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MARK FARRELL FOR DISTRICT 2  
7 SUPERVISOR 2010 and MARK FARRELL

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

APR 29 2016

CLERK OF THE COURT  
BY: ARLENE RAMOS  
Deputy Clerk

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

12 MARK FARRELL FOR DISTRICT 2  
SUPERVISOR 2010 and MARK  
13 FARRELL,  
14 Petitioners and Plaintiffs,  
15 v.  
16 CITY AND COUNTY OF SAN  
FRANCISCO; SAN FRANCISCO  
17 ETHICS COMMISSION; CITY AND  
COUNTY OF SAN FRANCISCO  
18 TREASURER AND TAX COLLECTOR;  
and DOES 1 to 100, inclusive,  
19 Respondents and Defendants.

Case No. **CCC-16-551745**

VERIFIED PETITION FOR WRIT  
OF MANDATE TO COMPEL  
RESPONDENTS AND DEFENDANTS  
TO VACATE FORFEITURE  
DEMAND; COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF; COMPLAINT  
FOR VIOLATION OF EQUAL  
PROTECTION AND DUE PROCESS  
RIGHTS

[CAL. CODE OF CIVIL PROCEDURE  
SECTIONS 525, 1060, 1085 & 1094.5  
et seq.; 42 U.S.C. SECTION 1983]

20  
21 **INTRODUCTION**

22 Petitioners and Plaintiffs MARK FARRELL FOR DISTRICT 2 SUPERVISOR  
23 2010 and SAN FRANCISCO SUPERVISOR MARK FARRELL (collectively,  
24 "Petitioners") bring this action against Respondents and Defendants CITY AND  
25 COUNTY OF SAN FRANCISCO, SAN FRANCISCO ETHICS COMMISSION, CITY  
26 AND COUNTY OF SAN FRANCISCO TREASURER AND TAX COLLECTOR and  
27 DOES 1 to 100, inclusive (collectively, "Respondents" or "the City") to vacate and set  
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1 aside the Ethics Commission's demand that Petitioners "forfeit" approximately \$191,000  
2 to the City.

3 The City lacks any rational basis for making this outrageous demand. Supervisor  
4 Farrell is totally and completely innocent. Neither Supervisor Farrell nor the Farrell  
5 Committee broke any City, state or other laws - and, although this matter has been  
6 investigated and re-investigated for several years now, no governmental entity has ever  
7 made any findings to the contrary. Not once. During what can only be described as a  
8 witchhunt, the Ethics Commission has systematically and blatantly ignored City law, as  
9 well as its own procedures, and is guilty of a gross violation of Supervisor Farrell's rights.  
10 This miscarriage of justice must be stopped.

11 This matter arises out of the activities of Common Sense Voters, an independent  
12 political committee which spent approximately \$191,000 on several mailers which  
13 supported Supervisor Farrell's candidacy for District 2 Supervisor in 2010. Chris Lee,  
14 the campaign manager for the Farrell Committee, had minor and unauthorized  
15 communications with the agents of Common Sense Voters before the committee was set  
16 up. Based solely on these limited interactions, the City believes that it can unilaterally  
17 demand that Petitioners now "forfeit" over \$190,000 to the City - even though Petitioners  
18 never solicited, received, possessed or otherwise controlled the funds the City now seeks,  
19 and even though Supervisor Farrell in no way authorized and had absolutely no  
20 knowledge of his campaign manager's actions.

21 The City is pursuing the forfeiture demand even though the California Fair  
22 Political Practices Commission ("FPPC") – the state agency charged with interpreting and  
23 enforcing the state's campaign laws – conducted a thorough investigation over the course  
24 of multiple years of all of the relevant facts and law surrounding the interactions between  
25 Lee and Common Sense Voters. The FPPC concluded that Petitioners did nothing wrong  
26 and decided to fine only Lee and Common Sense Voters, and not Petitioners. The staff of  
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1 the Ethics Commission also reviewed the facts and law and, like the FPPC, decided not to  
2 take any action against Petitioners.

3 The Ethics Commission completely ignored the laws and rules governing its  
4 investigations and enforcement matters, thereby violating Petitioners' due process rights.  
5 It never provided Petitioners with a written description of the charges against them, never  
6 held a formal hearing on the matter, and never even interviewed Supervisor Farrell.  
7 Instead, Ethics Commissioner Peter Keane went on the record with inflammatory and  
8 unsubstantiated statements about Supervisor Farrell, equating him to Richard Nixon,  
9 calling him "corrupt," and jumping to the conclusion that Supervisor Farrell violated the  
10 law without hearing all of the facts. The Ethics Commission handled this forfeiture matter  
11 differently than it has administered every other prior forfeiture matter, thereby depriving  
12 Petitioners of their rights to equal protection under the law.

13 The City did not and cannot establish that Petitioners controlled or coordinated  
14 with Common Sense Voters. Neither Supervisor Farrell nor anyone else involved in his  
15 2010 campaign authorized Lee to interact with Common Sense Voters, and Supervisor  
16 Farrell did not learn of these interactions until the FPPC told him about them years after  
17 the election. Respondents have failed to carry their burden of proving that Petitioners  
18 violated the City's campaign laws, thereby making the forfeiture demand utterly frivolous.

19 Perhaps most notably, the City has blatantly disregarded the express statute of  
20 limitations set out in the City's campaign law, repeated in the regulations adopted by the  
21 Ethics Commission, and confirmed in the Ethics Commission's own policies. This statute  
22 of limitations states clearly that the City must take action against an alleged violation of  
23 the City's campaign laws within four years of the date of the alleged violation. Common  
24 Sense Voters' campaign mailers were sent out in October 2010, so the City was required  
25 to act by October 2014. It failed to do so, and therefore can not demand almost \$191,000  
26 from Petitioners at this time.

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**PETITION FOR WRIT OF MANDATE**

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2       Petitioners bring this lawsuit after exhausting all other paths to resolve this matter,  
3 and accordingly seek a writ of mandate and injunctive relief and declaratory relief to  
4 overturn Respondents' forfeiture demand. The Court's issuance of the requested writ of  
5 mandate and declaratory and injunctive relief is necessary and appropriate for the  
6 enforcement of Petitioners' rights in that Petitioners are beneficially interested in this  
7 matter and have no plain, speedy, or adequate remedy in the ordinary course of law  
8 whereby their rights can be upheld or Respondents can be compelled to rescind and cease  
9 their forfeiture demand. Petitioners allege the following:

**PARTIES**

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11       1.     Petitioner MARK FARRELL FOR DISTRICT 2 SUPERVISOR 2010 (the  
12 "Farrell Committee") was, at all relevant times, the campaign committee established up  
13 by Supervisor Mark Farrell for his 2010 election.

14       2.     Petitioner MARK FARRELL ("Farrell") is an individual and a member of  
15 the Board of Supervisors of the City and County of San Francisco, representing District 2.  
16 Farrell was elected to the Board in November 2010 and re-elected in November 2014.

17       3.     Respondent CITY AND COUNTY OF SAN FRANCISCO (the "City") is a  
18 subdivision of the State of California and has a duty to fairly and properly apply the laws  
19 of the City and the State to Petitioners and others.

20       4.     The City acts, and at all relevant times acted, through its agents, including  
21 City Attorney Dennis Herrera. Herrera has a duty to fairly and properly apply the laws of  
22 the City and the State to Petitioners and others.

23       5.     Respondent SAN FRANCISCO ETHICS COMMISSION (the "SFEC") is  
24 the City agency tasked with enforcing the City's campaign laws. The SFEC has a duty to  
25 fairly and properly apply the laws of the City and the State to Petitioners and others.

26       6.     The SFEC acts, and at all relevant times acted, through its agents, including  
27 Chair Paul Renne, four other Commissioners, and former Executive Director John St.

1 Croix ("St. Croix"). The Commissioners and St. Croix have a duty to fairly and properly  
2 apply the laws of the City and the State to Petitioners and others.

3 7. Respondent CITY AND COUNTY OF SAN FRANCISCO  
4 TREASURER AND TAX COLLECTOR ("Treasurer" and "Tax Collector") is the City  
5 office tasked with collecting debts on behalf of the City. The Treasurer and Tax  
6 Collector have a duty to fairly and properly apply the laws of the City and the State to  
7 Petitioners and others.

8 8. The Treasurer and Tax Collector act, and at all relevant times acted, through  
9 their agents Treasurer Jose Cisneros and Tax Collector David Augustine. Cisneros and  
10 Augustine have a duty to fairly and properly apply the laws of the City and the State to  
11 Petitioners and others.

12 9. The true and correct capacities of Respondents and Defendants DOES 1  
13 through 100, and each of them, are unknown to Petitioners at this time, and therefore  
14 Petitioners sue said DOE parties by such fictitious names. Petitioners will file  
15 amendments and/or seek leave of court to amend this Petition to assert the true names and  
16 capacities of these DOE parties when they have been ascertained. The DOE parties have  
17 a duty to fairly and properly apply the laws of the City and the State to Petitioners and  
18 others.

19 10. Petitioners are informed and believe, and based thereon allege, that each  
20 Respondent and Defendant is the agent of each other Respondent and Defendant and is in  
21 some manner responsible for the harm caused to Petitioners.

### 22 JURISDICTION AND VENUE

23 11. At all times relevant hereto, Petitioners, Respondents, and all DOE parties  
24 resided in the City and in the State of California, and the wrongful conduct alleged herein  
25 occurred in the City and in the State of California, and therefore the proper venue for this  
26 case is in the San Francisco County Superior Court.

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1 things, that the Farrell Committee illegally coordinated with CSV to make expenditures in  
2 support of Farrell and in opposition to Reilly.

3 19. On January 10, 2011, the FPPC informed Reilly that it would investigate the  
4 matter.

5 20. On January 26, 2011, the SFEC informed Reilly that it would review the  
6 alleged violations of City law pursuant to its investigatory powers under City law, but  
7 would defer any action on alleged violations of state law until the FPPC completed its  
8 investigation.

9 21. Starting in 2012, the FPPC conducted a detailed investigation of potential  
10 coordination between CSV and the Farrell Committee. The FPPC interviewed numerous  
11 individuals from October 2012 through February 2013, including Farrell. SFEC staff was  
12 present for at least three of these interviews, which took place in SFEC offices, including  
13 the interview of Lee.

14 22. On August 20, 2014, the FPPC informed the SFEC that it had concluded its  
15 investigation and reached a settlement with CSV and Lee, and that it had decided not to  
16 proceed against Petitioners.

17 23. The FPPC invited the SFEC to join in the settlement and/or comment on the  
18 proposed stipulation with CSV and Lee, something that is often done between the FPPC  
19 and local enforcement agencies. The SFEC Executive Director declined to join in the  
20 settlement or comment on the proposed stipulation, and decided not to take action against  
21 Supervisor Farrell, Lee, CSV or anyone else, as the law specifically authorizes him to do.  
22 (SFEC Regulations for Investigations and Enforcement Proceedings (“SFEC  
23 Enforcement Regulations”) section IV(B)(4) [“Executive Director may dismiss the  
24 complaint if . . . [t]he allegations contained in the complaint are already under  
25 investigation, or already have been resolved, by the Commission or another law  
26 enforcement agency.”].)

27 24. On November 20, 2014, the FPPC approved a \$14,500 settlement with  
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1 CSV and Lee, concluding that CSV violated certain reporting requirements triggered by  
2 Lee's interactions with CSV. The FPPC concluded that Farrell was not aware of, and did  
3 not authorize, Lee's interactions with CSV.

4 25. Neither Farrell nor the Farrell Committee were parties to the FPPC  
5 settlement.

6 **SFEC Forfeiture Demand**

7 26. On December 9, 2014, and more than four years after the alleged violations,  
8 the SFEC sent a letter to Petitioners stating that the SFEC considered the expenditures  
9 made by CSV to be "contributions" to Petitioners, and demanding that Petitioners  
10 "forfeit" \$190,903.04 to the City (the "forfeiture demand").

11 27. The City's campaign law provides that committees which receive  
12 contributions which violate the \$500 limit on contributions to candidates, the prohibition  
13 on contributions to candidates from corporations, or the requirement to identify the  
14 contributor's occupation and employer, must "forfeit" this money to the City. (S.F.  
15 Camp. & Govt. Conduct Code section 1.114.) The City has only demanded forfeiture in  
16 the past when the violation of City law was clear from the face of the campaign report  
17 filed by the committee, except in the present matter.

18 28. The City Attorney's office investigated Petitioners' alleged violations of  
19 City law from December 2014 through February 2015 pursuant to its investigatory  
20 powers under City law, including a review of the FPPC's entire investigatory file, and  
21 ultimately chose not to pursue the matter. Petitioners are informed and believe that the  
22 City Attorney's office chose not to pursue the matter based at least in part on the four-  
23 year statute of limitations in City law.

24 29. On March 15, 2015, Petitioners sent a letter to the SFEC objecting to the  
25 forfeiture demand and requesting that it be waived.

26 30. The forfeiture demand appeared on the SFEC's March 23, 2015 regularly  
27 scheduled meeting agenda and was discussed in open session, even though – as a  
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1 confidential enforcement matter – it should have been discussed only in closed session.  
2 Counsel for Petitioners spoke during the public comment period at this meeting, but the  
3 presentation was brief and informal.

4 31. On April 27, 2015, the SFEC held its regularly scheduled monthly  
5 meeting and again discussed the forfeiture demand in open session. Counsel for  
6 Petitioners also spoke during the public comment period at this meeting, but again the  
7 presentation was brief and informal.

8 32. On June 5, 2015, SFEC Executive Director St. Croix issued a letter  
9 granting Petitioners' request to waive the forfeiture demand on the grounds that: (1) the  
10 statute of limitations had expired; (2) the doctrine of "fraudulent concealment" did not  
11 apply and therefore the statute of limitations was not tolled; and (3) Petitioners were not  
12 named in the FPPC stipulation.

13 33. In an extremely unusual and unprecedented move, the SFEC's  
14 Commissioners overruled St. Croix's decision and re-issued a forfeiture demand on June  
15 15, 2015, even though the Executive Director has sole discretion to grant or deny waiver  
16 requests.

17 34. At these public meetings in March, April and June 2015, while the  
18 Commission was debating whether to grant Petitioners' request that the forfeiture demand  
19 be waived, SFEC Commissioner Peter Keane made several statements which evidence his  
20 bias against Petitioners.

21 35. On July 8, 2015, the SFEC forwarded the forfeiture demand to the Bureau  
22 of Delinquent Revenue (the "BDR") in the Office of the Treasurer and Tax Collector,  
23 which is responsible for the City's debt collection.

24 36. On September 30, 2015, the BDR sent a letter to Petitioners demanding  
25 payment.

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1 provides that the City has four years from the date of an alleged violation to demand that  
2 the alleged violator forfeit an amount to the City.

3 43. Because the alleged violations occurred in October 2010, Respondents were  
4 required to issue the forfeiture demand or take any other enforcement action by October  
5 2014 – which they failed to do, as acknowledged by St. Croix in his June 15, 2015 letter  
6 to Petitioners.

7 44. Respondent SFEC began investigating the alleged violations in January  
8 2011 and participated in interviews of witnesses and potential respondents in 2012, so  
9 had ample time to take action against Petitioners before the expiration of the statute of  
10 limitations in October 2014.

11 45. Respondent SFEC was put on notice of the alleged violation when CSV and  
12 Petitioner Farrell Committee filed reports in October 2010 disclosing their contributions,  
13 expenditures and vendors. It also received the complaint from Ms. Reilly in December  
14 2010 and learned about the interactions between Lee and CSV during his interview in  
15 October 2012. Therefore, no relevant or material information about the potential  
16 coordination between CSV and Petitioner Farrell Committee was concealed from  
17 Respondent SFEC so that it could not act within the four year statute of limitations.

18 46. There are no grounds for tolling the four year statute of limitations. By  
19 waiting more than four years to send the forfeiture demand to Petitioners, Respondents  
20 violated the statute of limitations and are without legal authority to pursue this matter  
21 against Petitioners.

22 **Forfeiture is Improper Because Petitioners Never**

23 **Possessed the Money That Respondents Seek**

24 47. The money Respondents seek was never possessed or controlled by  
25 Petitioners, and therefore Petitioners can not, and should not be ordered to, comply with  
26 the forfeiture demand. As the law never requires impossibilities (Cal. Civil Code section  
27 3531), the forfeiture demand fails on this ground as well.

1 48. Demanding a political committee forfeit money to the City is only  
2 appropriate when the committee has received money which clearly does not comply with  
3 the City's campaign law – e.g., when it exceeds the \$500 contribution limit, comes from a  
4 corporation, or when the committee's reports do not list the contributor's occupation or  
5 employer – and is not appropriate when there is a legal dispute over whether a  
6 contribution violates the law, as is present in this case.

7 49. If any committee accepted contributions in violation of City law which  
8 would require forfeiture, it was CSV – and yet Respondents have not pursued CSV or any  
9 of its agents.

10 50. The committee from which Respondents seek forfeiture is long defunct and  
11 has no funds.

12 51. Petitioner Farrell never received any money which he could now forfeit to  
13 the City; moreover, San Francisco Campaign and Governmental Conduct Code section  
14 1.114 by its own terms applies only to committees, not individuals.

15 **The Forfeiture Demand is Unlawful Because Respondent SFEC Failed**  
16 **to Follow the Law and Its Own Policies and Procedures**

17 52. At all times relevant, Respondent SFEC had a clear, present and ministerial  
18 duty to follow the law, regulations, policies and procedures set forth in Charter section  
19 C3:699-13, the SFEC Enforcement Regulations, and the SFEC Forfeiture Policy, and to  
20 afford Petitioners the procedural rights included thereunder.

21 53. Respondent SFEC did not follow the policies and procedures governing the  
22 investigation of possible violations of the City's campaign laws required by the Charter  
23 and SFEC Enforcement Regulations: "The Commission shall conduct investigations in  
24 accordance with this subdivision of alleged violations of this Charter and City ordinances  
25 relating to campaign finance . . . ." (Charter section C3:G99-13; emphasis added.)

26 54. Respondent SFEC never issued a Probable Cause Report to Petitioners,  
27 never held a Probable Cause Hearing, never issued an Accusation to Petitioners, never  
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1 held a Hearing on the Merits, or followed any of the other procedural requirements set out  
2 in the Charter and SFEC Enforcement Regulations.

3 55. Respondent SFEC discussed the matter in open session at regularly  
4 scheduled monthly meetings, and publicly distributed the complaint and correspondence  
5 with Petitioners, despite the strict confidentiality provisions of City law. (Charter section  
6 C3.699-13 & SFEC Enforcement Regulations section XIII(B).)

7 56. Respondent SFEC did not follow the policies and procedures governing  
8 forfeitures required by the SFEC forfeiture policy.

9 57. Respondent SFEC's Commissioners overruled staff's decision to waive the  
10 forfeiture demand, despite the provision in Respondent SFEC's Forfeiture Policy giving  
11 sole authority over forfeiture decisions to staff.

12 **The FPPC Stipulation Does Not Serve as an**

13 **Adequate Legal Basis Upon Which to Demand Forfeiture**

14 58. The FPPC stipulation serves as Respondents' sole basis for the forfeiture  
15 demand. Respondents, however, have failed to explain how the FPPC stipulation justifies  
16 the forfeiture demand or how it absolves Respondents' from proving their case against  
17 Petitioners, especially considering that it only details reporting violations by CSV and  
18 does not name Petitioners as respondents.

19 59. Petitioners were not parties to the FPPC stipulation and therefore can not be  
20 bound by the stipulation, which is a negotiated agreement between the FPPC, Lee and  
21 CSV.

22 60. The FPPC stipulation does not contain any Findings of Facts or  
23 Conclusions of Law, so can not be relied upon by Respondents as a purported  
24 justification for their forfeiture demand.

25 61. The FPPC stipulation addresses not only entirely different parties, but also  
26 completely different laws: the FPPC stipulation was based on Lee's violations of state  
27 law relating to the reporting requirements of candidate-controlled committees, while the  
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1 forfeiture demand is evidently based on an alleged violation of City law relating to illegal  
2 coordination between political committees.

3 62. Respondents used the FPPC stipulation in lieu of actually proving their case  
4 against Petitioners.

5 63. The FPPC and SFEC Executive Director St. Croix determined that  
6 Petitioners had not done anything wrong and should not be penalized in any way.

7 **Petitioners Are Not Liable for the Acts or Debts of CSV Because Petitioners Did Not**  
8 **Control or Coordinate with CSV as a Matter of Law**

9 64. Based on the undisputed facts, Lee's interactions with CSV did not rise to  
10 the level of influence necessary for CSV to be deemed controlled by Petitioners under  
11 California Government Code section 82016 or for CSV and Petitioners to be deemed to  
12 have coordinated under San Francisco Campaign & Governmental Conduct Code section  
13 1.115.

14 **The Forfeiture Demand Is Unlawful Because Respondent SFEC Violated**  
15 **Petitioners' Right to Equal Protection Under the Law**

16 65. At all times relevant, Respondent SFEC had a clear, present and ministerial  
17 duty to provide Petitioners with their rights to equal protection under the law, as  
18 guaranteed by the 14<sup>th</sup> Amendment of the U.S. Constitution and Article I, Section 7(a) of  
19 the California Constitution.

20 66. In spite of this duty, and lacking any rationale basis for its decision,  
21 Respondent SFEC issued a forfeiture demand against Petitioners.

22 67. Respondent SFEC has never demanded forfeiture from a party when there  
23 is a genuine dispute about the facts and law which form the basis of the demand, yet  
24 issued a forfeiture demand against Petitioners when there is a genuine dispute over the  
25 facts and law which form the basis for this demand.

26 68. All previous forfeiture demands and waivers were decided solely by  
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1 Respondent SFEC's staff, yet Respondent SFEC's Commissioners took control of the  
2 forfeiture process in this matter and overruled the staff's decision to waive forfeiture.

3 69. Respondent SFEC's actions as described above violate not only their own  
4 laws, policies and procedures, but also those equal protection principles set forth in the  
5 United States and California Constitutions.

6 **The Forfeiture Demand is Unlawful Because Respondent**

7 **SFEC Violated Petitioners' Right to Due Process**

8 70. At all time relevant, Respondent SFEC had a clear, present and ministerial  
9 duty to afford Petitioners with due process, as guaranteed by the 5<sup>th</sup> and 14<sup>th</sup> Amendments  
10 to the United States Constitution and Article I, Section 7(a) of the California Constitution.

11 71. In spite of the duty, Respondent SFEC summarily and without warning  
12 issued the forfeiture demand to Petitioners without providing Petitioners with meaningful  
13 notice or an opportunity to be heard before the issuance of the demand.

14 72. Respondent SFEC never responded to Petitioners' written objections to the  
15 forfeiture demand, either verbally or in writing, thus depriving Petitioners of their due  
16 process rights to meaningful notice of the charges against them.

17 73. Respondent SFEC never provided Petitioners with the charges against them  
18 or a written explanation for the forfeiture demand, thus depriving Petitioners of their due  
19 process rights to meaningful notice of the charges against them.

20 74. Respondent SFEC only allowed Petitioners' counsel to testify during the  
21 public comment period at Respondent SFEC meetings at which the matter was discussed,  
22 and had not provided Petitioners with the charges against them at or before the meetings,  
23 thus depriving Petitioners of their due process rights to a meaningful hearing.

24 75. Respondent SFEC discussed the forfeiture demand in open session on  
25 several occasions and publicly released the complaint and other documents about the  
26 matter, thus depriving Petitioners of their due process rights to have the matter handled  
27 confidentially.

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1 acted outside the statute of limitations; (b) Respondents seek forfeiture of property  
2 (\$190,903.04) which never belonged to, and was never possessed by, Petitioners; (c)  
3 Respondents failed to follow their own laws, regulations, policies, and procedures; (d)  
4 Respondents violated Petitioners' right to equal protection of the law; (e) Respondents  
5 violated Petitioners' due process rights; and (f) Respondents impermissibly acted on the  
6 basis of a FPPC settlement to which Petitioners were not a party. Moreover, Petitioners  
7 seek a declaration that Respondents' forfeiture demand is without legal justification  
8 because they did not control or coordinate with CSV.

9 **Third Cause of Action**

10 **(Injunctive Relief – CCP sections 525 et seq.;**

11 **Against All Respondents and Defendants)**

12 81. Petitioners reallege and incorporate herein by this reference paragraphs 1  
13 through 38 and 40 through 77 of this Petition as if fully set forth herein.

14 82. Unless the court grants the injunctive relief requested, Respondents will  
15 seek to enforce its forfeiture demand against Petitioners and to potentially assess  
16 additional penalties purportedly authorized by San Francisco Campaign and Government  
17 Conduct Code section 1.170.

18 83. Petitioners therefore seek a temporary restraining order, preliminary  
19 injunction, and permanent injunction prohibiting Respondents from enforcing the  
20 forfeiture demand, attempting to collect the amount demanded from Petitioners, or taking  
21 any other action against Petitioners with respect to the matters discussed herein.

22 **Fourth Cause of Action**

23 **(*In the Alternative*, Petition for Writ of Administrative Mandamus to Compel**

24 **Respondents and Defendants to Vacate Forfeiture Demand -**

25 **CCP sections 1094.5 et seq.;**

26 **Against All Respondents and Defendants)**

27 84. Petitioners hereby reallege and incorporate herein by this reference  
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1 paragraphs 1 through 38 and 40 through 77 of this Petition as if fully set forth herein.

2 85. As part of this alternative cause of action, Petitioners allege that  
3 Respondents' actions constituted a final administrative order or decision, as contemplated  
4 in Code of Civil Procedure section 1094.5.

5 86. Petitioners further allege that the purported final administrative order or  
6 decision was the result of a purported proceeding in which by law a hearing is required to  
7 be given, evidence is required to be taken, and discretion in the determination of facts is  
8 vested in Respondents.

9 87. Petitioners further allege that: (a) Respondents have proceeded without, or  
10 in excess of, jurisdiction; (b) that there was not a fair proceeding; and (c) that there was a  
11 prejudicial abuse of discretion in that Respondents have not proceeded in the manner  
12 required by law, the order or decision is not supported by the findings, and/or the findings  
13 are not supported by the evidence.

14 88. Accordingly, as a further part of this an alternative cause of action, to the  
15 extent the Court determines that a final administrative order or decision, as contemplated  
16 in Code of Civil Procedure section 1094.5, has been made by any or all Respondents with  
17 regard to Petitioners, Petitioners request that this court issue a Writ of Administrative  
18 Mandamus compelling Respondents to vacate their forfeiture demand.

19 **Fifth Cause of Action**

20 **(Deprivation of Constitutional Rights to Equal Protection – U.S.C. section 1983;**

21 **Against All Respondents and Defendants)**

22 89. Petitioners hereby reallege and incorporate herein by this reference  
23 paragraphs 1 through 38 and 40 through 77 of this Petition as if fully set forth herein.

24 90. The Ethics Commission handled this matter differently than  
25 it has administered every other prior forfeiture and enforcement matter, thereby depriving  
26 Petitioners of their rights to equal protection under the Fifth and Fourteenth Amendments  
27 to the U.S. Constitution.



1 violated Petitioners' equal protection rights; that Respondents violated Petitioners' due  
2 process rights; that the FPPC stipulation can not serve as the basis for the forfeiture  
3 demand; and that Petitioners did not control or coordinate with CSV.

4 **On their Third Cause of Action:** That this court issue a Preliminary and  
5 Permanent Injunction ordering Respondents to cease taking any further action against  
6 Petitioners related to the forfeiture demand or related to the matters discussed herein.

7 **On their Fourth Cause of Action:** In the alternative, to the extent the Court  
8 determines that a final administrative order or decision, as contemplated in Code of Civil  
9 Procedure section 1094.5, has been made by any or all Respondents with regard to  
10 Petitioners, that this court issue a Writ of Administrative Mandamus compelling  
11 Respondents to vacate their forfeiture demand.

12 **On their Fifth Cause of Action:** That this court find that Respondents, under  
13 color of statute, ordinance, regulation, custom, and/or usage, have subjected, or have  
14 caused to be subjected, Petitioners to the deprivation of rights, privileges, or immunities  
15 secured by the Constitution and laws - especially rights to equal protection – and  
16 therefore find Respondents liable to Petitioners pursuant to 42 U.S.C. section 1983.

17 **On their Sixth Cause of Action:** That this court find that Respondents, under  
18 color of statute, ordinance, regulation, custom, and/or usage, have subjected, or have  
19 caused to be subjected, Petitioners to the deprivation of rights, privileges, or immunities  
20 secured by the Constitution and laws - especially rights to due process – and therefore  
21 find Respondents liable to Petitioners pursuant to 42 U.S.C. section 1983.

22 **On all Causes of Action:**

- 23 1. For a stay of the forfeiture demand until final judgment is entered in this  
24 action.  
25 2. For expungement of the forfeiture demand.  
26 3. For costs of suit.

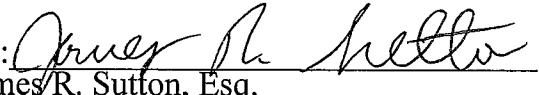
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- 4. For attorneys' fees pursuant to CCP section 1021.5, 42 U.S.C. section 1988, or other applicable law.
- 5. For such other and further relief as may be just and proper.

Respectfully Submitted:

THE SUTTON LAW FIRM, PC  
James R. Sutton, Esq.  
Bradley W. Hertz, Esq.  
Matthew C. Alvarez, Esq.

Dated: April 29, 2016

By:   
James R. Sutton, Esq.  
Attorneys for Petitioners and Plaintiffs  
MARK FARRELL FOR DISTRICT 2  
SUPERVISOR 2010 and MARK FARRELL

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**VERIFICATION**

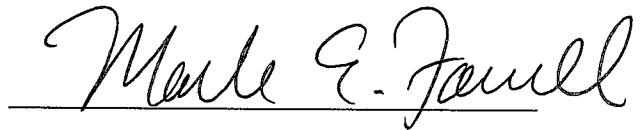
STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, MARK FARRELL, am a party to this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint and know its contents.

The matters stated in the foregoing document are true and correct of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on April 28, 2016 at San Francisco, California.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Mark Farrell