October 5, 2020

To: Members of the Ethics Commission
From: Jeff Pierce, Director of Enforcement
Subject: AGENDA ITEM 7: Enforcement Report for the October 9, 2020 Meeting

Summary: This report highlights programmatic information and operational updates related to the Enforcement & Legal Affairs Division.

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

Programmatic Updates

Fixed Penalty/Streamlined Administrative Resolution

On Wednesday, October 7, 2020, staff of the Fair Political Practices Commission (FPPC) will present before the FPPC’s Law and Policy Committee proposed amendments to the regulations governing the FPPC’s Streamline and Warning Letter Programs. As reported during the prior Commission meeting, this agenda item was held over from the September meeting of the FPPC’s Law and Policy Committee. FPPC Staff are recommending changes based on their experience implementing their Streamline and Warning Letter programs over the course of the last 18 months. Among other changes, FPPC staff are proposing the following:

1. To add additional types of violations that may be handled by streamlined resolution.

2. To simplify the penalty calculations to increase predictability and efficiency.

3. To create a Second Tier of streamlined resolutions where the respondent does not qualify for treatment under the existing Streamline Program but alternative treatment under the Mainline Program is not wholly warranted.

4. To increase the Enforcement Division’s discretion to exclude from the program violations that caused minimal public harm and for which a Streamline Penalty is not warranted.

Enforcement Staff will observe the meeting and evaluate how the FPPC’s experience and proposed amendments might inform the Staff proposal that remains under development.
**Docket Updates**

The following tables compare the number and average age of the Commission’s enforcement docket to the same figures as reported one month ago and one year ago:

<table>
<thead>
<tr>
<th>Table 1 – Number and Average Age of Matters in Preliminary Review</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Month</strong></td>
</tr>
<tr>
<td>Number</td>
</tr>
<tr>
<td>Avg. Age (mo.)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2 – Number and Average Age of Matters in Open Investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Month</strong></td>
</tr>
<tr>
<td>Number</td>
</tr>
<tr>
<td>Avg. Age (mo.)</td>
</tr>
</tbody>
</table>

Attachment 1 contains additional data on the type and age of matters under preliminary review. Attachment 2 contains additional data on open investigations.

**Investigative Holds**

Under San Francisco Charter section C3.699-13(a), whenever the Commission has reason to believe that a law within its jurisdiction has been violated it must forward a complaint and any relevant information to the City Attorney and District Attorney for their review. The Enforcement Division’s practice has been to forward the results of any preliminary investigation and analysis to those offices, along with the underlying complaint, if any. Since the Commission’s last regular meeting, the Enforcement Division has referred two new matters to the City Attorney and District Attorney.

In January 2017, the Commission adopted the *Investigation Suspension and Parallel Proceedings Policy*. That Policy governs instances of overlapping jurisdiction. In relevant part, it provides that when the City Attorney or District Attorney requests that the Ethics Commission suspend administrative investigation, the Commission’s Enforcement Division will place an investigative hold on a matter for a period of 90 days. After those 90 days, the Enforcement Division may move forward with its investigation “unless the Executive Director determines otherwise.”

The following tables provide information about the status of any investigative matters for which either the City Attorney or District Attorney has indicated it will conduct a civil or criminal investigation.

<table>
<thead>
<tr>
<th>Table 3 – City Attorney Investigative Holds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong></td>
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</tbody>
</table>
### Table 4 – District Attorney Investigative Holds

<table>
<thead>
<tr>
<th></th>
<th>Type</th>
<th>Ethics</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Length of Hold</td>
<td>9 months</td>
</tr>
<tr>
<td></td>
<td>Statute of Limitations</td>
<td>November 2023</td>
</tr>
<tr>
<td>2</td>
<td>Length of Hold</td>
<td>45 days</td>
</tr>
<tr>
<td></td>
<td>Statute of Limitations</td>
<td>June 2024</td>
</tr>
</tbody>
</table>

### Referrals to Bureau of Delinquent Revenues

Under San Francisco Charter section C3.699-13(c)(i)(3), the Ethics Commission must refer to the Bureau of Delinquent Revenue penalties—including late fees—that the Commission has assessed but which remain unpaid after a specified period of time. The table below summarizes the status of accounts that the Bureau is handling on behalf of the Ethics Commission, as last updated October 1, 2020.

<table>
<thead>
<tr>
<th>Committee/Filer</th>
<th>Origin</th>
<th>Treasurer/Responsible Officer</th>
<th>Referral Date</th>
<th>Original Amount Referred</th>
<th>Current Balance</th>
<th>General Status</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chris Jackson</td>
<td>Enforcement penalty: on stipulation, failure to file semiannual and pre-election campaign statements and associated recordkeeping violations</td>
<td>Chris Jackson</td>
<td>9/26/16</td>
<td>$6,100</td>
<td>$6,100</td>
<td>Judgment</td>
<td>No record of employment. Order of Examination continuance filed until 11/23/2020 per court closure.</td>
</tr>
<tr>
<td>Committee to Elect Norman for Supervisor</td>
<td>Enforcement penalty: after hearing on the merits, found six counts of failure to file required semiannual campaign statements</td>
<td>Jacqueline Norman</td>
<td>5/1/15</td>
<td>$9,000</td>
<td>$9,000</td>
<td>Judgment</td>
<td>No record of employment. Order of Examination continuance filed until 11/23/2020 per court closure.</td>
</tr>
<tr>
<td>Isabel Urbano</td>
<td>Lobbyist late fees</td>
<td>Isabel Urbano</td>
<td>3/23/16</td>
<td>$7,000</td>
<td>$6,850</td>
<td>Agency Assignment</td>
<td>Unable to enforce collections (past statute of limitations).</td>
</tr>
<tr>
<td>Committee/ Filer</td>
<td>Origin</td>
<td>Treasurer/ Responsible Officer</td>
<td>Referral Date</td>
<td>Original Amount Referred</td>
<td>Current Balance</td>
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</tr>
<tr>
<td>Lynette Sweet</td>
<td>Enforcement penalty: after hearing on the merits, recordkeeping violation in publicly financed race for supervisor</td>
<td>Lynette Sweet</td>
<td>12/29/16</td>
<td>$74,408</td>
<td>$74,408</td>
<td>Bankruptcy</td>
<td>Client not responsive, Legal Department pursuing entry and enforcement of judgement.</td>
</tr>
<tr>
<td>SF Latino Democratic Club</td>
<td>Campaign finance late fees</td>
<td>Sarah Souza</td>
<td>6/21/19</td>
<td>$10,979</td>
<td>$10,979</td>
<td>Promise to pay</td>
<td>Requested approval from BDR Management for Small Claims final demand letter.</td>
</tr>
<tr>
<td>San Franciscans for Democracy, Yes on D Committee</td>
<td>Campaign finance late fees</td>
<td>Jeremy Pollock</td>
<td>6/21/19</td>
<td>$1,625</td>
<td>$1,625</td>
<td>No response from Debtor</td>
<td>Small Claims suit filed. Hearing date continued by Superior Court until 12/14/2020.</td>
</tr>
<tr>
<td>Arlo Smith For Democratic County Central Committee</td>
<td>Campaign finance late fees</td>
<td>Arlo Smith</td>
<td>4/30/2019</td>
<td>$1,750</td>
<td>$1,750</td>
<td>Refuse to Pay</td>
<td>No record of employment. Small Claims suit filed. Hearing date continued by Superior Court until 10/21/2020.</td>
</tr>
<tr>
<td>Jeffrey Ubben</td>
<td>Campaign finance late fees</td>
<td>Jeffrey Ubben</td>
<td>1/28/2020</td>
<td>$4,975</td>
<td>$4,975</td>
<td>No response from Debtor</td>
<td>Requested approval from BDR Management for Small Claims final demand letter.</td>
</tr>
<tr>
<td>Joshua Arce for SFDCCC Member 2016</td>
<td>Campaign finance late fees</td>
<td>Andrew Sinn</td>
<td>1/28/2020</td>
<td>$425</td>
<td>$425</td>
<td>No response from Debtor</td>
<td>Small Claims final demand letter sent prior to shelter in place. Will review for small claims suit with management.</td>
</tr>
<tr>
<td>Richard Matthews</td>
<td>Enforcement penalty: on stipulation, three counts in violation of the prohibition on knowingly attempting to influence a governmental decision involving his own appointment for employment</td>
<td>Richard Matthews</td>
<td>1/28/2020</td>
<td>$9,000</td>
<td>$9,000</td>
<td>No response from Debtor</td>
<td>Small Claims final demand letter sent prior to shelter in place. Will review for small claims suit with management.</td>
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</tr>
<tr>
<td>Yes on U, Working Families Fighting to Stay in San Francisco</td>
<td>Campaign finance late fees</td>
<td>Matthew Alvarez</td>
<td>1/28/2020</td>
<td>$675</td>
<td>$700</td>
<td>No response from Debtor</td>
<td>Small Claims final demand letter sent prior to shelter in place. Will review for small claims suit with management.</td>
</tr>
<tr>
<td>Yes on P, Competitive Bidding for City Contracts with Funding</td>
<td>Campaign finance late fees</td>
<td>Matthew Alvarez</td>
<td>1/28/2020</td>
<td>$675</td>
<td>$700</td>
<td>No response from Debtor</td>
<td>Delinquency letter sent.</td>
</tr>
<tr>
<td>Bert Polacci</td>
<td>Lobbyist late fees</td>
<td>Bert Polacci</td>
<td>7/24/20</td>
<td>$450</td>
<td>$450</td>
<td>No response from Debtor</td>
<td>Requested approval from BDR Management for Small Claims final demand letter.</td>
</tr>
</tbody>
</table>

Total: $132,063

I look forward to answering any questions you might have at the upcoming Commission meeting.
Agenda Item 7, Attachment 1

Age of Matters in Preliminary Review

10.3 months = average age of matters pending in preliminary review

Matters in Preliminary Review by Type

36 Total Cases

Average Age of Matters in Preliminary Review by Type
Agenda Item 7, Attachment 2

Age of Matters under Open Investigation

20.4 months = average age of open investigations

Open Investigations by Type

Total
66

Campaign 27 (40.91%)
Ethics 28 (42.42%)
Lobbying 5 (7.58%)
Retaliation 6 (9.09%)

Average Age of Matters under Open Investigation by Type

Campaign 22.81
Ethics 18.32
Lobbying 15.20
Retaliation 23.00