

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. 2122-137
)	
Yakuh Askew,)	
)	
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 Yakuh Askew (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.

Dated: 03-17-2023 | 13:02:15 PDT 

GAYATHRI THAIKKENDIYIL, ACTING EXECUTIVE DIRECTOR
SAN FRANCISCO ETHICS COMMISSION

Dated: 03-17-2023 | 12:53:59 PDT 

YAKUH ASKEW

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “Yakuh Askew, SFEC Complaint No. 2122-137,” 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

Yakuh Askew (“Respondent”) is a former Arts Commissioner who served on the San Francisco Arts Commission (“SFAC”) from July 20, 2020, to March 29, 2022. Respondent is also the sole proprietor of the architecture firm Y.A. Studio. In February 2022, Respondent, through his architecture firm Y.A. Studio, entered into a subcontract with the Public Utilities Commission (“PUC”), through an agreement with a primary contractor Mark Cavagnero Associates, while serving as a Commissioner on the SFAC, which was a violation of City ethics laws. Additionally, in his role as an Arts Commissioner, Respondent voted to approve two projects involving entities with which his business had entered a contract or was attempting to enter a contract. These votes were in violation of City and State conflicts of interest rules.

II. Applicable Law

Prohibition on City Officers Contracting with the City

During his or her term of office, no City officer shall enter, submit a bid for, negotiate for, or otherwise attempt to enter, any contract or subcontract with the City where the amount of the contract or the subcontract exceeds \$10,000. SF C&GCC § 3.222(b). For purposes of this prohibition, a “contract” is any agreement other than a grant or an agreement for employment in exchange for salary and benefits. *Id.* § 3.222(a)(3). A “subcontract” is a contract to perform any work that a primary contractor has an agreement with the City to perform. *Id.* § 3.222(a)(4). The contracting prohibition applies to a contract or subcontract with a business entity if the officer exercises management and control over the entity. *Id.* § 3.222(c)(2).

Conflicts of Interest

Every public official is prohibited from making or participating in making a governmental decision in which the official knows or has reason to know the official has a financial interest. SF C&GCC § 3.206 incorporating Cal. Gov’t Code § 87100. A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on the official or any of the official’s financial interest. A financial interest includes, among other things, any source of income aggregating \$500 or more provided or promised to the public official within 12 months prior to the time when the decision is made. *Id.* § 87103.

III. Material Facts and Analysis

Respondent is the sole proprietor of the architecture firm Yakuh Askew Architect Inc., which does business as Y.A. Studio. Respondent served as a Commissioner on the San Francisco Arts Commission (“SFAC”) from July 20, 2020, to March 29, 2022. Within the SFAC, Respondent served as a member on the Civic Design Review Committee during the entirety of his tenure as an Arts Commissioner. The Civic Design Review Committee is a five-Commissioner body that conducts multi-phase reviews of all civic buildings and other structures on City land, and evaluates each project's design for accessibility, safety, and aesthetics.

Respondent entered into a subcontract with the Public Utilities Commission

On September 17, 2021, the Public Utilities Commission (“PUC”) released a request for proposals (“RFP”) for a design services contract for the new City Distribution Division Campus at 2000 Marin Street (“CDD Campus”). On October 14, 2021, the architecture firm Mark Cavagnero Associates (“MCA”) submitted a proposal to the PUC for the CDD Campus project. Attached to the proposal was a fee schedule of proposed billing rates which indicated that Y.A. Studio was a consultant to MCA with total estimated labor costs of about \$2.7 million. On October 19, 2021, MCA provided to PUC staff a copy of a First Source Hiring Agreement signed by Respondent in May 2021, indicating Y.A. Studio’s role as an architecture consultant to MCA. Respondent told Investigators that MCA had primary responsibility for preparing and submitting the proposal to PUC and that Respondent had not communicated directly with PUC staff at this time.

At the February 22, 2022 Commission meeting of the PUC, the PUC approved awarding the contract to MCA to provide design services for the CDD Campus. Approved minutes for this meeting show that Respondent, representing Y.A. Studio, attended the meeting and “expressed excitement to be part of the team and for the ability to collaborate on the project.” By seeking to enter into, and by entering into, a subcontract with the City exceeding \$10,000 while serving as a City officer, Respondent violated C&GC Code section 3.222(b).

Conflicts of Interests

As stated above, a public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on the official or any of the official’s financial interests. A financial interest includes, among other things, any source of income aggregating \$500 or more provided or promised to the public official within 12 months prior to the time when the decision is made.

Respondent voted to approve the CDD Campus Project.

By contracting to receive \$2.7 million from the CDD Campus project through his consultation agreement with MCA, Respondent had a financial interest in MCA. Respondent was thus prohibited from participating in government decisions that could foreseeably have a material financial effect on MCA.

After MCA submitted its proposal to the PUC for the CDD Campus project on October 14, 2021, but before the proposal was approved in February 2022, the PUC project team for the CDD Campus project appeared before the Civic Design Review Committee on November 15, 2021, seeking the Committee’s approval for Phase 1 of the CDD Campus Project. Notably, the CDD Campus project for which PUC sought approval was the same project that Respondent, through his architecture firm, was to receive \$2.7 million through his subcontract with MCA.

Respondent, as a member of the Civic Design Review Committee, voted to approve the CDD Campus project. It was reasonably foreseeable that this government decision would have a material financial effect on MCA because the Committee's approval of the project would help ensure that MCA would be able to carry out the project. Because MCA was a financial interest for Respondent, Respondent violated conflict of interest laws by voting on the project.

Respondent voted to approve the Sunnydale HOPE SF Project.

On December 15, 2021, Y.A. Studio was selected as one of two firms contracted to provide architecture services to the development firm Related California on a housing development in San Francisco located at 160 Freelon Street. Related California, in partnership with the nonprofit organization San Francisco Housing Development Corporation, had a contract with the Mayor's Office of Housing and Community Development to develop the 160 Freelon Street project. A fee schedule associated with the 160 Freelon project indicates that the fee to Y.A. Studio totaled about \$1.1 million. As such, Respondent had a financial interest in Related California as a source of income and was prohibited from participating in any government decisions that could foreseeably have a material financial effect on Related California.

On January 24, 2022, a project manager with Related California appeared before the Civic Design Review Committee seeking approval for Phase 1A3 of another Related California project, the Sunnydale HOPE SF project. Related California, in partnership with the nonprofit organization Mercy Housing California, had a contract with the San Francisco Housing Authority to develop the Sunnydale HOPE SF project. Respondent, in his role as a Commissioner on the Civic Design Review Committee, voted to approve the agenda item. It was reasonably foreseeable that this government decision would have a material financial effect on Related California because the Committee's approval of the project would help ensure that Related California would be able to carry out the project. Because Related California was a financial interest for Respondent, Respondent violated conflict of interest laws by voting on the project.

IV. Violations of Law

Count 1

Entering a City subcontract while serving as a City officer in violation of SF C&GCC Section 3.222(b)

Count 1: By submitting a bid for and entering into a subcontract with the City through a business entity over which Respondent exercised management and control and where the amount of the subcontract exceeded \$10,000, Respondent violated SF C&GCC Section 3.222(b).

Counts 2—3

Making a governmental decision affecting a financial interest in violation of SF C&GCC Section 3.206

Count 2: Governmental decision regarding CDD Campus project.

By voting to approve an agenda item that foreseeably would have a material financial effect on Mark Cavagnero Associates, a source of income to Respondent's business, Respondent engaged in a conflict of interest in violation of SF C&GCC section 3.206(a) and Government Code section 87100.

Count 3: Governmental decision regarding Sunnydale HOPE SF project.

By voting to approve an agenda item that foreseeably would have a material financial effect on Related California, a source of income to Respondent's business, Respondent engaged in a conflict of interest in violation of SF C&GCC section 3.206(a) and Government Code section 87100.

V. Penalty Assessment

This matter consists of three violations of the San Francisco Campaign and Governmental Conduct Code. The San Francisco Charter authorizes the Commission to assess a maximum administrative penalty of \$5,000 per violation. SF Charter § C3.699-13(c). Alternatively, the Ethics Commission may impose a penalty of "three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received." SF Charter § C3.699-13(c)(i)(3).

Per Commission Regulations section 9(D), when determining penalties, the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (a) the severity of the violation; (b) the presence or absence of any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was an isolated incident or part of a pattern; (e) whether the respondent has a prior record of violations of law; and (f) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations.

The ethics laws at issue in this case are fundamental, and their violation can compromise the public's trust in the integrity of City government and to ensure that public office not be used for, or appear to be used for, personal gain. City and County contracts should be, and should appear to be, awarded on a fair and impartial basis. If City officers contract with the City, it creates a potential for, and the appearance of, favoritism or preferential treatment by the City and improper awarding of public contracts. Regarding count 1, Respondent's decision to enter into a subcontract with the PUC while serving as a member of the Arts Commission created the appearance of favoritism and preferential treatment that the law seeks to prevent. The subcontract was worth more than \$2.7 million. This is not a small contract but one with significant financial value, thereby aggravating the severity of the violation.

Conflict of interest rules are likewise fundamental to protecting the integrity of government decision making. Whenever a financial conflict of interest exists, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. Regarding counts 2 and 3, Respondent voted on matters in which he had a personal financial interest. Respondent had reason to know that he had financial interests when these matters appeared before his committee. The vote at issue in Count 2 involved the very project for which Respondent's company was contracted to provide services. Thus, Respondent's conduct in Count 2 was more egregious than

that in Count 3. Regarding Count 3, Respondent was not involved in the project before his committee. However, the vote at issue in Count 3 involved the developer that Respondent had signed a separate agreement with only a month earlier. Respondent's decision to vote regarding both matters demonstrated a significant breach of the public's trust and risked undermining the public's faith in City government. Because the conduct in Count 2 was more egregious than that of count 3, a higher penalty amount applies to Count 2.

Respondent's position as a Commissioner also exacerbates the severity of his violations. City Commissioners are one of the few categories of City officials currently required to complete ethics training because of the importance of their governmental decision making. On August 8, 2020 and on March 15, 2021, Respondent reported that he completed these trainings. The number of violations in this case also evidence a pattern of noncompliance with ethics laws.

Furthermore, in 2020 Respondent sought and received a limited scope waiver from the Ethics Commission allowing Respondent to engage in compensated advocacy communications with certain City departments under specifically identified circumstances. That waiver does not apply to any of the ethics laws at issue in this case. At that time, Respondent was made aware that all other City ethics laws would still apply and that he needed to ensure compliance. Respondent was advised to contact the Ethics Commission if he had any questions about any other government ethics matters that may arise, but Respondent at no point did so.

In mitigation, Respondent cooperated with the investigation, and there is no evidence of any intention to conceal or deceive on the part of Respondent. Also, Respondent has no prior history of ethics violations. Respondent has since stepped down from the Arts Commission following his firm's entry into the PUC CDD Campus project contract.

In balancing the above facts and considering the penalty factors and prior analogous enforcement cases resolved by the Ethics Commission, and to promote a future deterrent effect, Staff proposes, and Respondent agrees to, the following penalties for the above listed violation of City law:

Count 1 (City Contracting by a City Officer): \$2,000

Count 2 (Financial Conflict of Interest): \$4,000

Count 3 (Financial Conflict of Interest): \$2,500

TOTAL PENALTIES: \$8,500