

SAN FRANCISCO ETHICS COMMISSION

ANNUAL REPORT – FY 2001-2002

HIGHLIGHTS OF THE SEVENTH YEAR

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 ethics laws and providing education about them.

Commission members and staff are committed to the highest standard of public service and to the efficient and innovative fulfillment of the Commission's obligations under the City Charter.

The Commission's duties as administrator of the City's ethics laws include acting as filing officer for campaign finance disclosure statements, auditing campaign finance statements for compliance with state and local laws, administering the City's laws regulating lobbyists and campaign consultants, investigating complaints alleging violations of the City's ethics laws, administering a whistleblower program, serving as filing officer for financial disclosure statements required from City officials, raising public awareness of ethics laws, researching and proposing ethics-related policy changes, and providing advice.

In FY 01-02, the Commission continued to apply creative solutions in the complex area of government ethics. Its members and staff delivered a proficient set of products and services to the citizens and government of San Francisco:

- Ensuring a smooth transition and uninterrupted work flow after voters reconstituted the Commission's membership;
- Providing administrative regulations, teaching manuals, and training workshops to put into effect a new public financing ordinance;
- Presenting legislative recommendations to the Board of Supervisors to ensure the effective execution of a new ordinance regulating mass mailings;
- Implementing a new ordinance governing recorded phone messages advocating for or against local candidates;
- Proposing amendments to strengthen and clarify the San Francisco Campaign Finance Reform Ordinance;
- Presenting legislative recommendations to the Board of Supervisors to expand the application of the City's Electronic Filing Ordinance;
- Administering reporting requirements for political committees, campaign consultants, lobbyists, and City officials;
- Auditing campaign finance committees for accuracy and legal compliance;
- Investigating complaints and enforcing violations of ethics laws;
- Operating a whistleblower hotline;

- Assuming filing officer duties for candidates to county central committees of various political parties;
- Advising the Board of Supervisors on Charter reform measures;
- Assessing registration fees and late fines; and
- Issuing formal advice letters and fielding hundreds of citizen inquiries.

MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

In FY 01-02, the Commission continued to make important progress in fulfilling its mandates under the City Charter.

CAMPAIGN FINANCE

The Commission administers and enforces the City's Campaign Finance Reform Ordinance, or CFRO. The CFRO sets voluntary ceilings on campaign expenditures by candidates and imposes mandatory limits on contributions to candidates and committees that make expenditures to support or oppose candidates.

The Commission serves as filing officer for four categories of local candidates and committees:

- Candidates seeking election to local office and their controlled committees,
- Committees formed or existing primarily to support or oppose candidates seeking election to local office,
- Committees formed or existing primarily to support or oppose qualification or passage of a ballot measure being voted on only in San Francisco, and
- County general purpose committees active only in San Francisco.

In addition, the Commission in this fiscal year became filing officer for campaign statements from candidates seeking election to the county central committees of the various political parties.

As filing officer, the Commission promotes compliance by candidates and committees and maintains records of reports filed. It audits campaign statements to ensure compliance with applicable laws and imposes penalties for failure to adhere to filing deadlines and reporting requirements. It administers a strict policy mandating fines for campaign statements that are filed late. The policy is distributed to all filers.

During the fiscal year there were a total of 388 campaign filers, including 276 active committees and 112 candidates without a campaign committee, most of whom were standing for election to the county central committees of the various political parties. There were regular semi-annual filings on July 31, 2001, January 10, 2002 and January 31, 2002, as well as five pre-election filings associated with the November general election, the December run-off and the March primary.

The Commission posted all reports on its web site, www.sfgov.org/ethics/, within 24 hours.

The Commission engaged in a thorough CFRO review process in FY 01-02, drafting a set of proposed substantive and technical amendments for referral to the Board of Supervisors. After the November 2002 election and a review of the impact of partial public financing, the Commission may consider additional amendments before forwarding them to the Board for consideration.

IMPLEMENTATION OF PROPOSITIONS O AND E

Proposition O, the public financing ordinance placed on the November 7, 2000 ballot by the Commission, took effect on January 1, 2001. Under the new law, candidates may be eligible to receive matching funds from the City. Funding for the program is capped at \$2 per resident per year, or about \$1.6 million, which includes candidate grants and administrative costs.

Candidates were eligible to apply for public financing in June. By August 9, eleven supervisory candidates had applied for public funding. Eight candidates subsequently received public funds, the first of which were distributed in August.

The Commission hired a Public Finance Administrator and a Public Finance Auditor to implement the program. It held a series of workshops and wrote and distributed a manual explaining how public financing works in San Francisco. The Commission also developed procedures for auditing publicly financed candidates.

Proposition E, a charter amendment placed on the November, 2001 ballot by the Board of Supervisors, contained, among other provisions, a significant reconstitution of the Ethics Commission. The amendment altered the Commission's make-up as follows:

- Ending the terms of all Ethics Commissioners on February 1, 2002, but allowing them to be eligible for reappointment;
- Establishing that the new commissioners to be appointed on February 1 would serve for staggered terms of six, rather than four, years apiece;
- Replacing the Controller with the Assessor as an appointing authority along with the Mayor, the City Attorney, the District Attorney, and the Board of Supervisors;
- Subjecting members and employees of the Commission to new conflict of interest rules including a prohibition on (1) participation in, contribution to, or public endorsement of any City, district, state, or federal candidate or ballot measure that appears on the ballot in San Francisco; and (2) holding any office or policymaking position with organizations that make endorsements of candidates or measures that appear on the ballot in San Francisco;
- Prohibiting members and management-level employees from undertaking lobbying and campaign consultant activities or from receiving gifts from a lobbyist, campaign consultant, or political committee for one year after ending service or employment with the Commission;
- Authorizing the Commission to investigate complaints before investigations by the City Attorney or the District Attorney are concluded;
- Enabling the appointing officer to initiate removal of any Commissioner; and

- Allowing the Commission to retain outside counsel in the event that the City Attorney has a conflict of interest.

The pre-Prop E Commission prepared a welcoming memo for the new Commission discussing items in progress and listing the Commission's policy priorities and recommendations. The post-Prop E Commission adopted changes to the Commission's by-laws to make them compatible with Prop E.

AUDIT PROGRAM

The California Political Reform Act of 1974 and the CFRO require officeholders, candidates and committees supporting or opposing ballot measures or candidates to file finance statements disclosing campaign contributions and expenditures made in connection with a campaign.

The Commission serves as filing officer for statements filed locally. The statements require disclosure of monetary and non-monetary contributions including loans and enforceable promises, expenditures (including loans), unpaid bills and miscellaneous increases to cash. Filers must also keep detailed records of receipts and expenditures of \$25 or more.

The Commission audits the statements for compliance. Its process is outlined in an audit manual available to the public that was revised by the Commission in FY 01-02. Filers at various levels of financial activity are selected for audit by random drawing at Commission meetings.

Audits of four out of ten committees active in 1999 and selected for review in FY 00-01 were still proceeding at the end of that fiscal year and were completed in November 2001. Six of the ten committees were found to be in compliance. There were material findings with respect to four committees. Commission staff forwarded reports relating to the non-compliant committees to the California Fair Political Practices Commission for possible enforcement action. Upon review, the FPPC may take one of three actions. It may either open its own investigation, send a warning letter to the offending committee, or determine the Commission's audit serves as sufficient warning and close the case.

Six committees active in 2000 were selected for audit at the Commission's September 2001 meeting. They are: The Committee to Re-Elect Amos Brown; Gerardo C. Sandoval for Supervisor; Committee to Elect Carol Ruth Silver 2000; Committee on Jobs – Candidate Advocacy Fund; Committee Against Increased Homelessness, A Committee Opposing Prop E; Housing for All, A Committee for Prop H.

Audits are posted on the Commission's web site as they are completed.

ELECTRONIC FILING

The San Francisco Electronic Filing Ordinance requires that certain campaign statements be filed electronically as well as on paper.

The City's On Line Filing System (OLFS), recognized by government agencies nationally as a model program, provides free filing for all disclosure statements required by state and local law. It is compatible with the state of California's standardized CAL filing format and contains search and sort capabilities for the financial data posted on the Commission's web site.

In FY 01-02, the Commission sent to the Board of Supervisors amendments to the Ordinance. These would require political committees raising or spending \$5,000 or more in a calendar year to file electronic copies of supplemental independent expenditure reports, and would authorize the Commission to require electronic copies of other state campaign disclosure statements. The amendments would also direct committees to continue to file campaign forms electronically once they meet the \$5,000 activity threshold until they terminate. At the close of the fiscal year, the Board had yet to consider the amendments.

The Commission and the Department of Technology and Information Services continued to improve the OLFS throughout FY 01-02, ensuring that it maintained compatibility with changes in state filing requirements, and responding to user suggestions and complaints.

Santa Clara County and the City of San Diego expressed interest in adopting the system, and Commission staff held preliminary licensing negotiations with representatives of both jurisdictions.

LOBBYIST REGISTRATION AND REPORTING

Lobbyists are required by the Lobbyist Ordinance to register with the Commission and to file quarterly reports of activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to insure completeness and accuracy. It assesses penalties for failure to adhere to deadlines and other requirements.

Registration is triggered by a threshold level of activity based on the number of City officials contacted and/or the amount of payments received or made. The threshold varies according to the type of lobbying engaged in.

Statements must disclose which City officials were contacted, the positions advocated by the lobbyist, and any campaign contributions or gifts donated. Contract lobbyists are required to disclose the names of their clients and how much money they received from them. Lobbyists who advocate on their own behalf (business and organization lobbyists and expenditure lobbyists) are required to disclose payments made for the purpose of influencing local legislative or administrative action.

Statements are summarized by the Commission in quarterly reports issued two to three weeks after filing deadlines and posted on the Commission's web site. Commission staff surveyed City boards and commissions in FY 01-02 to ensure that all lobbyists were registered and also conducted its usual quarterly workshops in lobbyist filing procedures.

At the close of the fiscal year, there were 41 lobbyists registered with the Commission. Contract lobbyists reported receiving a total of \$3,617,274 in payments during FY 01-02, and business and organization and expenditure lobbyists reported making \$581,443 in payments during the year to influence local legislative or administrative action. They paid \$21,912 in registration fees and \$4,675 in fines.

CAMPAIGN CONSULTANT REGISTRATION AND REPORTING

San Francisco's Regulation of Campaign Consultants Ordinance, passed in 1997, requires anyone who earns \$1,000 or more in a calendar year from the provision of campaign consultant services to register with the Commission and submit quarterly activity reports.

Consultants are required to report names of clients, services provided, payments received, contributions and gifts made to local officials, and other information. The Commission prepares summaries of the quarterly filings, posted on the web site, and publishes a manual, which was revised in FY 01-02.

At the close of the fiscal year, 34 campaign consultants were registered with the Commission. They earned a combined total of \$1,543,264. They paid \$10,600 in fees and \$1,550 in fines.

FINANCIAL DISCLOSURE BY CITY OFFICIALS AND EMPLOYEES

The California Political Reform Act and the San Francisco Conflict of Interest Code require public officials and employees with significant decision-making authority to disclose their personal financial interests.

The Commission serves as the filing officer for Statements of Economic Interest (SEIs) filed by department heads and members of City boards and commissions. It notifies filers of deadlines and requirements, issues instructions on how to complete the forms, reviews filings, assesses penalties, pursues non-filers and requests amended filings where necessary. A list of officials required to file and whether they have met the filing deadlines is maintained on the Commission's web site.

Hundreds of designated employees file SEIs with their department heads rather than the Ethics Commission. These reports are maintained at the department office. The Commission instructs department heads about their duties as filing officers for their designated employees. It also surveys department heads to confirm that all designated employees have filed.

Annual Statements of Economic Interests were due April 1, 2002. At the close of the fiscal year, only five out of 650 department heads and members of commissions had not filed, a significant improvement over last year when there were 181 late filers. The high compliance rate was due in part to Commission outreach efforts, including a workshop conducted for department heads and commission secretaries.

The names of late filers who do not respond to repeated inquiries from the Commission and the Mayor's Office are referred to the California Fair Political Practices Commission for possible enforcement action.

SUNSHINE ORDINANCE DECLARATIONS

The San Francisco Sunshine Ordinance requires department heads and commissioners who are required to file Statements of Economic Interests to sign an annual declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended, or will attend, an annual training on the Sunshine Ordinance.

At the close of the fiscal year, the Commission had received 510 declarations.

INVESTIGATIONS AND ENFORCEMENT

The San Francisco Charter charges the Ethics Commission with investigating alleged violations of laws governing campaign finance, lobbying, campaign consulting, conflicts of interest, and governmental ethics. In addition, the Improper Government Activities Ordinance, also known as the Whistleblower Ordinance, directs the Commission to investigate charges of retaliation directed against complainants and to refer complaints not within the Commission's jurisdiction to the appropriate enforcement agency.

The Commission encourages the filing of whistleblower complaints, and operates a hotline for that purpose, (415) 581-2323. Since the hotline was installed in July 1987, the Commission has received 55 whistleblower complaints. Some have come in over the hotline, others by e-mail or in writing on the Commission's complaint form, which can be accessed from the web site.

During FY 01-02, the Commission resolved 38 complaints, an increase over the 24 complaints resolved in FY 00-01. Five of the complaints were settled for amounts totaling \$13,000, 14 were referred to other agencies, and 19 were dismissed.

Since June 1995, the year the Commission began investigating ethics complaints, a combined total of 198 whistleblower and non-whistleblower complaints have been filed.

The Commission also received expanded investigatory authority in FY 01-02 due to the passage of Prop E, which allows Commission investigations to proceed before the District Attorney or City Attorney completes its investigations.

POLICY RECOMMENDATIONS

The Commission makes recommendations on policy issues that affect its area of jurisdiction. In FY 01-02, the Commission advised the Board of Supervisors on ordinances relating to campaign finance, enhanced protections for whistleblowers, and the electronic filing of campaign reports.

The Commission unanimously recommended adoption of two campaign finance ordinances sponsored by members of the Board of Supervisors:

- A phone solicitation ordinance, which became effective on September 30, requiring persons and entities funding recorded telephone messages supporting or opposing candidates for City elective office to identify themselves as the source of the funding; and
- A mass-mailing ordinance, which became effective on October 26, requiring candidates to (1) include on mass-mailed campaign materials a “paid for by” notice identifying the source of the funding, (2) file a copy of the mass-mailed material with the Ethics Commission, and (3) file a disclosure notice identifying the costs associated with the mailing.

The Commission recommended a series of technical amendments to the mass-mailing ordinance designed to ensure its efficient operation. The amendments were adopted by the Board.

The Commission also suggested proposed amendments to legislation sponsored by a member of the Board of Supervisors to prohibit post-election fundraising in amounts exceeding outstanding net debt. The Commission recommended adoption of the legislation pending inclusion of its amendments.

The Board of Supervisors approved amendments recommended by the Commission for strengthening whistleblower protections. The amendments extend the protections to complaints filed with the Controller’s Office, the District Attorney, and the City Attorney in addition to the whistleblower’s own department and the Ethics Commission. In accordance with the Ordinance, the Ethics Commission prepared a notice about the whistleblower protections for posting by all City departments. As a result, whistleblower complaints filed with the Commission are on the rise.

The Commission’s recommendations to the Board for expanding the electronic filing of campaign reports are discussed above in the section of this report dealing with the Electronic Filing Ordinance.

The Commission also approved draft language for a proposed Charter amendment that it asked the Board of Supervisors to place on the March ballot. The proposed amendment would expressly state that the Ethics Commission may submit ballot arguments to the Director of Elections regarding any City ballot measure that affects the Commission’s

structure, authority or jurisdiction; or a City ballot measure that is placed on the ballot by or at the request of the Commission. The measure was not placed on the March ballot.

In response to the Board's request, the Commission provided comment on other proposed Charter amendments under consideration for placement on the November 2002 ballot.

EDUCATION AND TRAINING.

The Commission conducts ongoing informational programs about ethics-related laws and requirements. It produces educational materials and actively publicizes its outreach activities through public notices.

During FY 01-02, the Commission published two reference manuals for candidates, a general guide for use by candidates running for any City office, and a more specialized guide for Board of Supervisors candidates.

The Commission conducted numerous public workshops, mostly under its own auspices, but also upon request by various civic organizations. Commission staff held 13 workshops on campaign finance reporting, plus three workshops on public financing, and several lobbyist workshops. It also undertook extensive educational outreach regarding the Campaign Consultant Ordinance.

Workshop topics included use of the On Line Filing System; changes in the Campaign Finance Reform Ordinance brought about by the passage of Proposition O, including the public financing program; reporting obligations of county central committee candidates; and techniques to assist researchers in the use of the City's electronic database.

ADVICE AND INFORMATION.

The Commission issued ten formal and informal advice letters in FY 01-02. They included opinions on the Compensated Advocacy Ordinance, the Campaign Consultant Ordinance, the Lobbyist Ordinance, contracting with the City, post-employment restrictions, and Proposition J, the Taxpayer Protection Amendment of 2000. The letters are posted on the Commission's web site.

Commission staff is also available each workday to answer public inquiries about San Francisco's ethics laws. In FY 01-02, the Commission responded to hundreds of requests for information from citizens and others both by phone and at the counter in the Commission office.

AFFILIATIONS

The Commission is a member of the Council on Governmental Ethics Laws (COGEL), and participates in its annual conference. In 2001, the Commission's Campaign Finance Officer participated on a workshop panel on electronic filing at the COGEL conference in

Lexington, Kentucky. Planning is underway for the conference to be held in San Francisco in 2004.

OUTREACH

The Commission has a strong institutional commitment to educate the public about San Francisco's ethics laws and to support campaign reform and government accountability efforts consistent with City policy throughout the state and elsewhere.

In FY 01-02, the Commission responded to a request from the Civil Grand Jury to review the policies governing political activities by City employees and make recommendations for changes. The Commission held a public hearing and began researching possible new guidelines.

Staff members are in routine communication with community organizations about the requirements of the laws and the record of compliance. Regular outreach activities touch a wide variety of individuals and organizations, including neighborhood associations, political clubs, unions, business groups, lobbyists, campaign consultants, reporters, and others.

In January, Executive Director Virginia Vida and staff member Katherine Havener, who administers the Lobbyist Ordinance, addressed the Oakland Board of Port Commissioners on San Francisco's Lobbyist Ordinance. In February, Ms. Vida spoke to the San Francisco Gray Panthers concerning provisions of Prop O, the public finance measure. Deputy Executive Director Mabel Ng made a presentation in July about conflict of interest laws before the Commission on the Status of Women. Campaign Finance Officer Joseph Lynn made a presentation in March on researching public documents to members of the Media Alliance organization.

Commission members and staff also met with members of the newly created San Diego Ethics Commission, who visited San Francisco in September.

The Commission encourages active participation in its monthly meetings by interested community members. Regular meetings are held on the second Monday of each month at 5:30 p.m. at City Hall, 1 Carleton Goodlet Place, Room 408, San Francisco. Agendas of the meetings are posted in accordance with the San Francisco Sunshine Ordinance and are mailed to a large and expanding list.

The Commission occasionally serves as host to foreign visitors seeking to learn about San Francisco ethics laws. At the behest of the U.S. State Department, in August the Commission met with Jose Luis M.C. Gascon, Esq., Executive Director of the National Institute for Policy Studies in the Philippines and the 2001 Benigno S. Aquino Fellow for Public Service.

BUDGET

The Commission's budget for FY 01-02 continued to reflect the expansion of its work as the result of voter initiatives and Board-adopted ordinances and directives. The budgetary increase over FY 00-01 included funding for a temporary Assistant Legal Analyst to help with investigations and the hiring of a Public Finance Administrator and Public Finance Auditor. The Commission's annual 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

During the fiscal year, the 01-02 budget was reduced by \$29,000 to \$848,000 due to the Mayor's request that all departments make significant cuts in view of the city's fiscal projections. The cut was later partially restored as Commission revenues exceeded expectations by more than \$14,500.

At the Commission's request, the Controller's Office reviewed its mandates and budgetary needs in FY 01-02 to determine whether it has sufficient resources to implement its responsibilities. The Controller recommended certain efficiency measures and the acquisition of additional resources to streamline Commission operations.

Following the Controller's recommendation, the Commission will make a number of improvements to its information technology systems, including installing a T1 internet connection, new print server software, and a new SQL server. The T1 connection will provide Commission staff with access to the Citywide online accounting and purchasing systems (FAMIS and ADPICS) as well as the new Citywide e-mail system. The new print server software will enhance the capabilities of the On Line Filing System, and the SQL server will give the Commission a more robust database, needed for its future growth.

In addition, the Commission will improve the procedure by which data published on its web site relates to data in its campaign finance database, saving an estimated \$8,000 a year in work-order charges from the Department of Technology and Information Services. The Commission will also add report forms to its database for the on-line disclosure of independent expenditures and late contributions.

MEMBERSHIP AND ADMINISTRATION

The Ethics Commission has five non-salaried members and a staff of ten supported by varying numbers of interns throughout the year. The Commission's composition changed

midway through the fiscal year when Prop E took effect mandating the appointment of a new Commission and changing one of the appointing authorities from the Controller to the Assessor. Members of the pre-Prop E Commission were:

<u>Commissioner</u>	<u>Appointed By</u>	<u>Dates of Service</u>
Carol M. Kingsley Chairperson	City Attorney	6-98 to 2-02
Paul H. Melbostad Vice Chair	District Attorney	3-96 to 2-02
Isabella H. Grant	Board of Supervisors	5-97 to 2-02
Phillip S. Ryan	Mayor	8-00 to 7-01
David Serrano Sewell	Mayor	10-01 to 1-02
Sharyn Saslafsky	Controller	10-00 to 2-02

Membership post-Prop E was as follows:

<u>Commissioner</u>	<u>Appointed By</u>	<u>Term</u>
Paul Melbostad Chairperson	District Attorney	2-02 to 2-07
Robert R. Planthold Vice Chair	Assessor	2-02 to 2-04
Michele Anglade	City Attorney	3-02 to 2-08
Michael L. Garcia	Board of Supervisors	5-02 to 2-05
Waukeen Q. McCoy	Mayor	2-02 to 2-06

Commissioners drew lots to select the staggered terms required by Prop E. Biographies of the Commissioners are available online at www.sfgov.org/ethics/members.htm.

The Commission staff for FY 01-02 was led by Virginia Vida, Executive Director. Other staff members were Mabel Ng, Deputy Executive Director; Katherine Havener, Ethics Investigator/Legal Analyst; Shaista Shaikh, Public Finance Administrator; Joseph Lynn, Campaign Finance Officer; Janet Li, Assistant Legal Analyst; Grace Chau, Public Finance Auditor; Marvin Ford, Public Finance Clerk; Jennifer Taloa, Principal Assistant; and Frank M. Lester, Campaign Finance Assistant. Interns and volunteers who provided services to the Commission included Gajalakshmi Venkataramalyer, Tomeka Fanfair, Kiger Lau, and Richard Wahlberg.

FUTURE INITIATIVES

After the November 2002 election, the Commission will prepare and forward to the Board and the Mayor a report and recommendations concerning the initial implementation of the public financing program for candidates for the Board of Supervisors. The Commission will hold a public hearing and consider the impact of the public financing program on the election. In light of its findings, the Commission will determine whether to recommend any additional changes in the Campaign Finance Reform Ordinance.

In the coming year the Commission will also undertake a thorough review of the City's conflict of interest laws with the intent of clarifying and strengthening these laws.

Finally, the Commission will assume a more active role in planning for the annual conference of the Council on Governmental Ethics Laws to be held in San Francisco in December 2004.

Respectfully submitted,

Paul H. Melbostad
Chairperson

<p>The San Francisco Ethics Commission FY 2001-2002 Annual Report was prepared by Marc Slavin, Independent Consultant, and edited by the members and staff of the Ethics Commission.</p>
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