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2 ETHICS COMMISSION
3 CITY AND COUNTY OF SAN FRANCISCO
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6 In the Matter of Charges Against
7 ROSS MIRKARIMI,
8 Sheriff, City and County of San Francisco.
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**ORDER DENYING REQUEST FOR
CONTINUANCE**

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11 On September 10, 2012, Sheriff Mirkarimi—through his counsel—made a written
12 request that the Commission continue the date on which it sends the record and its
13 recommendation to the Board of Supervisors so that the Board can decide the matter after the
14 November 6, 2012 elections.¹ The Sheriff identifies media reports suggesting that certain
15 members of the Board of Supervisors are facing political pressure to vote in favor of a finding of
16 official misconduct. He argues that if the Commission withholds the record and its
17 recommendations for some period of time, it can minimize the pressure that the supervisors face.


18 The Commission denies the request for the following reasons. First, the request is based
19 upon speculation. There is no evidence suggesting that any member of the Board of Supervisors
20 will disregard the facts and the law and instead vote to sustain the charges based upon perceived
21 political pressure. The Commission cannot presume that any Board member will act in such
22 manner.

23 Second, it is not the role of the Commission to determine the optimal time for the Board
24 to decide this matter. Indeed, granting the Sheriff's request would cause the Commission to
25 engage in the type of political maneuvering that it seeks to avoid. The Commission will not
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27 ¹ The Charter provides that the Board has only 30 days in which to act on the charges of official
28 misconduct. *See* San Francisco Charter Section 15.105(a). Thus, if the Commission sends the
record and its recommendations prior to October 5, 2012, the Board will likely vote on the matter
before the November elections.

1 manipulate the timing of the Board's decision in a misguided attempt to predict the nadir of
2 public pressure on the Supervisors. Rather, the Commission will send the record and its
3 recommendation to the Board promptly upon completion.²
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6 Dated: September 13, 2012


7 Benedict Hur, Chairperson
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25 ² While the Sheriff cites *Tumey v. Ohio*, 273 U.S. 510 (1927) and *Caperton v. A.T. Massey Coal*
26 *Co., Inc.* 556 U.S. 868 (2009) in support of his position, they are inapposite. *Tumey* involved an
27 elected official charged with adjudicating criminal matters who received compensation for his
28 time only if the defendant was convicted. *Caperton* involved a judge who refused to recuse
himself although he had benefitted from millions of dollars of campaign contributions from a
party who appeared before him. Neither of those cases relate to the facts at issue here, and in
any event, the Commission lacks the authority to evaluate the constitutionality of the Board's
actions.