

Gayathri Thaikkendiyil
Acting Executive Director

Patrick Ford
Director of Enforcement

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(415) 252-3100

BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of)	SFEC Complaint Nos. 2021-033
)	
David Wadhvani,)	
)	
Respondent.)	STIPULATION, DECISION, AND ORDER
)	
)	
_____)	

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision, and Order (Stipulation) is made and entered into by and between David Wadhvani (hereinafter "Respondent") and the San Francisco Ethics Commission (the Commission).

2. Respondent and the Commission agree to settle and resolve all factual and legal issues in this matter and to reach a final disposition without an administrative hearing. Respondent represents that Respondent has accurately furnished to the Commission all information and documents that are relevant to the conduct described in Exhibit A. Upon approval of this Stipulation and full performance of the terms outlined in this Stipulation, the Commission will take no future action against Respondent regarding the violations of law described in Exhibit A, and this Stipulation shall constitute the complete resolution of all claims by the Commission against Respondent related to such violations. Respondent

understands and knowingly and voluntarily waives all rights to judicial review of this Stipulation and any action taken by the Commission or its staff on this matter.

3. Respondent acknowledges responsibility for and agrees to pay an administrative penalty as set forth in Exhibit A. Respondent agrees that the administrative penalty set forth in Exhibit A is a reasonable administrative penalty.

4. Within ten business days of the Commission's approval of this Stipulation, Respondent shall either pay the penalty through the City's online payment portal or otherwise deliver to the following address the sum as set forth in Exhibit A in the form of a check or money order made payable to the "City and County of San Francisco":

San Francisco Ethics Commission
Attn: Enforcement & Legal Affairs Division
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

5. If Respondent fails to comply with the terms of this Stipulation, then the Commission may reopen this matter and prosecute Respondents under Section C3.699-13 of the San Francisco Charter for any available relief.

6. Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's Enforcement Regulations with respect to this matter. These include, but are not limited to, the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent's expense, to confront and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the hearing.

7. Respondent understands and acknowledges that this Stipulation is not binding on any other government agency with the authority to enforce the San Francisco Campaign & Governmental Conduct Code section 1.100 *et seq.*, and does not preclude the Commission or its staff from cooperating

with or assisting any other government agency in its prosecution of Respondent for any allegations set forth in Exhibit A, or any other matters related to those violations of law set forth in Exhibit A.

8. This Stipulation is subject to the Commission's approval. In the event the Commission declines to approve this Stipulation, the Stipulation shall become null and void, except Paragraph 9, which shall survive.

9. In the event the Commission rejects this Stipulation, and further administrative proceedings before the Commission are necessary, Respondent agrees that the Stipulation and all references to it are inadmissible. Respondent moreover agrees not to challenge, dispute, or object to the participation of any member of the Commission or its staff in any necessary administrative proceeding for reasons stemming from his or her prior consideration of this Stipulation.

10. This Stipulation, along with the attached Exhibit A, reflects the entire agreement between the parties hereto and supersedes any and all prior negotiations, understandings, and agreements with respect to the transactions contemplated herein. This Stipulation may not be amended orally. Any amendment or modification to this Stipulation must be in writing duly executed by all parties and approved by the Commission at a regular or special meeting.

11. This Stipulation shall be construed under, and interpreted in accordance with, the laws of the State of California. If any provision of the Stipulation is found to be unenforceable, the remaining provisions shall remain valid and enforceable.

12. The parties hereto may sign different copies of this Stipulation, which will be deemed to have the same effect as though all parties had signed the same document.

04-05-2023 | 09:17:31 PDT
Dated: _____

DocuSigned by:
Steven Massey
0267BF19279A4B2...

STEVEN MASSEY, ACTING ON BEHALF OF THE ACTING
EXECUTIVE DIRECTOR SAN FRANCISCO ETHICS COMMISSION

04-05-2023 | 08:59:54 PDT
Dated: _____

DocuSigned by:
David Wadhvani
897C1787171C480...

DAVID WADHWANI

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “David Wadhvani, SFEC Complaint No. 2021-033,” including the attached Exhibit A, is hereby accepted as the final Decision and Order of the San Francisco Ethics Commission, effective upon execution below by the Chairperson.

IT IS SO ORDERED.

Dated: _____

YVONNE LEE, CHAIRPERSON
SAN FRANCISCO ETHICS COMMISSION

Exhibit A

I. Introduction

Respondent David Wadhvani assumed office as a member of the Board of Trustees of the Fine Arts Museums of San Francisco (“Board of Trustees”) in October 2014 and has served in that capacity since that time. As a Trustee, Respondent is required to file Annual Statements of Economic Interests (Form 700) to disclose reportable financial interests as required by the City’s Conflict of Interest Code. Respondent failed to file the Form 700 covering calendar year 2019 and the Form 700 covering calendar year 2021 in violation of San Francisco Campaign and Governmental Code (SF C&GCC) section 3.1-102(a). Following contacts by Ethics Commission compliance staff and investigators, Respondent filed his 2019 Form 700 on September 10, 2021 and filed his 2021 Form 700 on November 2, 2022. Finally, while Respondent’s Statement covering calendar year 2019 was outstanding, he participated in and voted on matters appearing on the Fine Arts Museum Board of Trustees’ meeting agendas in violation of the disqualification provision found under SF C&GCC section 3.1-102.5(c).

II. Applicable Law

SF C&GCC section 3.1-102(a) requires that members of the Board of Trustees file a Form 700 Statement of Economic Interests within 30 days of assuming office, annually by April 1st, and within 30 days of leaving office. See 2 CCR section 18730.

Members of the Board of Trustees must file their Forms 700 with the Commission and must disclose all of the personal economic interests enumerated in SF C&GCC section 3.1-245(a)-(d). SF C&GCC § 3.1-103(a)(1), *Id.* § 3.1-245(a)-(d).

Members of City boards or commissions who have failed to file a statement of economic interests by the applicable filing deadline are disqualified from all participation in and voting on matters listed on their boards’ and commissions’ meeting agendas. SF C&GCC § 3.1-102.5(c). Participating in such agenda items is a violation of law.

III. Summary of Material Facts

In 2014, Respondent assumed office as a member of the Board of Trustees. He was required to file the Form 700 each year he served in this capacity.

On March 26, 2020, the Fair Political Practices Commission (FPPC) extended the deadline to file the Form 700 covering calendar year 2019, from April 1, 2020, until June 1, 2020. This extension was granted because of the COVID-19 pandemic. Respondent failed to file the Form 700 by this extended deadline.

On June 11, 2020, Commission Engagement and Compliance Division staff sent Respondent an email to his email address of record to notify him that he was disqualified from all participation in and voting on matters listed on his board’s meeting agendas because he failed to file his Form 700 covering calendar year 2019.

On December 8, 2020, Respondent attended a regular meeting of the Board of Trustees and participated in and voted on the following three matters listed on the meeting agenda:

1. The October 13, 2020, meeting minutes,
2. The Acquisitions Committee report, which accepted gifts and purchases and approved first step deaccessioning, and
3. Two art loan requests.

Respondent had still not filed the Form 700 covering calendar year 2019 at the time of this meeting.

On February 9, 2021, Respondent again attended a regular meeting of the Board of Trustees and participated in and voted on the following matters listed on the meeting agenda:

1. The December 8, 2020, and January 19, 2021, meeting minutes,
2. The Acquisitions Committee report, which accepted gifts and purchases and approved first step deaccessioning,
3. An art loan request, and
4. A resolution to acknowledge funding by the Corporation of the Fine Arts Museums during the period July 1, 2020, through September 30, 2020.

Respondent had still not filed the Form 700 covering calendar year 2019 at the time of this meeting.

On April 1, 2021, Respondent filed his Form 700 covering calendar year 2020.

After being contacted by Commission investigators as part of this investigation on July 7, 2021, Respondent filed his outstanding Form 700 covering calendar year 2019 on September 10, 2021. This filing was made 466 days after the extended deadline.

On March 15, 2022, March 24, 2022, and March 30, 2022, emails were sent to Respondent's email address of record that notified him that he was required to file his Form 700 covering calendar year 2021, by April 1, 2022. Respondent failed to file his Form 700 by this deadline.

Respondent did not attend Board of Trustees meetings while he was out of compliance with the requirement to file a Form 700 covering calendar year 2021.

After being contacted by Commission investigators as part of this investigation on October 4, 2022, and November 2, 2022, Respondent filed his outstanding Form 700 covering calendar year 2021 on November 2, 2022. This filing was made 216 days after the deadline.

IV. Conclusions of Law

Counts 1 and 2: Failure to Timely File Annual Statement of Economic Interests (Form 700)

Count 1: By failing to file his required Annual Statement of Economic Interest for calendar year 2019, Respondent violated SF C&GCC section 3.1-102(a).

Count 2: By failing to file his required Annual Statement of Economic Interest for calendar year 2021, Respondent violated SF C&GCC section 3.1-102(a).

**Count 3:
Participating in and Voting on Matters Appearing on the Board of Trustees' Meeting Agendas
while Disqualified**

Count 3: By participating in and voting on matters on Board of Trustees meeting agendas while disqualified for failing to file his Form 700 covering calendar year 2019, Respondent violated SF C&GCC section 3.1-102.5(c).

V. Penalty Assessment

This matter consists of two counts for a failure to timely file annual Form 700s and one count for participating in or voting on matters listed on the Board of Trustees' meeting agendas while disqualified from doing so.

The San Francisco Charter authorizes the Commission to assess a monetary penalty to the general fund of the City of up to \$5,000 for each violation, or three times the amount which the respondent failed to report properly. SF Charter § C3.699-13(c). Pursuant to its Enforcement Regulations, when determining penalties the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (1) the severity of the violation; (2) the presence or absence of any intention to conceal, deceive, or mislead; (3) whether the violation was willful; (4) whether the violation was an isolated incident or part of a pattern; (5) whether the respondent has a prior record of violations of law; (6) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations; and (7) the respondent's ability to pay. SF Ethics Commission Enforcement Regulations § 9(D).

Failure to file the Form 700 deprives the public of seeing what a City official's personal financial interests are and assessing whether they are in conflict with any official actions taken by the official. Here, Respondent failed to file and thus did not timely disclose an interest in real property and two salaries of at least \$100,000 received from two separate companies. This failure to publicly disclose his reportable financial interests for over a year in the first instance and for several months in the second, prevented the effective monitoring of his financial interests and the identification of when those interests might conflict with his government actions. This important disclosure requirement thus serves both to prevent conflicts of interest and to protect public confidence in governmental processes. Failure to disclose reportable financial interests as the law requires deprives the public full knowledge about instances in which City officers or employees are prohibited from using their official position to influence a governmental decision in which they have a financial interest. In this instance, because Respondent failed to disclose the full extent of his reportable financial interests for more than a year in the first instance and several months in the second, he prevented the public from knowing about the existence and scope of his reportable financial interests during those periods.

Furthermore, Respondent's multiple failures to timely file his Form 700s disqualified him from participating in or voting on matters agendized before the Fine Arts Museum Board of Trustees. Nonetheless, during one of these periods Respondent participated in and voted on matters before the Board of Trustees on two separate occasions while he was disqualified from doing so. This created a risk that Respondent could have made a government decision that created a conflict of interest without any way for the public to identify such a conflict. Although Investigators did not find any evidence that the decisions in which Respondent participated had a financial effect on any of the financial interests he eventually reported, his violations of the disqualification rule were breached of an important safeguard.

In mitigation, Respondent cooperated with Staff's investigation, does not have a history of prior enforcement matters with the Commission, and, as a result of the investigation, has filed the outstanding Form 700s covering calendar years 2019 and 2021. Respondent filed the 2019 Form 700 within 90 days of being contacted by Enforcement, and he filed the 2021 Form 700 within 30 days of being contacted by Enforcement. Although this matter is not eligible for the Commission's Streamlined Administrative Resolution Program (SARP) because of the violations involved, Respondent's corrective actions were in line with the timelines set forth in the SARP program, indicating prompt corrective action after being contacted by the Enforcement Division.

In balancing the totality of factors described above, considering prior analogous enforcement cases resolved by the Ethics Commission, and to promote a future deterrent effect, the parties agree that \$2,400 in total penalties is warranted. The penalties for Counts 1 and 2, \$900 and \$500, equate to the penalties that would apply to the violations were this matter eligible for SARP. The \$1,000 penalty for Count 3 reflects the scope of respondent's prohibited official actions (seven votes at two separate public meetings) and the subject matter of those actions.

Count 1 (Failure to File Form 700): \$900

Count 2 (Failure to File Form 700): \$500

Count 3 (Participation in Agenda Items while Disqualified): \$1,000

Total Penalties: \$2,400