



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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COMMISSIONER

LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: March 22, 2017

To: Members of the Ethics Commission

From: Jessica Blome, Deputy Director, Enforcement & Legal Affairs

Subject: **AGENDA ITEM 8**
Enforcement Program Report for the March 27, 2017, Meeting

Summary: This report highlights programmatic information and operational updates related to the Enforcement Program.

Action Requested: No action is required by the Commission, as this item is only for informational purposes.

Programmatic Highlights

I attended the month-long City training for supervisors and managers known as "24Plus for Managers" during the month of March. The training required attendance at four day-long workshop on Tuesdays and three webinar training modules outside the classroom each week. I am incredibly grateful for the opportunity to take this training, which included instruction in employee recognition, performance planning and appraisal processes, progressive discipline, coaching, and positive manager/employee relationship building. Each week, I brought ideas back to the office for consideration and discussion.

Staff has been collaborating to develop new policies and procedures to guide enforcement processes. Our goal is to have the policies and procedures in place and ready for implementation when new investigators begin in April and May. Staff also developed draft templates for communication with complainants, respondents, and witnesses during the preliminary review and investigation processes. Finally, Staff created a first draft of a revised Late Fee Waiver Policy that will improve efficiency and transparency in the assessment and waiver or partial waiver of late fees for late-filed campaign statements, registrations, and reports with the Commission. Staff will present a final draft of the Late Fee Waiver Policy to the Commission during the April, 2017 meeting.

Sunshine Ordinance Task Force Hearings

On March 1, 2017, Staff appeared before the full panel of the Sunshine Ordinance Task Force to respond to Complaint No. 16116 against Commissioner Quentin Kopp filed by Ray Hartz, Jr.

Mr. Hartz filed his complaint against Commissioner Kopp after the January 23, 2017, meeting, alleging that Commissioner Kopp violated sections 67.15 and 67.17 of the Sunshine Ordinance when he asked Mr. Hartz to stop using vulgar language during his public comment. The Complaint Committee had heard arguments from Mr. Hartz the week of February 21 and concluded that Commissioner Kopp violated section 67.15(d) by failing to provide three minutes of public comment free of interruption. The full panel of the SOTF agreed with the Complaint Committee’s assessment, finding that Mr. Hartz was denied between 7 and 8 seconds of public comment time. The SOTF Order and Determination is provided with this report as Attachment 3.

Operational Updates/Investigative Caseload Data

Investigative matters under the jurisdiction of the Ethics Commission are treated as formal complaints meriting investigation if, based on the allegations and Executive Director’s preliminary review, the Executive Director determines there is reason to believe a violation of law may have occurred. Once the Executive Director has determined that she has reason to believe a violation of law may have occurred, that complaint is logged as a formal complaint. Table 1 summarizes the number of pending formal complaints within the Ethics Commission’s jurisdiction that remained pending as of March 16, 2017. More detailed information about the Commission’s enforcement caseload is provided in Attachment 1. Attachment 1 offers a snapshot of the number, age, and general nature of matters under preliminary review as well as our open formal complaints as of March 16, 2017.

Table 1 – Summary of Pending Formal Complaints by Type as of March 16, 2017

Type	Number
Campaign Finance	7
Governmental Ethics	12
Lobbyist Ordinance	3
Sunshine Ordinance	0
Whistleblower Ordinance (Retaliation)	2
Total	24

In addition to our standard, monthly report for March, Staff provides an updated monthly report for February, 2017 as Attachment 2. Due to an oversight, the February report overstated the number of matters in preliminary review to be 123, when the number was 111. Staff accidentally mischaracterized six complaints related to campaigns: two related to ethics, two related to lobbying, and two related to the Sunshine Ordinance as matters in preliminary review when they had already been converted to open, formal investigations. Those formal investigations began long before the February date, so the number of formal complaints identified in the February report was correct at 24. Though the figures for category of affected matter in preliminary review (campaign, ethics, lobbying, and Sunshine Ordinance) resulted in a slight increase in the average age for that category, the average age of matters under preliminary review overall did not change because of this error; on both the incorrect report and corrected report, the average age of matters in preliminary review overall was 6.4 months as of February 15, 2017. Staff apologizes for any confusion or frustration this error has caused and looks forward to eliminating the potential for these types of human errors in the future after converting to an efficient and effective case management software. In the interim, we will continue to provide

calculations to support our transparency goals for the program and appreciate patience as we continue to identify and rectify errors along the way.

Referrals to Bureau of Delinquent Revenues

The following chart summarizes the status of accounts that remain active that have been referred by the Ethics Commission to the City’s Bureau of Delinquent Revenues [BDR]. In January and February, 2017, the Commission asked Staff to provide status updates for each matter noted below. Staff has requested this information from the Bureau of Delinquent Revenue, but due to staffing issues and assignment changes, BDR is unable to provide status updates until April, 2017. After April, BDR will provide status updates every month going forward.

Table 2 - Referrals to Bureau of Delinquent Revenues

Committee/Filer	ID #	Treasurer/ Responsible Officer	Date Referral Effective	Original Amount Referred	Last Month’s Balance	Current Balance	Status
Chris Jackson	1347066	Chris Jackson	7/12/13	\$6,601	\$6,601	\$6,601	Judgement issued 11/18/15 Small Claims Court
Committee to Elect Norman for Supervisor	1327771	Jacqueline Norman	5/01/15	\$9,000	\$9,000	\$9,000	
Bob Squeri for District 7	1346150	Bob Squeri	5/01/15	\$2,000	\$2,000	\$2,000	
Isabel Urbano	153993	Isabel Urbano	3/23/16	\$7,000	\$7,000	\$7,000	
Chris Jackson	1347066	Chris Jackson	9/26/16	\$6,100	-	\$6,100	
Lynette Sweet	3544713	Lynette Sweet	12/29/16	\$74,408.19	--	\$74,408.19	
					Total	\$99,009.19	

Table 3 - Status of Outstanding Penalty Installment Plans

Name	File No.	Total Owed	Payment Amount	Last Received	Outstanding Balance	Current: Yes/No
Kim Shree Maufas	1327027	\$2,575	\$50	2/21/17	\$550	Yes
Kim Shree Maufas	1327027	\$2,000	\$50	2/21/17	\$550	Yes
Stuart Schuffman	29-151023	\$1,276		1/31/17	\$1,276	Yes

I look forward to answering any questions you might have at the upcoming Commission meeting.

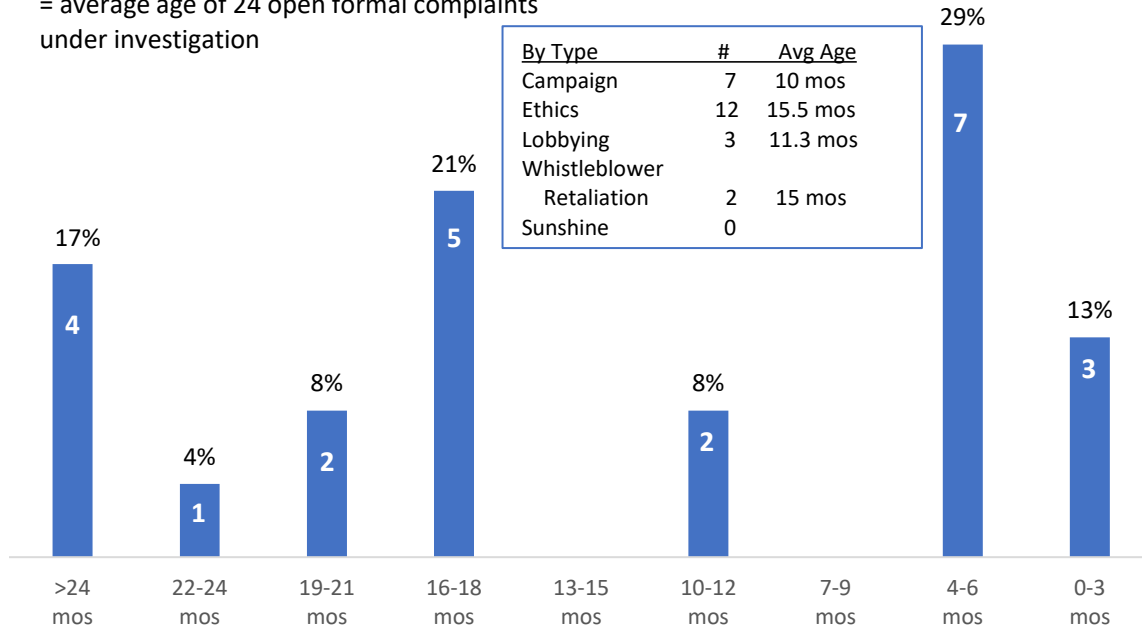
Agenda Item 8, Attachment 1

Age of Open Formal Complaints Caseload

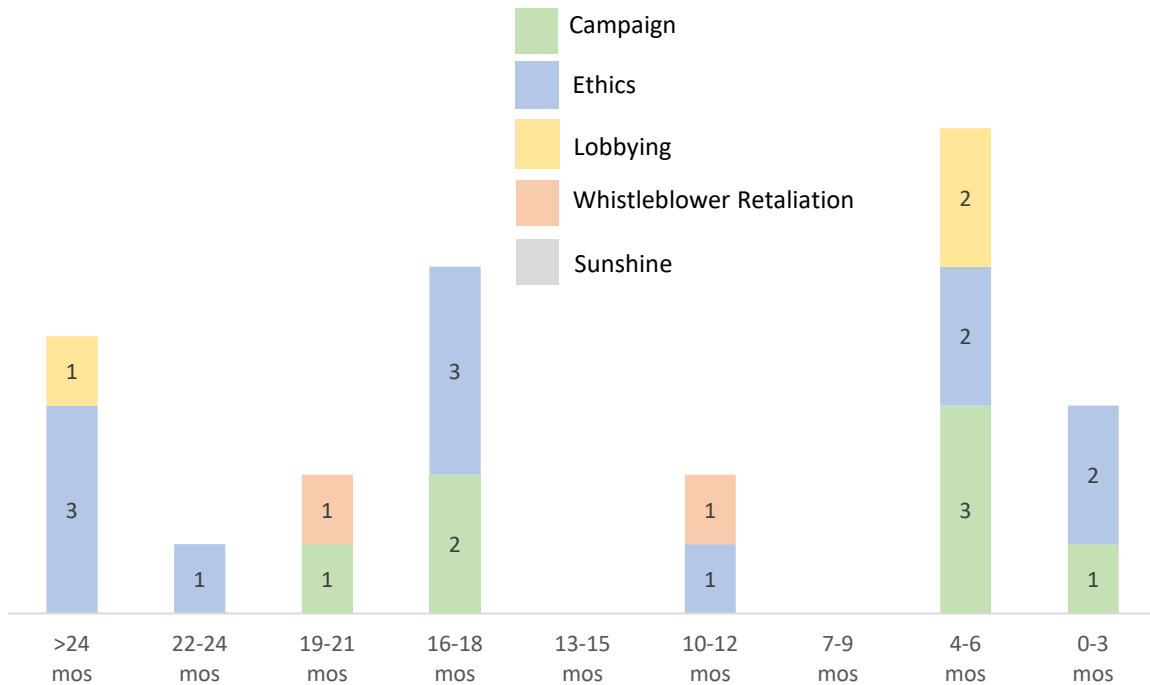
as of March 16, 2017 (n=24)

13.3 months

= average age of 24 open formal complaints under investigation



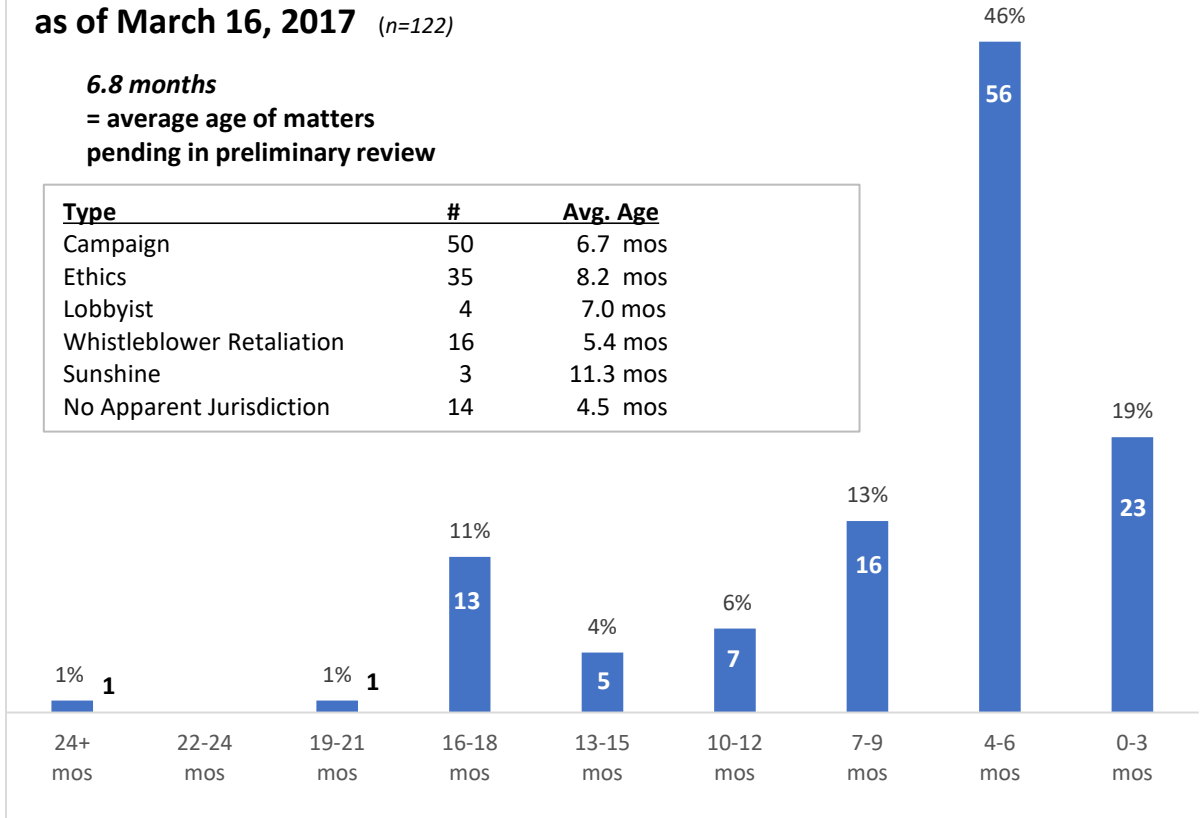
Caseload of Open Formal Complaints, by Age and Type,
as of March 16, 2017 (n=24)



Age of Matters in Under Preliminary Review (PR) as of March 16, 2017 (n=122)

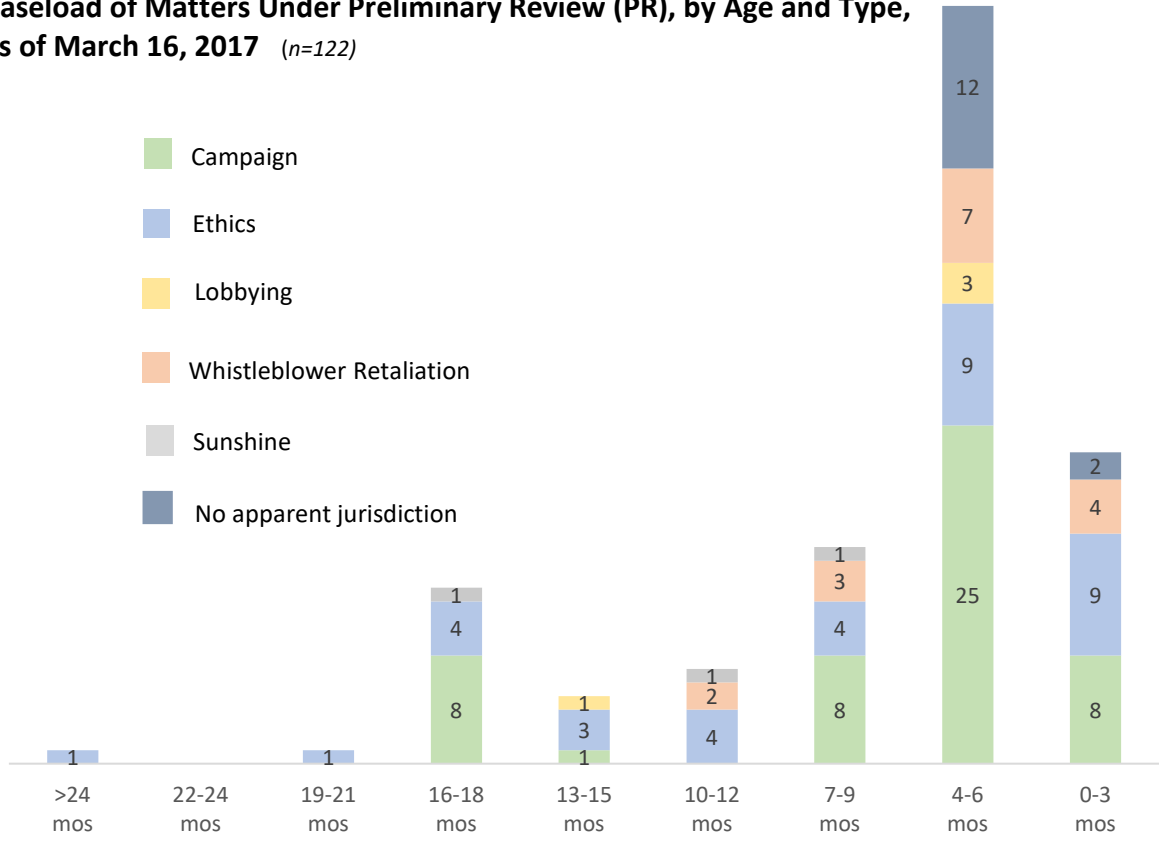
6.8 months
= average age of matters
pending in preliminary review

Type	#	Avg. Age
Campaign	50	6.7 mos
Ethics	35	8.2 mos
Lobbyist	4	7.0 mos
Whistleblower Retaliation	16	5.4 mos
Sunshine	3	11.3 mos
No Apparent Jurisdiction	14	4.5 mos



Caseload of Matters Under Preliminary Review (PR), by Age and Type, as of March 16, 2017 (n=122)

- Campaign
- Ethics
- Lobbying
- Whistleblower Retaliation
- Sunshine
- No apparent jurisdiction

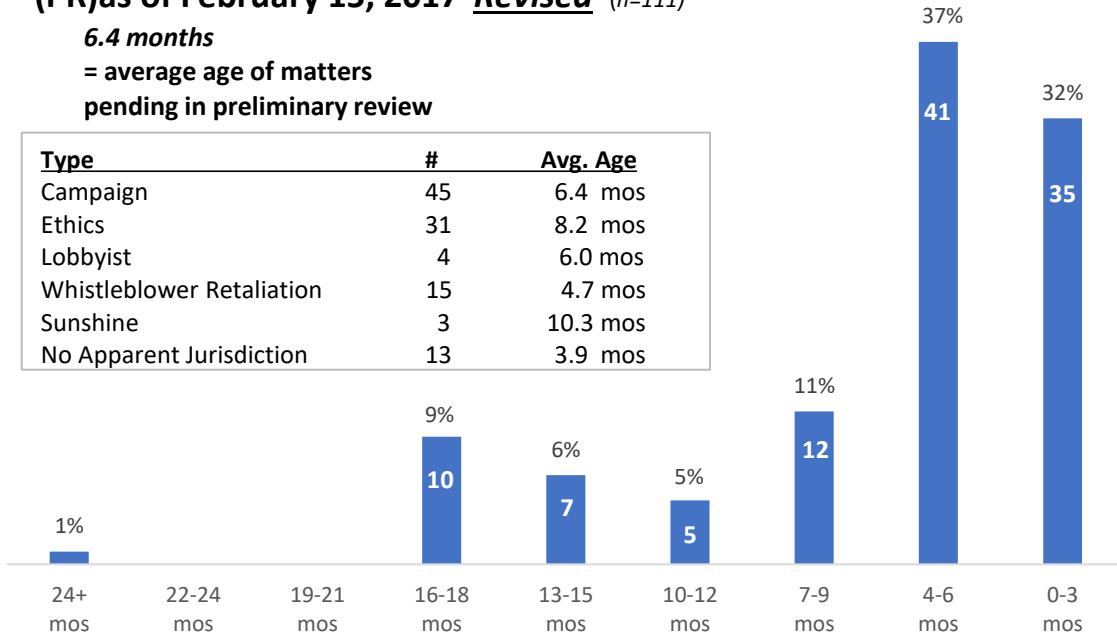


March, 2017 Monthly Enforcement Report
Agenda Item 8 - Attachment 2 - CORRECTED FEBRUARY, 2017 PRELIMINARY REVIEW STATISTICS

Age of Matters in Under Preliminary Review (PR) as of February 15, 2017 Revised (n=111)

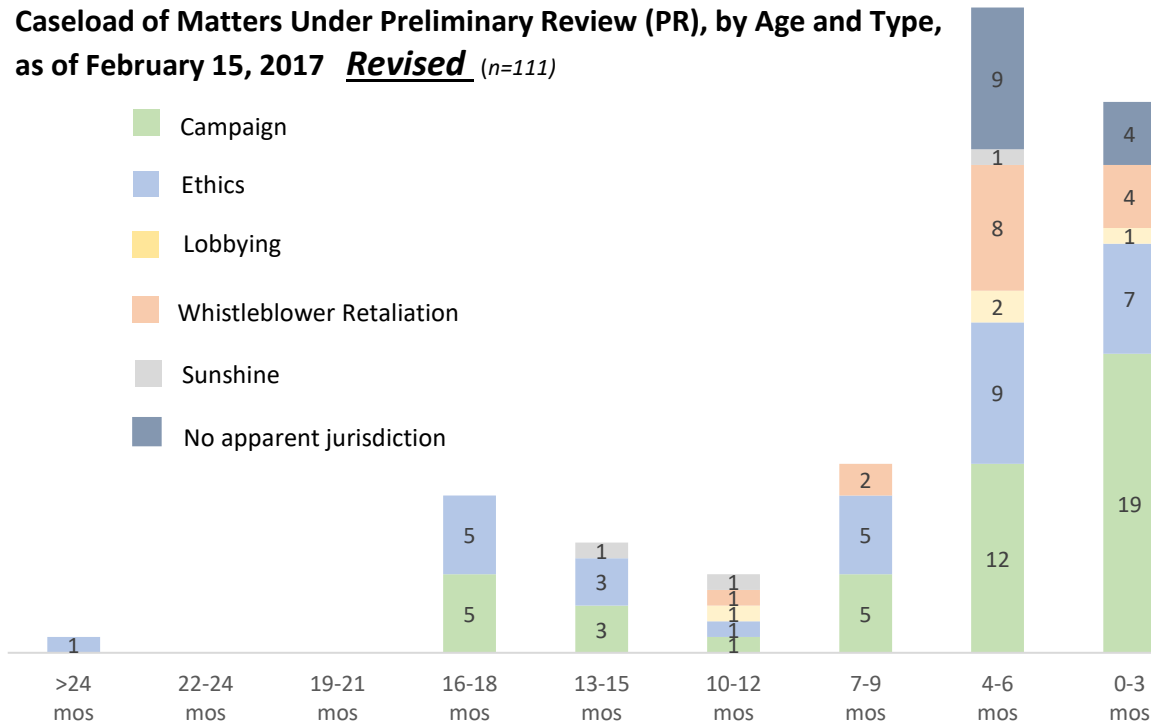
6.4 months
 = average age of matters pending in preliminary review

Type	#	Avg. Age
Campaign	45	6.4 mos
Ethics	31	8.2 mos
Lobbyist	4	6.0 mos
Whistleblower Retaliation	15	4.7 mos
Sunshine	3	10.3 mos
No Apparent Jurisdiction	13	3.9 mos



Caseload of Matters Under Preliminary Review (PR), by Age and Type, as of February 15, 2017 Revised (n=111)

- Campaign
- Ethics
- Lobbying
- Whistleblower Retaliation
- Sunshine
- No apparent jurisdiction



Agenda Item 8, Attachment 3

SUNSHINE ORDINANCE TASK FORCE



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San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION March 15, 2017

DATE ISSUED
March 1, 2017

CASE TITLE – Ray Hartz v. Commissioner Quentin Kopp and the Ethics Commission
(File No. 16116)

FACTS OF THE CASE

On December 20, 2016, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 16116: Complaint filed by Ray Hartz against Commissioner Quentin Kopp and the Ethics Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.15(d) and 67.17, by abridging or prohibiting public criticism of the policy, procedures, programs or services of the City (Ethics Commission December 20, 2016, meeting).

HEARING ON THE COMPLAINT

On February 21, 2017, the Education, Outreach and Training Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the Task Force for hearing.

On March 1, 2017, the SOTF held a hearing to review the recommendation from Committee and to review the merits of the petition/complaint.

Ray Hartz provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz stated that he is entitled to three minutes of uninterrupted public comment and that interruptions are violations of his free speech. There were no speakers in support of the Petitioner/Complainant. Jessica Blome, Ethics Commission (Respondent), provided a summary of the department's position. Ms. Blome acknowledged that there was an interruption of Mr. Hartz's public comment which lasted approximately 8 seconds. Ms. Blome stated that Ethics Commission staff has been informed that the public comment timer should be paused during any interruptions by members of the Ethics Commission. There were no speakers in support of the Respondent. The Respondent and Petitioner/Complainant were provided the opportunity for rebuttal.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Commissioner Quentin Kopp and the Ethics Commission violated Administrative Code (Sunshine Ordinance), Section 67.15.

ORDER OF DETERMINATION

Member Cannata, seconded by Member Tesfai, moved to find that Commissioner Quentin Kopp and the Ethics Commission violated Administrative Code (Sunshine Ordinance), Section 67.15, by not providing the full allotment of time for public comment.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze,
B. Wolfe

Noes: 1 – Hyland

Absent: 2 – Chopra, Baranetsky



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Ray Hartz (Petitioner/Complainant)
Director LeeAnn Pelham, Ethics Commission (Respondent)
Jessica Blome, Ethics Commission (Respondent)