHAEL YAKI

Date: 2/12/14

  
By \_\_\_\_\_  
DENNIS J. HERRERA  
San Francisco City Attorney

Date: 2/12/14

APPROVED AS TO FORM

  
By \_\_\_\_\_  
JOSHUA S. WHITE  
Deputy City Attorney

Date: 2/12/14

Attorney for Plaintiff Dennis J. Herrera in his  
capacity as San Francisco City Attorney

ADDENDUM

Based on the consideration set forth in Paragraph H of this Settlement Agreement, the San Francisco Ethics Commission agrees to release Defendant and Michael Yaki Consulting, from any and all claims, causes of action, liabilities, and damages arising from or related to any act, event, or occurrence related to the Action (but excluding Defendant's obligations under this Agreement, which are not released), and includes without limitation any claim that has been or could have been asserted based on any act, event, or occurrence related to the Action.

JOHN ST. CROIX

By \_\_\_\_\_ Date: \_\_\_\_\_  
JOHN ST. CROIX  
Executive Director, San Francisco Ethics  
Commission

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Dennis J. Herrera in his official capacity as San Francisco City Attorney and Ruben Grijalva. Herrera and Grijalva are referred to collectively herein as the "Parties."

### DEFINITION

A. The "Action" refers to Dennis J. Herrera, in his Official Capacity as San Francisco City Attorney v. Michael Yaki, Case No. CGC-13-535880, filed in the Superior Court of the State of California, City and County of San Francisco, on or about December 4, 2013.

### RECITALS

B. Grijalva was employed by Rescue Air Systems. Some of Grijalva's work on behalf of Rescue Air Systems is described in the Complaint filed in the Action.

C. During the pendency of the Action, Grijalva agreed to serve as a witness to some of Yaki's conduct described in the Action.

D. The Parties wish to end and resolve any and all pending or potential disputes, known or unknown, related to the Action.

E. In consideration of the promises, covenants, warranties, representations and agreements set forth herein, and each of them, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

### AGREEMENT

#### F. EFFECTIVE DATE

This Agreement shall become effective on the date that the San Francisco Ethics Commission approves this Agreement.

#### G. CONSIDERATION

1. Within ten days of the Effective Date of this Agreement, Grijalva shall deliver a check for \$500 to the San Francisco Ethics Commission. This sum is for retroactive registration as a lobbyist for the year of 2013.

2. Grijalva shall, within ten days of the Effective Date of this Agreement, register as a lobbyist with the Ethics Commission for the year of 2013 in a manner that complies with Campaign and Governmental Conduct Code sections 2.110(a) and (b).

3. Grijalva shall, within ten days of the Effective Date of this Agreement, file monthly lobbyist disclosures that comply with the requirements set forth in Campaign and Governmental Conduct Code section 2.110(e) for April 2013, May 2013, and June 2013, and for any subsequent month in which he engaged in any lobbying.

4. Grijalva shall complete a lobbyist training session offered by the Ethics Commission within one year of the Effective Date of this Agreement.

5. Future compliance. Grijalva agrees to comply with the Campaign and Governmental Conduct Code at all times in the future when he is engaging in activities regulated by that Code.

#### H. RELEASE

Herrera releases Grijalva from any and all claims, causes of action, liabilities, and damages, that Herrera now has or may in the future have against Grijalva arising from or related to any act, event, or occurrence related to the Action (but excluding Grijalva's obligations under this Agreement, which are not released), and this Release includes without limitation any claim that has been or could have been asserted in the Action.

#### I. CONDITIONS PRECEDENT

The Parties each understand and agree that this Agreement and all terms herein are contingent upon approval of the Agreement by the San Francisco Ethics Commission.

#### J. BINDING EFFECT; MODIFICATION; ATTORNEYS' FEES

This Agreement is an integrated, binding, and enforceable agreement, represents the entire agreement between the Parties, and supersedes any prior oral or written agreement between the Parties, to the extent any exist. In entering into this Agreement, the Parties represent and warrant that they have not relied on any oral or written statements of the other Party not expressly enumerated in writing in this Agreement. This Agreement may be modified only in a writing signed by the Parties. In the event of litigation to enforce the terms of this Agreement or to recover damages for breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs of suit.

#### K. VENUE, ENFORCEMENT, AND CHOICE OF LAW

This Agreement is being executed in the State of California, and it shall be deemed to be made under, and shall be interpreted in accordance with, the internal laws of the State of California. The Parties agree that, in the event of any dispute concerning this Agreement, suit may be brought only in the Superior Court of California for the County of San Francisco. To the extent possible, the Parties agree that the Superior Court for the County of San Francisco shall have continuing jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure § 664.6. The Parties agree, as part of the motion for a stipulated judgment, to request that the Court retain jurisdiction to enforce this Agreement pursuant to Code of Procedure § 664.6.

#### L. SEVERABILITY

If any provision of this Agreement or the application thereof to any Party or circumstance is held invalid or unenforceable, the remaining provisions of the Agreement and the application of such provisions to other parties or circumstances shall not be affected thereby, and to the extent possible shall remain in full force and effect, the provisions of this Settlement Agreement being severable in any such instance.

#### M. COUNTERPARTS

This Agreement may be executed in counterparts, each of which is, and when so executed and delivered shall be, an original, such counterparts together constituting one and the same instrument. Facsimile signatures or signatures contained in electronic copies of this Agreement may be used with the same force and effect as original signatures.

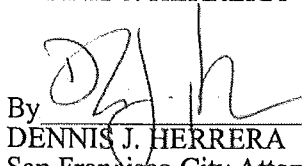
RUBEN GRIJALVA



Date: 2/19/2014

RUBEN GRIJALVA

DENNIS J. HERRERA




By  
DENNIS J. HERRERA  
San Francisco City Attorney

Date:

2/19/14

APPROVED AS TO FORM



By  
JOSHUA S. WHITE  
Deputy City Attorney

Date:

2/19/14

Attorney for Plaintiff Dennis J. Herrera in his capacity as San Francisco City Attorney

#### ADDENDUM

Based on the consideration set forth in this Settlement Agreement, the San Francisco Ethics Commission agrees to release Ruben Grijalva, from any and all claims, causes of action, liabilities, and damages arising from or related to any act, event, or occurrence related to the Action (but excluding Grijalva's obligations under this Agreement, which are not released), and includes without limitation any claim that has been or could have been asserted based on any act, event, or occurrence related to the Action.

JOHN ST. CROIX

By \_\_\_\_\_ Date: \_\_\_\_\_  
JOHN ST. CROIX  
Executive Director, San Francisco Ethics  
Commission

RUBEN GRIJALVA

DENNIS J. HERRERA



Date: 2/19/2014

RUBEN GRIJALVA

By \_\_\_\_\_  
DENNIS J. HERRERA  
San Francisco City Attorney

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

APPROVED AS TO FORM

By \_\_\_\_\_  
JOSHUA S. WHITE  
Deputy City Attorney

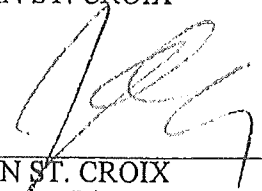
Date: \_\_\_\_\_

Attorney for Plaintiff Dennis J. Herrera in his  
capacity as San Francisco City Attorney

ADDENDUM

Based on the consideration set forth in this Settlement Agreement, the San Francisco Ethics Commission agrees to release Ruben Grijalva, from any and all claims, causes of action, liabilities, and damages arising from or related to any act, event, or occurrence related to the Action (but excluding Grijalva's obligations under this Agreement, which are not released), and includes without limitation any claim that has been or could have been asserted based on any act, event, or occurrence related to the Action.

JOHN ST. CROIX

By  \_\_\_\_\_  
JOHN ST. CROIX  
Executive Director, San Francisco Ethics  
Commission

Date: 2/19/14