

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. 2122-145
)	
Celine Kennelly,)	
)	
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 Celine Kennelly (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.

03-30-2023 | 12:59:17 PDT
Dated: _____

DocuSigned by:
Steven Massey
0267BF19279A4B2...

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

03-30-2023 | 11:44:49 PDT
Dated: _____

DocuSigned by:
Celine Kennelly
E8FC3957CCC541B...

CELINE KENNELLY

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Celine Kennelly, SFEC Complaint No. 2122-145," 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 Celine Kennelly assumed office as a Commissioner of the San Francisco Immigrant Rights Commission (IRC) in May 2012. Kennelly has served as the IRC's Chairperson since January 2015. The IRC is an advisory body that advises and makes recommendations to the Mayor and Board of Supervisors on issues and policies related to immigrants who live or work in San Francisco. As a Commissioner, 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. While Respondent filed Annual Form 700s timely for the periods covering calendar years 2016-2020, Respondent failed to file her Statement covering calendar year 2021 by the required deadline of April 1, 2022, in violation of San Francisco Campaign and Governmental Code (SF C&GCC) section 3.1-102(a). Following contacts by Ethics Commission compliance and investigative Staff, Respondent filed her 2021 Statement on September 23, 2022. Finally, while Respondent's Statement covering calendar year 2021 was outstanding, she participated in and voted on matters appearing on the IRC's 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 Commissioners of the Immigrant Rights Commission 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.

Commissioners of the Immigrant Rights Commission must file their Form 700S electronically and must file at Disclosure Category 1, disclosing "income (including gifts) from any source, interests in real property, investments, and all business positions in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management." SF C&GCC § 3.1-107, *Id.* § 3.1-251.

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 2012, Respondent assumed office as a Commissioner of the Immigrant Rights Commission. She was required to file the Form 700 each year she served in this capacity. Respondent timely filed her Form 700s for calendar years 2014, 2016, 2017, 2018, 2019, and 2020.

On March 15, 2022, and March 30, 2022, the City Administrator Filing Officer sent emails to Respondent's email address of record that notified her that she was required to file her Form 700 covering calendar year 2021, by April 1, 2022. Respondent failed to file her Form 700 by this deadline.

On April 4, 2022, and April 22, 2022, the City Administrator Filing Officer sent emails to Respondent's email address of record that notified her that she failed to file her Form 700 covering calendar year 2021 and that late fees and additional administrative penalties may be imposed.

From April 11, 2022, through September 12, 2022, Respondent attended at least six meetings of the Immigrant Rights Commission and the IRC Executive Committee. During these meetings Respondent participated in discussions, directed IRC Staff to take actions, and voted on matters such as the adoption of minutes, the appointment of IRC Commissioners to Committees, and the adoption of IRC staff reports and other Commission motions.

Respondent had still not filed the Form 700 covering calendar year 2021 at the time of these meetings.

After being contacted by Commission investigators as part of this investigation on August 15, 2022, Respondent filed her outstanding Form 700 covering calendar year 2021 on September 23, 2022. This filing was made 176 days after the deadline.

IV. Violations of Law

Count 1:

Failure to File an Annual Statement of Economic Interests (Form 700)

Count 1: By failing to file her required Annual Statement of Economic Interest for calendar year 2021, Respondent violated SF C&GCC section 3.1-102(a).

Count 2:

Participating in and Voting on Matters Appearing on the IRC and the IRC Executive Committee Meeting Agendas while Disqualified

Count 2: By participating in and voting on matters listed on the IRC and IRC Executive Committee meeting agendas while disqualified for failing to file the Form 700, Respondent violated SF C&GCC section 3.1-102.5(c).

V. Penalty Assessment

This matter consists of one count for a failure to timely file an annual Form 700 and one count for participating in and voting on matters listed on the agendas of six meetings of the Immigrant Rights Commission and IRC Executive Committee 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 that she received between \$10,001 and \$100,000 in salary each from the Irish Immigration Pastoral Center and that entity's 501(c)(3) affiliate

during calendar year 2021. Respondent also did not timely disclose her interests in real property as well as business entities with real property interests. This failure to publicly disclose her reportable financial interests for several months prevented the effective monitoring of her financial interests and the identification of when those interests might conflict with her 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 her reportable financial interests for several months, she prevented the public from knowing about the existence and scope of her reportable financial interests during that period.

Furthermore, Respondent's failure to timely file her Form 700s disqualified her from participating in and voting on matters agendized before the Immigrant Rights Commission and the IRC Executive Committee. This rule exists to ensure that if an official has not disclosed their personal financial interests as required, they will not participate in government decision during the time that their financial interests remain undisclosed. Nonetheless, Respondent participated in and voted on matters before the Immigrant Rights Commission while she was disqualified from doing so.

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 700 covering calendar year 2021. In addition, the IRC is an advisory body, which reduces the chances that Respondent's participation on agendized matters might create a conflict of interest. Investigators did not find any evidence that the decisions in which Respondent participated had a financial effect on any of the financial interests she eventually reported.

In balancing the totality of factors described above, considering the financial penalty modifiers present in the Commission's Streamlined Administrative Resolution Program for Form 700 violations, and to promote a future deterrent effect, a penalty of \$500 for each of the violations is warranted. The parties agree that this \$1,000 in total penalties is warranted based on the facts in this matter.

Count 1 (Failure to File Form 700): \$500

Count 2 (Participation in Agenda Items while Disqualified): \$500

Total Penalties: \$1,000