

Patrick Ford
Executive Director

Jeffrey Zumwalt
Acting 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 No. 23-598
)	
David Wasserman,)	
)	
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 Wasserman (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: 04-02-2024 | 10:45:41 PDT

DocuSigned by:
Patrick Ford
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PATRICK FORD, EXECUTIVE DIRECTOR
SAN FRANCISCO ETHICS COMMISSION

Dated: 04-02-2024 | 10:34:29 PDT

DocuSigned by:
Dave Wasserman
FA912EAC066D441...

DAVID WASSERMAN

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "David Wasserman, SFEC Case No. 23-598," 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: _____

THEIS FINLEV, CHAIRPERSON

SAN FRANCISCO ETHICS COMMISSION

Exhibit A

I. Introduction

Respondent David Wasserman (“Wasserman”) assumed office as a Member of the Residential Rent Stabilization and Arbitration Board (“Rent Board”) on January 16, 2015. The role of the Rent Board is to protect tenants from “excessive rent increases and unjust evictions while assuring landlords fair and adequate rents.” As a member of the Rent Board, Wasserman must disclose on a Statement of Economic Interests (Form 700) filed annually with the Ethics Commission all interests in real property and all income from, investments in, and business positions held in any business entity with an interest in residential real property in the jurisdiction, or which may foreseeably acquire such an interest, or which has acquired such an interest within two years prior to the time period covered in a statement of economic interests. SF C&GCC §§ 3.1-102(a), 3.1-103(a), 3.1-405. While Wasserman filed annual Form 700s for the periods covering calendar years 2019 through 2022, as required, Wasserman failed to properly report on his Form 700s multiple sources of income of \$10,000 or more to his business entities with an interest in residential real property, in violation of San Francisco Campaign and Governmental Conduct Code (SF C&GCC) section 3.1-102(a). Wasserman fully disclosed all reportable sources of income in his disclosure covering the year 2023, which he timely filed in March 2024.

II. Applicable Law

Financial Disclosures (Form 700)

SF C&GCC section 3.1-102(a)(1) requires City officers and many City employees to file a Form 700 Statement of Economic Interests. Such officials must file within 30 days of assuming or leaving office and must also file annually by April 1st to report financial interests during the previous calendar year. SF C&GCC section 3.1-102(a); 2 CCR 18730.

Members of the Rent Board must disclose on a Statement of Economic Interests (Form 700) filed annually with the Ethics Commission all interests in real property and all income from, investments in, and business positions held in any business entity with an interest in residential real property in the jurisdiction, or which may foreseeably acquire such an interest, or which has acquired such an interest within two years prior to the time period covered in a statement of economic interests. SF C&GCC §§ 3.1-102(a), 3.1-103(a), 3.1-405.

Under state law (which is incorporated by reference through C&GC Code section 3.1-101), *income* is defined as “a payment received, including, but not limited to, any salary, wage, advance, dividend, interest, rent, [or] proceeds from any sale...” received from a source that is located in or doing business in the jurisdiction. Cal. Gov. Code section 82030. A business entity is any organization or enterprise operated for profit including, but not limited to, a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association. Cal. Gov. Code section 82005. Additionally, under state law, where a person’s pro rata share of income to a business entity is \$10,000 or more, such income must be disclosed, including the name of every person from whom the business entity received payments, if the filer’s pro rata share of gross income from such source is equal to or greater than \$10,000 during a calendar year. Cal. Gov. Code section 872079(b)(2).

III. Material Facts and Analysis

Financial Disclosures (Form 700)

As mentioned above, as a member of the Rent Board, Wasserman was required to annually file a Form 700 disclosing his personal economic interests. Each year between 2019 and 2022, Wasserman did file the Form 700 and on each of the Form 700s he reported receiving gross income in the amount of \$10,000 or higher, including income from his investments in business entities that themselves owned or had an interest in City residential property. However, on none of these Form 700s did Wasserman report the name of each source of income of \$10,000 or more as required under the law.

After being contacted by Commission investigators, Wasserman amended his Form 700s for calendar years 2019 through 2022 to disclose the names of sources from which he received income of \$10,000 or more directly or through his business entities. Following a review of Wasserman's amended filings, Commission investigators determined that the reportable sources of income that should have been made available for public review from Wasserman's filings comprised twenty-eight distinct sources covering the four relevant years. Because Wasserman did not report these twenty-eight distinct sources of income, administrative penalties are warranted.

For the twenty-eight sources of income identified on Wasserman's amended forms, Commission investigators found no evidence that any of the sources had matters pending before the Rent Board during the relevant time periods. Thus, there is no evidence that Wasserman engaged in a conflict of interest in relation to these sources of income in his capacity as a member of the Rent Board.

IV. Violations of Law

Count 1

Failure to disclose reportable sources of income on Annual Statement of Economic Interests (Form 700) in violation of SF C&GCC Section 3.1-405

On four separate Form 700s Wasserman filed for calendar years 2019, 2020, 2021, and 2022, Wasserman failed to disclose reportable sources of income that comprised twenty-eight distinct sources from which he received \$10,000 or more through his business entity in violation of SF C&GCC § 3.1-102(a), 3.1-103(a), 3.1-405.

V. Penalty Assessment

This matter consists of one count consisting of twenty-eight 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 or "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.

Wasserman's failure to publicly disclose numerous reportable sources of income for calendar years 2019 to 2022 prevented the effective monitoring of his financial interests and the identification of when those interests might conflict with his governmental actions. It is the purpose and intent of the law that City officers and employees disclose their personal financial interests in order 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 this instance, because Wasserman failed to disclose the names of the sources of his reportable financial interests while serving on the Rent Board, he deprived the public of important information and jeopardized the public's trust in fair and unbiased decision making by the City. The scope of the violations is significant as well. In total, twenty-eight separate sources of income were not disclosed over a period of four years.

In mitigation, Wasserman cooperated with the investigation and, as stated above, has since amended his filings to disclose the sources of income. Also, there was no evidence of a deliberate intention to conceal, deceive, or mislead by Wasserman. He acknowledged and took responsibility for his failure to comply with the law. He has also timely and properly filed his Form 700 disclosure for the year 2023.

In a prior Ethics Commission enforcement case, (SFEC Case No. 2021-026, *In the Matter of Darryl Honda*) a penalty of \$600 was assessed for each reportable source of income that the respondent failed to disclose. Similarly, in another prior case, (SFEC Case No. 23-506, *In the Matter of Frank Fung*), this Commission assessed a penalty of \$600 per each reportable source of income that respondent failed to disclose. The facts of the current case are similar to both previously resolved cases. Thus, it is appropriate to use the same penalty rate in resolving this matter. The appropriate penalty amount for Count 1 in this case with twenty-eight reportable sources of income is, therefore, \$600 per omitted source of income, totaling \$16,800.

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 Wasserman agrees to, the following penalty for the above listed violation of City law:

Count 1 (Form 700 Disclosures): \$16,800

TOTAL PENALTIES: \$16,800