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Sent: Wednesday, February 10, 2021 1:33 PM
To: Ethics Commission, (ETH) <ethics.commission@sfgov.org>
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Subject: Public Comment for Friday Commission Meeting - SARP

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Dear Commissioners,

I am unable to attend your meeting and thus I am submitting brief written comments about the proposed Streamlined Administrative Resolution Plan (“SARP”).

I specialize in political law and, as an initial matter, let me say that I appreciate very much both the direction of this project and the work that has gone into it.

The proposed rules are voluminous. I have gone through them once, but I know that there is a lot I may not have been able to notice or to process fully. I have given those comments that I do have directly to Jeff and to Eric. But I would like to emphasize one thing to you.

The goals of a streamlined fine program are: (1) a faster process, (2) transparency; (3) consistency, and (4) appropriate fine amounts. My comment is about the last of these. I think the proposed fine structure is generally too high, and/or has disqualification thresholds that are too low.

Recall that this program is for inadvertent mistakes with low public harm. E.g., a reporting omission about, say, a printing cost, which represents a small part of a campaign’s expenditures, is both easy to make and unlikely to cause much harm. For these reasons, the FPPC sets many of the base fines in its own streamline program – often likened to a “traffic ticket” type approach – at only \$100 or \$200 (plus a percentage). See [FPPC Regulation 18360.2](#).

In this regard, it is important to remember that San Francisco is among the most, if not the most, complicated jurisdictions in the country in which to run a campaign. I understand that its recordkeeping requirements are somehow stricter than those of the IRS. Most campaigns must get up and running and raise and spend all their money quickly, in only a few months, and even the most diligent make mistakes.

And while we may often think first about high-profile and high-spending campaigns, many violations – particularly those which are appropriately dealt with by SARP – are committed inadvertently by lower-spending candidates whose campaigns are largely staffed with inexperienced workers or volunteers. Fines often come out of a candidate’s own pocket years later (particularly for unsuccessful candidates).

In light of this, I would generally increase the disqualifying thresholds and decrease the base fine amounts from, say, \$500 to \$100 or \$200. To the extent you are worried about the impact of this on deterrence, believe me when I say that no one wants to get caught up in an ethics investigation.

In any case, I would also ask that the Commission pledge to reevaluate the SARP fine amounts after a year or so of the program being in effect (and periodically thereafter) in order to ensure that all fines are commensurate with the related violations and not overly punitive. That did not happen with the rules currently in effect, which in part led to the current project.

Thank you for your time and consideration.

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