

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. 24-691
)	
Murrell Green,)	
)	
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 Murrell Green (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.

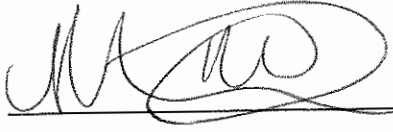
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Dated: _____

PATRICK FORD
EXECUTIVE DIRECTOR SAN FRANCISCO ETHICS COMMISSION

Dated: 4/19/2024



MURRELL GREEN

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Murrell Green, SFEC Complaint No. 24-691," 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 Murrell Green assumed office as a Member of the Board of Trustees of City College of San Francisco (CCSF) in May 2022. The CCSF Board of Trustees assumes full responsibility for the general control and direction of CCSF. 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. While Respondent filed an Assuming Office Form 700 for the 12-month period prior to assuming office on May 20, 2022, Respondent failed to file his Statement covering the remainder of the 2022 calendar year 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 February 14, 2024. Finally, while Respondent's Statement covering calendar year 2022 was outstanding, he participated in and voted on matters appearing on CCSF 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 Trustees of the CCSF 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 § 18730.

SF C&GCC section 3.1-102(b) requires each candidate for City elective office file a Form 700 disclosing the information required by the disclosure category for the City elective office sought by the candidate no later than the final filing date for a declaration of candidacy.

If a City officer assumes office between October 1 and December 31 and files an assuming office Statement of Economic Interests as required, that person need not file an annual Statement of Economic Interests until one year after the next April 1st annual filing deadline. 2 CCR § 18723(c).

Trustees of the CCSF Board of Trustees 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.* § 3.1-190.

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 and Analysis

In 2022, Respondent was appointed by the Mayor as a Trustee of the CCSF Board of Trustees and subsequently assumed that office. He was required to file the Form 700 each year he served in this capacity. On July 15, 2022, Respondent filed his Assuming Office Form 700 with the Commission, 26 days after it was due.

Respondent was a candidate for Trustee of the CCSF Board of Trustees on the ballot for the November 8, 2022, election. He was required to file a Form 700 with the San Francisco Department of Elections. On August 12, 2022, Respondent timely filed his candidate Form 700 with that office.

On February 9, 2023, February 16, 2023, February 21, 2023, March 29, 2023, and April 3, 2023, the Ethics Commission's Engagement and Compliance Division sent emails to Respondent's email address of record that notified him that he was required to file his Form 700 covering calendar year 2022 by April 3, 2023. These communications also stated that Respondent would be disqualified from all participation in voting on matters listed on his board's meeting agendas if he failed to file by the April 3, 2023, deadline. Respondent was required to file by this deadline because he assumed office on July 15th, which was before the October 1st threshold that would have exempted him from the annual Form 700 filing requirement. However, Respondent failed to file his Form 700 by the April 3, 2023, deadline.

The failure to comply with his annual Form 700 filing requirement was a violation of City law. The requirement that Respondent failed to fulfill is summarized in Table 1.

Table 1

Requirement	Assuming Office/Annual	Due Date
Form 700	Annual (Covering 2022)	4/3/23

On November 17, 2023, December 19, 2023, and January 22, 2024, the Commission's Enforcement Division sent emails to Respondent's email addresses of record that notified him of the Commission's investigation for his unfulfilled filing obligation and identified the required corrective action that he must take to resolve the Commission's enforcement matter. On February 13, 2023, Investigators spoke to Respondent and again relayed to him the relevant information related to the failure to fulfill his filing requirement.

By failing to comply with a filing requirement, an official becomes disqualified from participating in agenda items during any meeting of their board or commission. From April 4, 2023, through February 14, 2024, Respondent attended at least 32 meetings of the CCSF Board of Trustees, the Board Student Success and Policy Committee, and the Board Facilities Master Planning and Oversight Committee. During these meetings Respondent participated in closed session conferences with a real property negotiator, legal counsel, labor negotiators, and participated in discussions regarding disciplinary actions, suspensions, and expulsion of students. Respondent also voted to approve minutes, resolutions, proposals, agreements, purchase orders, administrative appointments, the acceptance of grant funds, execution of contracts, and modification of policies and contracts.

Respondent had still not filed his Form 700 covering calendar year 2022 at the time of these meetings.

After first being contacted by Commission investigators as part of this investigation on November 17, 2023, Respondent filed his outstanding Form 700 covering calendar year 2022 on February 14, 2024. The Form 700 filing was made 318 days after the deadline.

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IV. Violations of Law

Count 1:

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

Count 1: By failing to file his required Annual Statement of Economic Interest for calendar year 2022, Respondent violated SF C&GCC section 3.1-102(a).

Count 2:

Participating in and Voting on Matters Appearing on CCSF Board of Trustees and Committee Meeting Agendas while Disqualified

Count 2: By participating in and voting on matters listed on CCSF Board of Trustees and 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 32 meetings of the CCSF Board of Trustees and its committees 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

Regarding count 1, 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. Furthermore, Respondent had ample opportunity to fulfill his filing obligation because he received several communications, both before and after the relevant filing deadline, from Staff in two of the Commission's Divisions that notified him of this filing requirement. 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.

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 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.

Additionally, 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 2, Respondent's failure to timely file his Form 700 disqualified him from participating in and voting on matters agendized before the CCSF Board of Trustees and its committees. 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 CCSF Board of Trustees that included legal and financial matters in closed session, the modification of policies and contracts, the execution of contracts, and the acceptance of grant funds while he was disqualified from doing so. The wide-ranging scope of topics that Respondent presided over at the vast score of meetings that he attended while disqualified from doing so, would have major economic impacts and exemplifies why disclosure safeguards exist to ensure that the public has the information available to determine whether official actions were taken free from bias or influence.

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. Respondent is an elected official, whereas the respondent in the *Wadhvani* case was a commissioner. It is appropriate to treat violations by elected officials differently because of their higher levels of responsibility and public visibility. Also, because Respondent participated at vastly more meetings while disqualified than did Wadhvani and the CCSF Board of Trustees appears to have made significant government decisions at the relevant meetings, it is appropriate to use a penalty rate significantly higher than that of the Wadhvani matter, such as \$4,000.

However, in mitigation, Respondent completed two Form 700 filings in calendar year 2022 disclosing his financial interests for two-thirds of that calendar year and, thus, Respondent's financial interests for calendar year 2022 had already been disclosed in part. Because Respondent made

significant government decisions at a multitude of meetings while disqualified, a financial penalty is warranted, albeit smaller than what would otherwise be applicable had Respondent filed no Form 700s covering calendar year 2022 previously. As discussed above, it is appropriate to use the penalty rate of \$4,000 for an elected official who engaged in the level of meeting participation as Respondent did here. However, because Respondent had previously filed Form 700s covering roughly two-thirds of calendar year 2022, it is appropriate to reduce Respondent's penalty by two-thirds since the risk of his financial interests being unknown to the public was reduced because of his prior filings. Thus, a penalty of \$1,300 is appropriate for Respondent's participation while disqualified is warranted.

Mitigating factors in addition to the two Form 700 filings that Respondent made before contact by the Enforcement Division include that 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 the period in calendar year 2022 not covered by his previous two filings made that year. Finally, Respondent indicated on his Form 700 that he had no reportable interests and Investigators did not find any evidence that the decisions in which Respondent participated had a financial effect on any of his reportable financial interests.

In balancing the totality of factors described above considering the financial penalty modifiers present in the Commission's Streamlined Administrative Resolution Program (SARP) for Form 700 violations, and to promote a future deterrent effect, a penalty of \$900 for Count 1 and \$1,300 for Count 2 is warranted. The parties agree that this \$2,200 in total penalties is warranted based on the facts in this matter.

Count 1 (Failure to File Form 700 under the SARP Tier 3 Penalty Modifier): \$900

Count 2 (Participation in Agenda Items while Disqualified): \$1,300

Total Penalties: \$2,200