

Patrick Ford
Executive Director

Olabisi Matthews
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. 24-671
)	
Walter Park,)	
)	
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 Walter Park (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.

08-08-2024 | 14:21:08 PDT
Dated: _____



PATRICK FORD
EXECUTIVE DIRECTOR SAN FRANCISCO ETHICS COMMISSION

08-08-2024 | 14:01:34 PDT
Dated: _____



WALTER PARK
RESPONDENT

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Walter Park, SFEC Complaint No. 24-671," 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 Walter Park assumed office as a Commissioner of the San Francisco Access Appeals Commission (AAC) in July 2007. The AAC conducts hearings to approve or disapprove the Department of Building Inspection's interpretations of applicable disability access regulations and actions taken by the Department to enforce said regulations and abate violations. 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 for the periods covering calendar years 2007-2021, Respondent failed to file his Form 700 covering 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 Form 700 on December 20, 2023. Finally, while Respondent's Form 700 covering calendar year 2022 was outstanding, he participated in and voted on matters appearing on an AAC meeting agenda 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 Access Appeals 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 Access Appeals 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 Access Appeals Commission must also annually file electronically with the Ethics Commission, a Sunshine Ordinance Declaration and Certificate of Ethics Training due 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.

While a member of a City board or commission is disqualified pursuant to SF C&GCC section 3.1-102.5(c), the Commission Secretary, or any City staff who fulfills that role, must announce at each meeting held by the relevant body, that while the City board or commission member's filing requirement provided under Sections 3.1-101, 3.1-102, and 3.1-103 remains unfulfilled, the member will be disqualified from all participation in and voting on matters coming before that board or commission. SF C&GCC § 3.1-102.5(d).

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III. Summary of Material Facts

In 2007, Respondent assumed office as a Commissioner of the Access Appeals Commission. He was required to file the Form 700 each year he served in this capacity.

On March 15, 2022, March 24, 2022, and March 30, 2022, 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 2021, Sunshine Ordinance Declaration, and Certificate of Ethics Training, by April 1, 2022. Respondent filed his Form 700 but failed to file his Sunshine Ordinance Declaration and Certificate of Ethics Training by this deadline. For privacy reasons, the Ethics Commission does not collect or publish the mailing addresses of filers, and was, therefore, only able to contact Respondent via email or telephone. For purposes of ensuring compliance, the Engagement and Compliance Division makes all contacts via the email address provided by filers at the time of assuming office.

On August 2, 2022, and September 2, 2022, the Engagement and Compliance Division sent emails to Respondent's email address of record that notified him that he failed to file his Sunshine Ordinance Declaration and his Certificate of Ethics Training, and that late fees and additional administrative penalties may be imposed. These communications also notified Respondent that he was disqualified from participating in or voting on any matter listed on his commission's meeting agenda before, during, or after a meeting while his filing obligations remained unfulfilled.

On February 6, 2023, February 16, 2023, February 21, 2023, March 29, 2023, and April 3, 2023, the 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, Sunshine Ordinance Declaration, and Certificate of Ethics Training. All three were due on April 3, 2023. Respondent failed to file his Form 700, Sunshine Ordinance Declaration, and Certificate of Ethics Training by this deadline.

On May 3, 2023, and May 4, 2023, the Engagement and Compliance Division sent emails to Respondent's email address of record that notified him that he failed to file his Form 700 covering calendar year 2022, his Sunshine Ordinance Declaration, and his Certificate of Ethics Training and that late fees and additional administrative penalties may be imposed. These communications also notified Respondent that he was disqualified from participating in or voting on any matter listed on his commission's meeting agenda before, during, or after a meeting while his filing obligations remained unfulfilled.

From April 2, 2022, through February 26, 2024, Respondent attended at least two meetings of the Access Appeals Commission. Investigators reviewed the minutes of these meetings and found no indication that the commission secretary or staffer announced that Respondent was disqualified from participation pursuant to SF C&GCC section 3.1-102(c). During these meetings, Respondent participated in discussions, directed AAC Staff to take actions, and voted to approve two unreasonable hardship requests, which allowed the claimants to bypass costly structural construction through "readily achievable accessible elements". Respondent had still not filed a Sunshine Ordinance Declaration, and his Certificate of Ethics Training for the 2021 and 2022 calendar years and the Form 700 covering calendar year 2022 at the time of these meetings.

On November 17, 2023, Commission Investigators contacted Respondent via email regarding his failure to comply with the filing requirements and his voting while disqualified. 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 on December 20, 2023, and after additional email communications, Respondent filed his Sunshine Ordinance Declaration, and Certificate of Ethics Training on February 27, 2024. The Form 700 filing was made 262 days after the deadline and the Sunshine Ordinance Declaration and his Certificate of Ethics Training 697 days after the deadline.

IV. Violations of Law

Count 1:

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

Count 1: By failing to file his required Certificate of Ethics Training and Sunshine Ordinance Declaration for calendar years 2021 and 2022, 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 to file his required Annual Statement of Economic Interest for calendar year 2022, Respondent violated SF C&GCC section 3.1-102(a).

Count 3:

Participating in and Voting on Matters Appearing on the Access Appeals Commission Meeting Agenda while Disqualified

Count 3: By participating in and voting on matters listed on Access Appeals Commission meeting agendas while disqualified for failing to file the Form 700, Certificate of Ethics Training, or Sunshine Ordinance Declaration, 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 Certificate of Ethics Training and Sunshine Ordinance Declaration for calendar years 2021 and 2022, one count for failing to timely file an annual Form 700, and one count for participating in and voting on two matters listed on the agendas of two meetings of the Access Appeals 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).

Regarding count one, it is essential that public employees and officials complete the 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 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.

Regarding count two, the failure of Respondent to timely file his Form 700s prevented the effective monitoring of his financial interests and the assessing of whether any interests existed that might conflict with his government actions. This important disclosure requirement serves both to prevent conflicts of interests and to protect public confidence in governmental processes. Failure to disclose reportable financial interests as the law requires deprives the public of 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 any reportable financial interests he might have had during that period. Once Respondent filed his outstanding Form 700s to disclose his reportable financial interests, Investigators found no indication that Respondent had a financial interest in the governmental decisions that he made or participated in making.

Regarding count three, Respondent's failure to timely file his Form 700 and his Sunshine Ordinance Declaration and Certificate of Ethics Training disqualified him from participating in and voting on matters agendized before the Access Appeals 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 Access Appeals Commission while he was disqualified from doing so. Even if Respondent's commission secretary failed to publicly announce that Respondent was disqualified from all participation in and voting on matters before that commission, the responsibility to file and to recuse from participation when he had not fulfilled his outstanding filing requirement rested with Respondent.

In mitigation, Respondent cooperated with the 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. Respondent also completed the relevant trainings and filed the requisite Certificate of Ethics Training and Sunshine Ordinance Declaration. Furthermore, 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 Respondent.

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, as well as 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, even though the violation does not appear within SARP, because it is a parallel requirement to the Form 700 filing requirement and thus could be treated similarly for penalty purposes.

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 total 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 and one count of \$500 for acting while disqualified during six meetings. 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, one count of \$500 in SARP Tier 1 for failing to file another Form 700, and one count of \$1,000 for acting while disqualified during two meetings.

In balancing the totality of factors described above and to promote a future deterrent effect, a penalty of \$900 for Count 1, \$700 for Count 2, and \$500 for Count 3 is warranted, totaling \$2,100. The penalty amount for Count 3 takes into account the fact that Respondent only appears to have attended two meetings of the Access Appeals Board and took action on only two matters while being disqualified from doing so.

However, Respondent requested a lowered penalty amount based on his substantial inability to pay what would have been the appropriate penalty amount in this matter. In order for Respondent's ability to pay to be considered as a mitigating factor, Respondent was required pursuant to Section 9(D)(7) of the Commission's Enforcement Regulations to provide certain records, including six months' worth of bank records to the Director of Enforcement. After a review of Respondent's financial records, the Director of Enforcement made a determination that Respondent's ability to pay the amount of \$2,100, are severely constrained, details of which are withheld for Respondent's privacy. Respondent demonstrated a substantial inability to pay to the satisfaction of the Director of Enforcement, per Section 9(D)(7) of the Commission's Enforcement Regulations. Thus, an approximate four-fifths reduction in what would have been the appropriate penalty amount was applied to this case to bring the penalty amount down to \$150 for Count 1, \$120 for Count 2, and \$80 for Count 3, totaling \$350. The parties agree that \$350 in total penalties is warranted based on the specific facts in this matter related to Respondent's substantial inability to pay.

Count 1 (Failure to File an annual Sunshine Ordinance Declaration and a Certificate of Ethics Training under the SARP Tier 3 Penalty Modifier): \$150

Count 2 (Failure to File Form 700 under the SARP Tier 2 Penalty Modifier): \$120

Count 3 (Participation in Agenda Items while Disqualified): \$80

Total Penalties: \$350