

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 Nos. 24-719
)	
Thomas Harrison,)	
)	
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 Thomas Harrison (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: 04-16-2024 | 10:33:27 PDT

DocuSigned by:
[Redacted]
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PATRICK FORD
EXECUTIVE DIRECTOR SAN FRANCISCO ETHICS COMMISSION

Dated: 04-16-2024 | 09:35:50 PDT

DocuSigned by:
[Redacted]
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THOMAS HARRISON

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “Thomas Harrison, SFEC Complaint No. 24-719,” 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 Thomas Harrison assumed office as a Commissioner of the Sanitation and Streets Commission in August 2022. The Sanitation and Streets Commission sets policy directives and is responsible for overseeing the San Francisco Public Works Operations Division's performance, reviewing the designation and filling of staff positions, establishing minimum standards of cleanliness for the public right of way and setting baselines for services to be administered by the division. 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 an Assuming Office Form 700 for the 12-month period prior to assuming office on July 18, 2022, Respondent failed to file his Statement covering the remainder of calendar year 2022 by the required deadline of April 3, 2023, 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 his 2022 Statement on November 20, 2023. Finally, while Respondent's Statement covering calendar year 2022 was outstanding, he participated in and voted on matters appearing on Sanitation and Streets Commission 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 Sanitation and Streets 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 Sanitation and Streets 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.* § 3.1-155.

Commissioners of the Sanitation and Streets Commission must also file electronically with the Ethics Commission, a Sunshine Ordinance Declaration and Certificate of Ethics Training within 30 days of assuming office and annually by April 1st. SF C&GCC §§ 3.1-102.5(c), 3.1-103(a)(1).

Members of City boards or commissions who have failed to file a Statement of Economic Interests, Sunshine Ordinance Declaration, and Certificate of Ethics Training 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 and Analysis

On August 18, 2022, Respondent assumed office as a Commissioner of the Sanitation and Streets Commission after having previously served as a Commissioner of the Recreation and Park Commission from 2007 until 2020. Respondent was required to file the Form 700, Sunshine Ordinance

Declaration, and Certificate of Ethics Training each year he served in these capacities as Commissioner. While a Recreation and Park Commissioner, Respondent timely filed his Form 700s for calendar years 2006 through 2019.

Respondent timely filed his Assuming Office Form 700 when he assumed office as Commissioner of the Sanitation and Streets Commission in 2022. However, Respondent failed to file a Certificate of Ethics Training or a Sunshine Ordinance Declaration within 30 days of assuming office as a Commissioner of the Sanitation and Streets Commission.

Respondent also failed to file an Annual Form 700 covering 2022 calendar year, a Certificate of Ethics Training, and a Sunshine Ordinance Declaration by the April 3, 2023 filing deadline.

The failure to comply with these requirements was a violation of City law. The requirements that Respondent failed to fulfill are summarized in Table 1.

Table 1

Requirement	Assuming Office/Annual	Due Date
Ethics Training	Assuming Office	9/19/22
Sunshine Ordinance Declaration	Assuming Office	9/19/22
Form 700	Annual (Covering 2022)	4/3/23
Ethics Training	Annual	4/3/23
Sunshine Ordinance Declaration	Annual	4/3/23

Also, by failing to comply with any one of the three requirements, an official becomes disqualified from participating in agenda items during any meeting of their board or commission. From September 19, 2022 through November 19, 2023, Respondent attended at least twelve meetings of the Sanitation and Streets Commission. During these meetings, Respondent participated in discussions, directed Staff to take actions, voted on matters such as the adoption of a resolution establishing the Annual San Francisco Public Works/San Francisco Building & Construction Trades Council, the "Montoya" Recognition Event and Awards Program, and the adoption of minutes. Respondent also voted to enter a closed session to conduct the Commission Secretary performance evaluation, voted to adopt the 2024 calendar of regular commission meetings via voice vote, voted to approve a grant modification, voted on commission officers, voted to adopt findings under the State Urgency Legislation, and voted to adopt the Sanitation and Streets Commission Contract Delegation policy. Respondent had still not filed a Certificate of Ethics Training or a Sunshine Ordinance Declaration upon assuming office or for the 2022 calendar year nor had he filed the Form 700 covering calendar year 2022 at the time of these meetings. Respondent's participation in these agenda items was a violation of City law.

After being contacted by Commission investigators as part of this investigation on November 17, 2023, Respondent filed his outstanding Form 700 covering calendar year 2022, a Certificate of Ethics Training, and a Sunshine Ordinance Declaration on November 20, 2023. The Form 700 filing was made 231 days after the deadline and the Certificate of Ethics Training and Sunshine Ordinance Declaration were made 427 days after their deadline.

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IV. Violations of Law

Count 1:

Failure to File an Assuming Office Certificate of Ethics Training and Sunshine Ordinance Declaration

Count 1: By failing comply with the Ethics Training and Sunshine Ordinance Training requirements upon assuming office, Respondent violated SF C&GCC section 3.1-102(a).

Count 2:

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

Count 2: By failing comply with the Statement of Economic Interest requirement for calendar year 2022, Respondent violated SF C&GCC section 3.1-102(a).

Count 3:

Failure to File an Annual Certificate of Ethics Training and a Sunshine Ordinance Declaration

Count 3: By failing comply with the Ethics Training and Sunshine Ordinance Training requirements for calendar year 2022, Respondent violated SF C&GCC section 3.1-102(a).

Count 4:

Participating in and Voting on Matters Appearing on the Sanitation and Streets Commission Meeting Agendas while Disqualified

Count 4: By participating in and voting on matters listed on the Sanitation and Streets Commission meeting agendas while disqualified for failing to file the Form 700, Sunshine Ordinance Declaration, or Certificate of Ethics Training, Respondent violated SF C&GCC section 3.1-102.5©.

V. Penalty Assessment

This matter consists of three counts for failing to timely file assuming office and annual Certificates of Ethics Training and Sunshine Ordinance Declarations and an annual Form 700, and one count for participating in and voting on matters listed on the agendas of twelve meetings of the Sanitation and Streets Commission 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 Form 700 and Complete Trainings

Regarding Counts 1, 2, and 3, Respondent's 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. This failure to publicly disclose his reportable financial interests for several months 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 several months, he prevented the public from knowing about the existence and scope of his reportable financial interests during that period.

Additionally, it is essential that public employees and officials complete the assuming office and annual Ethics and Sunshine Training to ensure that they are consistently reminded of the requirements of the ethics rules and the Sunshine Ordinance, as well as to help enhance their understanding of these rules. By failing to take the required assuming office and annual training, Respondent not only violated the law, but also failed to avail himself of knowledge of the ethics rules that are designed to help public officials perform their public duties without running afoul of the law.

When considering the penalty amount, the Enforcement Division analyzed the financial penalty modifiers in the Commission's Streamlined Administrative Resolution Program (SARP) for Form 700 violations, although this matter is not eligible for SARP, and previous stipulated agreements that the Commission approved in analogous matters. As it relates to the penalty modifiers in SARP, for failing to file a Form 700 as required, SARP sets \$500, \$700, and \$900 penalties for matters resolved within 30, 60, and 90 days, respectively. These same SARP penalty amounts are relevant to the failure to file an annual Sunshine Ordinance Declaration and a Certificate of Ethics Training, despite that violation not appearing within SARP, because it is a parallel requirement to the Form 700 filing requirement and thus could be treated similarly for penalty purposes. Also, the \$500, \$700, \$900 penalty tiers are standard across most violations included in the SARP program.

Finally, the Enforcement Division considered the Commission's prior stipulated agreements for analogous violations. In the matter of Celine Kennelly, SFEC Complaint No. 2122-145, the Commission approved a penalty of \$1,000 against a commissioner of an advisory body who resolved her enforcement matter in SARP Tier 1. This matter included one count of \$500 in SARP Tier 1 for failing to file a Form 700. In the matter of David Wadhvani, SFEC Complaint No. 2021-033, the Commission approved a total penalty of \$2,400 against a member of a board that makes governmental decisions and who resolved his violations in SARP Tiers 1 and 3. This matter included one count of \$900 in SARP Tier 3 for failing to file a Form 700 and one count of \$500 in SARP Tier 1 for failing to file another Form 700. The facts of the current case are similar to the Kennelly and Wadhvani cases, and it is thus appropriate to use the same penalty rate.

Participating in Agenda Items while Disqualified

Regarding Count 4, because Respondent failed to timely file the Form 700, Certificate of Ethics Training, and Sunshine Ordinance Declaration, he was disqualified from participating in and voting on matters agendized before the Sanitation and Streets Commission. This rule exists to ensure that if an official has not disclosed their personal financial interests as required, they will not participate in government decisions during the time that their financial interests remain undisclosed. Nonetheless,

Respondent participated in and voted on matters before the Sanitation and Streets Commission while he was disqualified from doing so. The scope of topics that Respondent presided over while disqualified at these meetings included the approval of a grant modification, adoption of findings under the State Urgency Legislation, the adoption of the Sanitation and Streets Commission Contract Delegation policy, and Respondent directed staff to take actions.

To determine the penalty amount for acting while disqualified, the Enforcement Division again considered the Commission's prior stipulated agreements for analogous violations. In the matter of *Celine Kennelly, SFEC Complaint No. 2122-145*, the Commission approved a penalty of \$500 against a commissioner for acting while disqualified during six meetings, though the meetings were only of an advisory body that lacked authority to make government decisions. In the matter of *David Wadhvani, SFEC Complaint No. 2021-033*, the Commission approved a penalty of \$1,000 against a member of a board that makes governmental decisions for acting while disqualified during two meetings. Even though both Wadhvani and Respondent's Board or Commission makes government decisions and Respondent participated at more meetings while disqualified than did Wadhvani, because the Sanitation and Streets Commission does not appear to have made significant financial decisions at the relevant meetings, it is appropriate to use a similar penalty rate as the Wadhvani matter.

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 2022, the Sunshine Ordinance Declaration, and Certificate of Ethics Training. Finally, Investigators did not find any evidence that the decisions in which Respondent participated had a financial effect on any of the financial interests that he eventually reported.

In balancing the totality of factors described above and to promote a future deterrent effect, a penalty of \$500 each for Counts 1, 2, and 3 and \$1,000 for Count 4 is warranted. The penalty for Count 4 takes into account the fact that Respondent appears to have attended twelve meetings of the Sanitation and Streets Commission and took action on numerous matters while being disqualified from doing so. The parties agree that this \$2,500 in total penalties is warranted based on the facts in this matter.

Count 1 (Failure to File an Assuming Office Certificate of Ethics Training and a Sunshine Ordinance Declaration): \$500

Count 2 (Failure to File an Annual Form 700 under the SARP Tier 1 Penalty Modifier): \$500

Count 3 (Failure to File an Annual Certificate of Ethics Training and a Sunshine Ordinance Declaration): \$500

Count 4 (Participation in Agenda Items while Disqualified): \$1,000

Total Penalties: \$2,500