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10  
11 **BOARD OF SUPERVISORS**  
12 **ETHICS COMMISSION**  
13 **CITY AND COUNTY OF SAN FRANCISCO**  
14

15 IN RE MAYOR EDWIN LEE'S CHARGES )  
16 OF OFFICIAL MISCONDUCT AGAINST )  
17 SHERIFF ROSS MIRKARIMI )  
18 )  
19 )  
20 )

**SHERIFF'S REQUEST FOR  
ISSUANCE OF SUBPOENAS**

21  
22 **I. INTRODUCTION**

23 Mayor Edwin M. Lee testified before the San Francisco Ethics Commission on Friday,  
24 June 29, 2012. Sheriff Mirkarimi's counsel, Shepard Kopp, asked Lee, "Mayor Lee, before you  
25 decided to file written charges of misconduct here, did you talk to any Board of Supervisors  
26 about whether or not you should do so?" Lee responded, "I did not." Minutes later, the hearing  
27 was suddenly adjourned due to an unspecified security threat. The hearing resumed  
28 approximately 90 minutes later, and Kopp asked Lee: "Did you ever extend an offer through

1 third parties that if [Sheriff Mirkarimi] would just resign you'd find him another job in The  
2 City?" Lee responded, "I don't recall offering Mr. Mirkarimi any job." "So you never  
3 authorized, say, Aaron Peskin or Walter Wong to convey to Sheriff Mirkarimi if he would step  
4 down, you'd get him another job?" Kopp asked. "Absolutely not," Lee responded.

5 Subsequent to the Mayor's testimony, two San Francisco officials have contradicted the  
6 Mayor's statements. Building Inspection Commissioner Debra Walker told reporters that  
7 Supervisor Christina Olague personally informed Commissioner Walker that the Mayor had  
8 asked Supervisor Olague what she thought he should do about the Sheriff at a meeting in  
9 Olague's office.

10 In the days following the Mayor's testimony, San Francisco Democratic County Central  
11 Committee Chair and former Board of Supervisors President Aaron Peskin made public  
12 statements that, contrary to the Mayor's testimony, the Mayor offered Sheriff Mirkarimi a city  
13 job through Peskin, using Walter Wong as an intermediary to relay the offer.

14 The statements of Walker and Peskin not only undermine the credibility of the Mayor's  
15 testimony, they call into question the legitimacy of this entire proceeding. As the charging  
16 official in this case, the truthfulness of the Mayor's testimony is of paramount importance. The  
17 primary peril of removing a democratically elected official by means other than recall is that  
18 political motivations may poison the process. Mayor Lee has testified that he did not file the  
19 written charges of misconduct against the Sheriff for any political purpose, but rather because the  
20 mayor believed it to be his civic duty to do so. If it is shown that the Mayor lied under oath  
21 about any material fact of this case -- including possible efforts to influence the outcome of these  
22 proceedings -- the political nature of this attempt to remove the Sheriff will be laid bare.

23 It is not merely the case that the Sheriff has an absolute right to present evidence of  
24 Mayor Lee's perjury: faced with these most serious allegations, the Commission has a duty to  
25 investigate. The Mission Statement of the Commission confirms that it must "practice and  
26 promote the highest standards of ethical behavior in government." The Commission's Code of  
27 Ethics requires it to commit to "[a]ssuring honesty in all matters that come before the  
28 commission..."

1 If the Commission refused to investigate these allegations of mayoral perjury, it would  
2 not only fall short of its duties, it would cloak these proceedings with a presumption of  
3 illegitimacy. Moreover, if the Mayor committed perjury – a felony – such perjury significantly  
4 undermines his claim that the Sheriff should be removed from office for a misdemeanor.

## 6 **II. SUBPOENAS REQUESTED**

### 8 **1. Commissioner Debra Walker**

9 According to multiple news accounts, immediately following the sudden adjournment on  
10 June 29, 2012, Commissioner Walker informed journalists assembled in City Hall that the Mayor  
11 had apparently lied under oath. “When the mayor said he hasn’t spoken to any supervisors, I  
12 know that to be not the fact,” Walker said following Lee’s testimony during the two-hour recess  
13 (See Exhibit 1). “I was told by Christina Olague that she was meeting with the mayor about  
14 things and he had asked her specifically whether or not he should remove Mirkarimi from office  
15 and at the time Christina told me she had opined that he should ask for his resignation and if  
16 Mirkarimi didn’t resign he should just let it go” (*Id.*). According to a news account in Fog City  
17 Journal (See Exhibit 2), Walker had several conversations with Olague about Olague’s meeting  
18 with the mayor, both on the phone and in person.

19 Commissioner Walker should be subpoenaed in order to obtain her sworn testimony of  
20 her knowledge of any communications as between the Mayor Lee and Supervisor Olague  
21 regarding the suspension of Sheriff Mirkarimi. The timing of Commissioner Walker’s public  
22 statements lend to their credibility; Walker made her statements immediately after the Mayor’s  
23 testimony. Additionally, Walker is a personal friend of Olague’s, and Walker’s public  
24 statements contain sufficient detail that also lends to their credibility.

### 25 **2. Supervisor Christina Olague**

26 According to a news account in the Fog City Journal (Exhibit 2), “Olague, who was  
27 confronted by several reporters asking her to respond to Walker’s claim, initially declined to  
28 comment, but relented saying, ‘I never talked to Debra Walker about this subject matter so – and  
we can’t talk about this subject matter because it is something that may be coming before the

1 Board. So we have to be judge and jury on this and we're not allowed to comment on it  
2 publicly.' Asked why Walker would make such a claim if not true, Olague said, 'I'm not sure  
3 why she would say this because we're not allowed to discuss this matter with anyone before it  
4 comes to the Board. So it may be that I just have to be conflicted out if people are saying that  
5 I've had these types of conversations. We've been advised by our attorneys that we can't talk  
6 about this subject matter with anybody because it's going to come before the Board.' 'At this  
7 point I may just have to recuse myself from voting on this on the Board,' Olague added. When  
8 *Fog City Journal* returned to the Ethics Commission hearing following the interview with  
9 Olague, Walker said she received a voice message from Olague. 'Debra, I never had **that**  
10 **conversation**. Thanks,' Olague said in her voice message to Walker." (emphasis added).

11 According to the San Francisco Examiner (Exhibit 3): "But Walker said the mayor asked  
12 Supervisor Christina Olague, whom he tapped to fill Mirkarimi's empty seat on the board.  
13 Olague ducked a media mob on Friday in City Hall and again declined to comment Monday  
14 about whether she discussed the matter with Lee. Asked if she had ever talked with the mayor  
15 about the situation, **Olague simply didn't answer for 10 to 15 seconds**. Asked if her silence  
16 should be taken to mean she didn't have the discussion, Olague quickly said 'no.' Olague then  
17 said all supervisors were asked 'a long time ago' by the City Attorney's Office not to talk with  
18 reporters about the Mirkarimi matter, since the board must make the final decision about whether  
19 he is reinstated or permanently removed. Asked if the city attorney told supervisors not to  
20 discuss the matter with the mayor, Olague declined to comment." (emphasis added).

21 Supervisor Olague should be subpoenaed in order to obtain her sworn testimony on any  
22 communications she may have had with the Mayor regarding the suspension of the Sheriff.  
23 Supervisor Olague's efforts to avoid answering questions about whether she communicated with  
24 the Mayor about the suspension raise the inference that she may have been trying to avoid  
25 committing one way or the other. Supervisor Olague's voice message to Walker referencing  
26 "that conversation" also raises a reasonable suspicion that such a "conversation" was plausible  
27 and in fact occurred.  
28

1 Besides the fact that Supervisor Olague's testimony could demonstrate that Mayor Lee  
2 did not testify truthfully, it could establish an even more critical fact: that Mayor Lee attempted  
3 to influence, and may have succeeded in influencing the ultimate decision-maker on removal:  
4 the Board of Supervisors. To analogize to the trial of a civil or criminal case, this would be the  
5 equivalent of tampering with the jury.

### 6 **3. DCCC Chair Aaron Peskin and Walter Wong**

7 According to the San Francisco Examiner (See Exhibit 4), "Peskin said he was asked to  
8 tell Mirkarimi that an alternative job — perhaps with the San Francisco Public Utilities  
9 Commission or Airport Commission — would be offered as part of his willingness to resign.  
10 Peskin said the request to negotiate with Mirkarimi came to him from Walter Wong, a politically  
11 connected construction company owner who is tight with the mayor. Peskin said Wong informed  
12 him that he had instructions 'from the mayor' to set up the offer. The former supervisor said the  
13 message being conveyed to Mirkarimi was that he would be 'taken care of' if he'd step down.  
14 'It is true I was contacted by Walter Wong,' Peskin said, 'and it is true he said his outreach was  
15 on behalf of the mayor.' Peskin said Mirkarimi turned down the offer because he was skeptical  
16 about whether it could be honored, due to city regulations that prevent elected officials from  
17 taking non-elected jobs with The City after being in office for more than a year. Attempts to  
18 contact Wong through his company were unsuccessful, with representatives saying he was  
19 unavailable for comment over the Independence Day holiday."

20 According to the San Francisco Chronicle (See Exhibit 5), "Now, onetime Mirkarimi ally  
21 and former board President Aaron Peskin is raising questions about Lee's statement - again under  
22 oath - that neither he nor anyone else with his blessing offered to help Mirkarimi find a job if he  
23 resigned his post. According to Peskin, San Francisco businessman Walter Wong - a friend of  
24 both the mayor and Mirkarimi - set up a March 19 meeting with him at Caffè Trieste to discuss  
25 the soon-to-be suspended sheriff's predicament. At the meeting, Peskin said, Wong asked  
26 whether Mirkarimi would step aside 'in exchange for a job of some sort' - either with the city or  
27 in the private sector. 'He certainly left me with the impression he was communicating on behalf  
28 of the mayor,' Peskin said.

1 Peskin said he had passed the message on to Mirkarimi. The sheriff-in-limbo reminded  
2 him of a city law barring elected officials from returning to the municipal payroll for a year after  
3 they leave their posts, Peskin said. And, Peskin says, Mirkarimi didn't trust the mayor's backup  
4 offer of a private-sector job. Peskin said Mirkarimi had made an 'exploratory counteroffer' to  
5 give up his elected post if he was allowed to stay on as an undersheriff - an idea he says Wong  
6 agreed to take back to the mayor's office. 'Walter got back to me several hours later and said, 'I  
7 checked with the administration, and they are not interested,' Peskin said. Wong did not return  
8 our calls seeking comment."

9 DCCC Chair Aaron Peskin and Walter Wong should be subpoenaed in order to obtain  
10 their sworn testimony as to whether Mayor Lee, through Wong and Peskin, offered Sheriff  
11 Mirkarimi a job in exchange for his resignation. DCCC Chair Peskin's recollection of the events  
12 and conversations he had with Wong contain multiple specific details that raise a reasonable  
13 inference of credibility and truth.

### 14 15 **III. CONCLUSION** 16

17 Two city officials have made public statements that directly contradict material testimony  
18 of Mayor Lee. One of those officials, DCCC Chair Peskin, has publicly called on Sheriff  
19 Mirkarimi to resign, which undercuts any suggestion that Peskin is simply doing this to assist a  
20 political ally. If Mayor Lee lied under oath as to communications he had with Supervisor  
21 Olague, or Mayor Lee lied under oath about offering Sheriff Mirkarimi a job in exchange for his  
22 resignation, then the Mayor's case is utterly without merit. The Mayor cannot be permitted to  
23 attempt to remove the Sheriff for misconduct while bearing false witness. The Mayor has  
24 repeatedly cited the "decency, good faith and right action" clause of the Charter to impugn the  
25 Sheriff's character. There is specific, credible evidence that the Mayor's own conduct before the  
26 Commission falls well below the standard he champions. The Commission should therefore  
27 issue subpoenas of Walker, Olague, Peskin and Wong to take their sworn testimony on these  
28 issues.

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Dated: July 11, 2012

By: /s/ David P. Waggoner  
DAVID P. WAGGONER

/s/ Shepard S. Kopp  
SHEPARD S. KOPP

Attorneys for  
SHERIFF ROSS MIRKARIMI

# Exhibit 1





## Commissioner alleges Mayor Ed Lee committed perjury at Ross Mirkarimi hearing

By **Joshua Sabatini** And **Dan Schreiber** | 07/02/12 12:54 AM

S.F. Examiner Staff Writers

A city Building Inspection Commissioner alleged that Mayor Ed Lee committed perjury Friday when he testified that he had not consulted with members of the Board of Supervisors before deciding to charge Sheriff Ross Mirkarimi with misconduct.

During a recess in the suspended sheriff's official misconduct hearing, Commissioner Debra Walker said Supervisor Christina Olague told her that the mayor had asked her whether Mirkarimi should be charged with misconduct. Lee began Ethics Commission proceedings to remove the sheriff from office in March, following Mirkarimi's guilty plea to one count of false imprisonment in a domestic violence case involving his wife, Eliana Lopez.



MIKE KOOZMIN/THE S.F. EXAMINER

Mayor Ed Lee being notified about the apparent bomb threat that delayed his controversial testimony at Friday's Ethics Commission inquiry into the suspension of Sheriff Ross Mirkarimi.

The controversy arose Friday as Mirkarimi's attorney Shepard Kopp cross-examined the mayor.

"Mayor Lee, before you decided to file charges for misconduct here, did you talk to any members of the Board of Supervisors about whether or not you should do so?" Kopp asked.

"I did not," Lee replied.

Minutes later, a bomb threat delayed the hearing for nearly two hours.

During that recess, Walker, a Mirkarimi supporter attending Friday's hearing, alleged that she talked with Olague sometime between Mirkarimi's guilty plea and when Lee moved to suspend him.

"When the mayor said he hadn't talked to any supervisors, I know that to be not the fact," said Walker, who is aligned with San Francisco's more left-leaning political faction. "I was told by Christina Olague that she was meeting with the mayor about things and he had asked her specifically about whether or not he should remove Mirkarimi from office. And at the time, Christina told me that she had opined that he should ask for his resignation and if Mirkarimi didn't resign that he should just let it go."

Olague was appointed by Lee to take Mirkarimi's seat on the Board of Supervisors, where he had served for nearly eight years before being elected sheriff.

"Mayor Lee stands by his statements," his spokeswoman Christine Falvey later said.

Shortly after the mayor's statement, the hearing was abruptly suspended due to what Sheriff's Department spokeswoman Susan Fahey described as a bomb threat at City Hall.

The mayor was whisked out of the fourth-floor hearing room as staffers and security officials scrambled about his second floor executive offices. Although Lee departed, others attendance remained behind and were not told about the threat. The building was never locked down or cleared and the threat was later deemed to be baseless.

Walker cast suspicion on the abrupt interruption.

"Why did they stop the meeting?" she asked. "I think he was going to be led down the road of what an official should do if someone is lying under oath. That's what I think was happening."

Reporters then confronted Olague, who denied discussing the matter with Lee and retreated to her office. She later emerged, saying she had no further comment.

"I think she's denying saying it now," Walker said later. "But we had the conversation."

Walker said Lee might have a motive to deny he spoke to Olague about the misconduct proceedings.

"It challenges his case," she said. "It would be like talking to a judge about what they thought about a case before it went to a judge."

The Board of Supervisors will have the ultimate decision over whether Mirkarimi is reinstated or permanently removed. It would take at least nine votes of the 11-member board to uphold the suspension.

Walker also recently accused the mayor of forcing the resignation of Vivian Day, director of the Department of Building Inspection. The mayor denied any involvement.

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URL: <http://www.sfoxaminer.com/local/2012/06/commissioner-alleges-mayor-ed-lee-committed-perjury-ross-mirkarimi-hearing>

# Exhibit 2

# Allegation of Mayoral Perjury Casts Doubt on Official Misconduct Case Against Suspended Sheriff

Written by Luke Thomas. Posted in News (<http://www.fogcityjournal.com/wordpress/category/news/>), Politics (<http://www.fogcityjournal.com/wordpress/category/politics/>)

Tagged: Chistina Olague (<http://www.fogcityjournal.com/wordpress/tag/chistina-olague/>), Debra Walker (<http://www.fogcityjournal.com/wordpress/tag/debra-walker/>), domestic violence (<http://www.fogcityjournal.com/wordpress/tag/domestic-violence/>), ed lee (<http://www.fogcityjournal.com/wordpress/tag/ed-lee/>), eliana lopez (<http://www.fogcityjournal.com/wordpress/tag/eliana-lopez/>), ethics commission (<http://www.fogcityjournal.com/wordpress/tag/ethics-commission/>), krissy keefer (<http://www.fogcityjournal.com/wordpress/tag/krissy-keefer/>), official misconduct (<http://www.fogcityjournal.com/wordpress/tag/official-misconduct/>), ross mirkarimi (<http://www.fogcityjournal.com/wordpress/tag/ross-mirkarimi/>)

Published on July 01, 2012 with 58 Comments and 6 Reactions ([http://www.fogcityjournal.com/wordpress/4737/allegations-of-mayoral-perjury-casts-doubt-on-official-misconduct-case-against-suspended-sheriff/#disqus\\_thread](http://www.fogcityjournal.com/wordpress/4737/allegations-of-mayoral-perjury-casts-doubt-on-official-misconduct-case-against-suspended-sheriff/#disqus_thread))



San Francisco Mayor Ed Lee testified under oath Friday that he never discussed the official misconduct case against suspended Sheriff Ross Mirkarimi with any members of the Board of Supervisors. Photos by Luke Thomas

By Luke Thomas (<http://www.fogcityjournal.com/wordpress/author/luke/>)

July 1, 2012

San Francisco Mayor Ed Lee's official misconduct case against suspended Sheriff Ross Mirkarimi was thrown into a tailspin Friday when the mayor allegedly perjured himself during an Ethics Commission probe into whether the democratically elected sheriff is guilty of official misconduct.

Perjury is considered a serious offense as it can be used to usurp judicial power resulting in miscarriages of justice. If the allegation is true, the mayor would himself have committed official misconduct in an official misconduct case and torpedoed an opportunity to remove a political rival from office.

The allegation of perjury was leveled following an abrupt suspension of the hearing due to an unsubstantiated bomb threat when minutes earlier the mayor denied under oath that he had spoken with any members of the Board of Supervisors – the eleven-member body that will ultimately decide if Mirkarimi will keep his job – about whether the mayor should file charges of official misconduct against Mirkarimi following Mirkarimi's plea to one misdemeanor count of false imprisonment stemming from a heated argument with his wife, Eliana Lopez, on December 31 that resulted in a bruise on Lopez's right arm.

"Mayor Lee, before you decided to file written charges of misconduct here, did you talk to any Board of Supervisors about whether or not you should do so?" Mirkarimi defense counsel Shepard Kopp asked Lee.

"I did not," Lee responded.



Mayor Lee is told by SFPD security detail he has to leave the hearing due to a bomb threat. Only the mayor was evacuated from City Hall.

But according Building Inspection Commissioner Debra Walker, an ally of Mirkarimi and friend of Lee-appointed District 5 Supervisor Christina Olague, Lee sought Olague's opinion in March as to what she thought he should do about Mirkarimi before moving to suspend

(<http://www.fogcityjournal.com/wordpress/3511/mayor-lee-suspends-sheriff-mirkarimi-interim-named-peskin-calls-on-mirkarimi-to-resign/>) him.

“When the mayor said he hasn’t spoken to any supervisors, I know that to be not the fact,” Walker said following Lee’s testimony during the two-hour recess. “I was told by Christina Olague that she was meeting with the mayor about things and he had asked her specifically whether or not he should remove Mirkarimi from office and at the time Christina told me she had opined that he should ask for his resignation and if Mirkarimi didn’t resign he should just let it go.”

Walker had several conversations with Olague about Olague’s meeting with the mayor, both on the phone and in person, Walker said.

“So I was shocked when he said that because he’s our mayor and he was lying under oath,” Walker said. “Either that or I was misinformed as to him having a conversation with Christina.”



Building Inspection Commissioner Debra Walker discusses with reporters the conversations she had with Supervisor Christina Olague.

Walker said she had discussed the conversations she had with Olague with others including Dance Mission Theater co-founder Krissy Keefer.

“Christina told Debra and Debra told me two months ago that [the mayor] conferred with Christina about whether he should suspend Ross or not,” Keefer said.

Walker confirmed her availability to be called as a witness in the case and to testify under oath. Keefer could not be reached to confirm her availability.

Olague, who was confronted by several reporters asking her to respond to Walker’s claim, initially declined to comment, but relented saying, “I never talked to Debra Walker about this subject matter so – and we can’t talk about this subject matter because it is something that may be coming before the Board. So we have to be judge and jury on this and we’re not allowed to comment on it publicly.”



District 5 Supervisor Christina Olague.

Asked why Walker would make such a claim if not true, Olague said, "I'm not sure why she would say this because we're not allowed to discuss this matter with anyone before it comes to the Board. So it may be that I just have to be conflicted out if people are saying that I've had these types of conversations."

"We've been advised by our attorneys that we can't talk about this subject matter with anybody because it's going to come before the Board.

"At this point I may just have to recuse myself from voting on this on the Board," Olague added.

When *Fog City Journal* returned to the Ethics Commission hearing following the interview with Olague, Walker said she received a voice message from Olague.

"Debra, I never had that conversation. Thanks," Olague said in her voice message to Walker.

Lee, after completing his testimony, declined to comment on the alleged conversation he had with Olague.

Asked what actions, if any, Mirkarimi's defense counsel will pursue following the revelation of alleged perjury by the mayor, Kopp said, "We take the allegations of perjury very seriously and are currently evaluating the causes of action available to us."

Possible causes of action include calling Olague to the witness stand to testify under oath and calling for a suspension of the Ethics Commission hearing until an external judicial body properly adjudicates the perjury allegation.

# Exhibit 3





## SF officials quiet after bomb threat in hearing and Ed Lee accusation

By Joshua Sabatini And Dan Schrieber | 07/02/12 9:24 PM

SF Examiner Staff Writer

Conspiracy theorists still pondering last week's bizarre sequence of events during misconduct proceedings against suspended Sheriff Ross Mirkarimi will probably end up disappointed. They could even find themselves lacking basic answers — the simple building blocks used to launch their complex hypotheses — because of the seemingly universal code of silence being imposed by San Francisco politicians and law enforcement.

On Monday, San Francisco police, the Department of Emergency Management and the Ethics Commission were all mum on the nature of a purported bomb threat that abruptly interrupted the testimony of Mayor Ed Lee about 1:30 p.m. Friday. The District Attorney's Office and a San Francisco supervisor declined to respond to allegations from a pro-Mirkarimi city commissioner that Lee lied under oath during his much-anticipated testimony.

After an apparent threat against City Hall and the Golden Gate Bridge that was later discredited, the mayor was escorted out of the hearing room through a back door. But the nature of the interruption wasn't revealed until the Ethics Commission hearing reconvened nearly two hours later.

### RELATED...



**Commissioner alleges Mayor Ed Lee**

The break in the action came just minutes after what Building Inspection Commissioner Debra Walker, a Mirkarimi supporter, described as perjury that Lee committed when he said he never spoke with any members of the Board of Supervisors before suspending the sheriff-in-limbo back in March.

But Walker said the mayor asked Supervisor Christina Olague, whom he tapped to fill Mirkarimi's empty seat on the board. Olague ducked a media mob on Friday in City Hall and again declined to comment Monday about whether she discussed the matter with Lee.



MIKE KOOZMIN/THE S.F. EXAMINER

On Monday, San Francisco police, the Department of Emergency Management and the Ethics Commission were all mum on the nature of a purported bomb threat that abruptly interrupted the testimony of Mayor Ed Lee about 1:30 p.m. Friday.

## **committed perjury at Ross Mirkarimi hearing**

07/10/12 12:54 AM

A city Building Inspection Commissioner alleged that Mayor Ed Lee committed perjury Friday when he testified that he had not consulted with members of the Board of Supervisors before deciding to charge Sheriff Ross Mirkarimi with misconduct. [Read More](#)

Asked if she had ever talked with the mayor about the situation, Olague simply didn't answer for 10 to 15 seconds.

Asked if her silence should be taken to mean she didn't have the discussion, Olague quickly said "no." Olague then said all supervisors were asked "a long time ago" by the City Attorney's Office not to talk with reporters about the Mirkarimi matter, since the board must make the final decision about whether he is reinstated or permanently removed. Asked if the city attorney told supervisors not to discuss the matter with the mayor, Olague declined to comment.

San Francisco police declined to provide details of the bomb threat call because the department said the matter is under investigation.

Police spokesman Officer Carlos Manfredi also declined to provide the "computer-aided dispatch" number that's assigned to each emergency call, and added that even if the call were identified as such, the Department of Emergency Management would be prohibited by police from releasing any details.

The District Attorney's Office is currently not investigating whether the mayor committed perjury, which is a felony.

"Based on media stories, no," said District Attorney spokeswoman Stephanie Ong Stillman.

Asked what could prompt such an investigation, Ong Stillman declined to comment.

Ethics Commission Executive Director John St. Croix said he's unaware of any perjury investigation, but even if there were one, he wouldn't be able to comment on its existence.

"In that case, we would investigate what the actual truth was," St. Croix said. "And then we would have to determine whether or not the perjurer knew the statement was false. This hasn't happened before."

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URL: <http://www.sfxaminer.com/local/2012/07/san-francisco-officials-quiet-after-bomb-threat-hearing-and-lee-accusation>

# Exhibit 4



## Former supervisor bolsters perjury allegations against SF Mayor Ed Lee

By Dan Schreiber | 07/04/12 5:03 PM

SF Examiner Staff Writer

Questions about possible perjury stemming from sworn testimony by Mayor Ed Lee are intensifying, as former Board of Supervisors President Aaron Peskin contradicts the story the mayor presented on Friday during official misconduct proceedings against suspended Sheriff Ross Mirkarimi.

During a tense hearing before The City's Ethics Commission, Mirkarimi attorney Shepard Kopp asked Lee whether the sheriff was offered an alternative job if he would agree to resign instead of fighting official misconduct charges related to a New Year's Eve scuffle with his wife.



S.F. EXAMINER FILE PHOTO

On Wednesday, Aaron Peskin said he was asked to tell Mirkarimi that an alternative job — perhaps with the San Francisco Public Utilities Commission or Airport Commission — would be offered as part of his willingness to resign.

“Did you ever extend an offer through third parties that if he would just resign you’d find him another job in The City?” Kopp asked.

Lee responded, “I don’t recall offering Mr. Mirkarimi any job.”

“So you never authorized, say, Aaron Peskin or Walter Wong to convey to Sheriff Mirkarimi if he would step down, you’d get him another job?” Kopp asked.

“Absolutely not,” Lee responded.

But Wednesday, Peskin said he was asked to tell Mirkarimi that an alternative job — perhaps with the San Francisco Public Utilities Commission or Airport Commission — would be offered as part of his willingness to resign.

Peskin said the request to negotiate with Mirkarimi came to him from Walter Wong, a politically connected construction company owner who is tight with the mayor. Peskin said Wong informed him that he had instructions “from the mayor” to set up the offer.

The former supervisor said the message being conveyed to Mirkarimi was that he would be “taken care of” if he’d step down.

“It is true I was contacted by Walter Wong,” Peskin said, “and it is true he said his outreach was on behalf of the mayor.”

Peskin said Mirkarimi turned down the offer because he was skeptical about whether it could be honored, due to city regulations that prevent elected officials from taking non-elected jobs with The City after being in office for more than a year.

Attempts to contact Wong through his company were unsuccessful, with representatives saying he was unavailable for comment over the Independence Day holiday.

Kopp declined to go into in detail on any perjury allegations against the mayor, but suggested they could become relevant in the official misconduct proceedings, which are set to continue later this month.

"I'll just say that we take perjury allegations very seriously," Kopp said.

City Building Inspection Commissioner Debra Walker recently accused the mayor of lying when he denied consulting with members of the Board of Supervisors before he began removal proceedings against Mirkarimi in March. Walker said that Supervisor Christina Olague, a friend and political ally, told her that Lee had sought her advice before he suspended the former sheriff.

Perjury is commonly prosecuted as a felony, but any charges against the mayor would likely be brought under California's official misconduct statute, because no known administrative mechanism exists within The City to charge the mayor with misconduct.

*dschreiber@s Examiner.com*

URL: <http://www.sfexaminer.com/local/2012/07/insiders-bolster-perjury-allegations-against-mayor>

# Exhibit 5

## Ed Lee's testimony challenged at Mirkarimi hearing

Phillip Matier and Andrew Ross, Chronicle Columnist  
Updated 04:27 p.m., Saturday, July 7, 2012

The buzz at **Ross Mirkarimi's** official misconduct hearing is becoming more about Mayor **Ed Lee** every day.

First came Building Commission member **Debra Walker** challenging the mayor's sworn testimony that he never spoke to any of San Francisco's 11 supervisors about suspending the sheriff for his guilty plea in a domestic violence case.

Now, onetime Mirkarimi ally and former board President **Aaron Peskin** is raising questions about Lee's statement - again under oath - that neither he nor anyone else with his blessing offered to help Mirkarimi find a job if he resigned his post.

According to Peskin, San Francisco businessman **Walter Wong** - a friend of both the mayor and Mirkarimi - set up a March 19 meeting with him at Caffe Trieste to discuss the soon-to-be suspended sheriff's predicament.

At the meeting, Peskin said, Wong asked whether Mirkarimi would step aside "in exchange for a job of some sort" - either with the city or in the private sector.

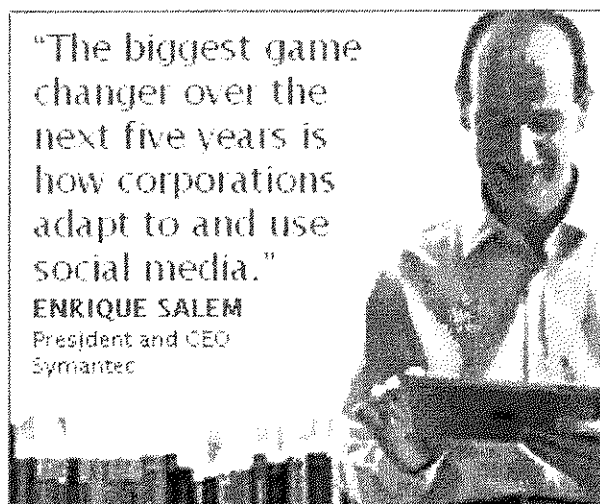
"He certainly left me with the impression he was communicating on behalf of the mayor," Peskin said.

Peskin said he had passed the message on to Mirkarimi. The sheriff-in-limbo reminded him of a city law barring elected officials from returning to the municipal payroll for a year after they leave their posts, Peskin said.

And, Peskin says, Mirkarimi didn't trust the mayor's backup offer of a private-sector job.

Peskin said Mirkarimi had made an "exploratory counteroffer" to give up his elected post if he was allowed to stay on as an undersheriff - an idea he says Wong agreed to take back to the mayor's office.

"Walter got back to me several hours later and said, 'I checked with the administration, and they are not interested,'" Peskin said.



Wong did not return our calls seeking comment.

The mayor has denied ever making any offer to Mirkarimi, or having any knowledge of anyone making such an offer on his behalf.

"Mayor Lee testified absolutely truthfully at the Ethics Commission last week," his spokesman, **Francis Tsang**, said Friday.

Mirkarimi's attorney **Shepard Kopp** isn't buying it, and hopes to prove - or leave a strong impression - that the mayor committed perjury before the commission during its hearings on whether Mirkarimi should be bounced from his job.

Not only does Kopp plan to ask the commission to subpoena Peskin and Wong, but he also wants to put Walker and Supervisor **Christina Olague** on the stand. Walker says Olague told her Lee had consulted her before suspending Mirkarimi, something Olague has denied.

"If the mayor lied under oath, it completely undermines the legitimacy of these removal proceedings," Kopp said.

**Riding the rails:** It took a big behind-the-scenes push from the governor and organized labor - plus a slew of calls from House Minority Leader **Nancy Pelosi** fellow Democrats - to pull off the state Senate's squeaker approval of high-speed rail Friday.

There wasn't a lot of arm twisting - just a final offer that 21 Democratic senators couldn't refuse.

"That having something was better than nothing," said state Sen. **Leland Yee**.

Yee, D-San Francisco, was among the many senators who got a one-on-one over the phone from Pelosi, who told them that "nothing" was pretty much what California could expect - instead of \$3.4 billion in federal stimulus funds for the project - if they didn't approve the deal as is.

"She made it clear that there was no alternative plan that Washington, D.C., looks on in a favorable way," Yee said.

In other words, get the 130-mile demonstration track going in the Central Valley, or forget about all the sweetener funds - like the \$61 million for San Francisco's Central Subway, the \$140 million for new BART cars or the \$106 million to upgrade Caltrain.

Voters, however, are still of a mixed mind at best over the \$68 billion system. A new Field Poll showed a critical 21 percent of likely "yes" voters for Gov. **Jerry Brown's** tax hikes this fall might have second thoughts if the state spends billions on high-speed rail.



One thing that might take their minds off the train trouble would be for lawmakers to get going on pension reform - which state Sen. **Mark Leno**, D-San Francisco, says is "much more important" to voters - between now and November.

*San Francisco Chronicle* columnists Phillip Matier and Andrew Ross appear Sundays, Mondays and Wednesdays. Matier can be seen on the KPIX-TV morning and evening news. He can also be heard on KCBS radio Monday through Friday at 7:50 a.m. and 5:50 p.m. Got a tip? Call (415) 777-8815, or e-mail [matierandross@sfchronicle.com](mailto:matierandross@sfchronicle.com).

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