

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. 25-883
)	
Mark Kelleher,)	
)	
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 Mark Kelleher (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.

03-27-2025 | 09:06:29 PDT
Dated: _____



PATRICK FORD
EXECUTIVE DIRECTOR SAN FRANCISCO ETHICS COMMISSION

03-26-2025 | 15:08:49 PDT
Dated: _____



MARK KELLEHER
RESPONDENT

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of “Mark Kelleher, SFEC Complaint No. 25-883,” 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: _____

ARGEMIRA FLORES-FENG, CHAIRPERSON
SAN FRANCISCO ETHICS COMMISSION

Exhibit A

I. Introduction

Respondent Mark Kelleher assumed office as a Commissioner of the Human Rights Commission in December 2010. The function of the Human Rights Commission is to work in service of the City’s anti-discrimination laws. As a Commissioner, Respondent is required to complete and file an Ethics Training Certificate and a Sunshine Ordinance Declaration annually pursuant to the City’s Conflict of Interest Code. Respondent failed to file the annual Ethics Training Certificate and Sunshine Ordinance Declaration by the required deadlines of April 1, 2022, April 3, 2023, and April 2, 2024, in violation of San Francisco Campaign and Governmental Code (“SF C&GCC”) section 3.1-103(a). Respondent failed to complete the 2022, 2023, and 2024 annual filing requirements despite the regular notices sent to all filers by the Ethics Commission’s compliance staff before the filing deadlines and to all non-filers after the filing deadlines.

Also, while Respondent’s 2022, 2023, and 2024 annual Ethics Training Certificate and Sunshine Ordinance Declaration filings were outstanding, he participated in and voted on matters appearing on Human Rights Commission meeting agendas in violation of the disqualification provision of SF C&GCC section 3.1-102.5(c). Respondent did not vote on any matter that involved a financial conflict of interest.

II. Applicable Law

Commissioners of the Human Rights Commission must file 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).

And a Member of a City board or commission who has failed to file a Certificate of Ethics Training or Sunshine Ordinance Declaration by the applicable filing deadline is disqualified from all participation in and voting on matters listed on their board’s or commission’s meeting agendas. SF C&GCC § 3.1-102.5(c). Participating in such agenda items while disqualified from doing so is a violation of law. *Id.*

III. Summary of Material Facts and Analysis

On December 1, 2010, Respondent assumed office as a Commissioner of the Human Rights Commission. Respondent was required to file the Ethics Training Certificate and Sunshine Ordinance Declaration each year he served as a commissioner.

However, Respondent failed to file the annual trainings forms by the April 1, 2022, April 3, 2023, and April 2, 2024, deadlines. 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.

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Table 1

Requirement	Assuming Office/Annual	Due Date	Date Filed	Days Late
Ethics Training Certification	2022 Annual	4/01/22	10/29/24	943
Sunshine Declaration	2022 Annual	4/01/22	10/29/24	943
Ethics Training Certification	2023 Annual	4/03/23	10/29/24	576
Sunshine Declaration	2023 Annual	4/03/23	10/29/24	576
Ethics Training Certification	2024 Annual	4/02/24	10/29/24	211
Sunshine Ordinance Declaration	2024 Annual	4/02/24	10/29/24	211

The Commission’s Engagement and Compliance Division sent all filers pre-filing deadline notices for the 2022 annual filing on March 15, 2022, March 24, 2022, and March 30, 2022. Additionally, engagement and compliance staff sent all non-filers notices on August 2, 2022, and September 2, 2022, which notified fillers that they were disqualified from all participation on matters before their board’s or commission’s meeting agendas while their filings were outstanding. Respondent failed to complete these filing requirements despite these notices sent by the Ethics Commission’s engagement and compliance staff.

For the 2023 filing season, engagement and compliance staff sent all filers pre-filing deadline notices for the 2023 annual filing on February 6, 2023, February 16, 2023, February 21, 2023, March 29, 2023, and April 3, 2023. Similarly, after the filing deadline had passed, engagement and compliance staff sent all non-filers notices on May 3, 2023, and May 4, 2023, which notified fillers that they were disqualified from all participation on matters before their board’s or commission’s meeting agendas while their filings were outstanding. Respondent failed to complete these filing requirements despite these notices sent by the Ethics Commission’s engagement and compliance staff.

For the 2024 filing season, engagement and compliance staff sent all filers pre-filing deadline notices for the 2024 annual filing on February 5, 2024, March 4, 2024, March 18, 2024, March 25, 2024, and April 1, 2024. Similarly, after the filing deadline had passed, engagement and compliance staff sent all non-filers notices on April 15, 2024, and April 29, 2024, which notified fillers that they were disqualified from all participation on matters before their board’s or commission’s meeting agendas while their filings were outstanding. Respondent failed to complete these filing requirements despite these notices sent by the Ethics Commission’s engagement and compliance staff.

Finally, after being contacted by Ethics Commission investigators as part of this investigation on October 25, 2024, Respondent completed the required trainings and came into compliance by filing the required Certificate of Ethics Trainings, and Sunshine Ordinance Declarations on October 29, 2024.

As stated above, by failing to comply with any of the filing requirements, an official becomes disqualified from participating in agenda items during any meeting of their board or commission. Respondent did not complete the training requirements until October 19, 2024, and was therefore disqualified from participation in agenda items until that time. From April 2, 2022, through October 28, 2024, Respondent attended at least 24 meetings of the Human Rights Commission. During these meetings, Respondent participated in discussions, accepted an ordinance amending Sections 12A, 12B, and 12C of the City and County of San Francisco Administrative Code, updating definitions of age, disability, gender, gender expression and sex, approved on consent eight Dream Keeper Initiative grants for a total award amount of \$1.68 million, adopted on consent an amendment to increase by \$100,000 the Opportunities for All: Youth Events, Programs, and Capacity Building grant, and adopted minutes. In

total, Respondent voted 27 times on matters listed on the Human Rights Commission's agendas. Respondent had still not filed an annual Certificate of Ethics Training or a Sunshine Ordinance Declaration for 2022, 2023, or 2024 at the time of these meetings. Respondent's participation in these agenda items was a violation of City law.

IV. Violations of Law

Count 1:

Failure to File Annual Certificates of Ethics Training and Sunshine Ordinance Declarations

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

Count 2:

Participating in and Voting on Matters Appearing on the Human Rights Commission Meeting Agendas while Disqualified

Count 2: By participating in and voting on matters listed on the Human Rights Commission meeting agendas while disqualified for failing to file the Certificate of Ethics Training and the Sunshine Ordinance Declaration, Respondent violated SF C&GCC section 3.1-102.5(c).

V. Penalty Assessment

This matter consists of one count for failing to timely file a total of three annual Certificates of Ethics Training and three Sunshine Ordinance Declarations, and one count for participating in and voting on matters listed on the agendas of 24 meetings of the Human Rights 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 Complete Trainings

Regarding Count 1, 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 and file the required Certification and Declaration, 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, and previous stipulated agreements that the Commission approved in analogous matters. Although both the Sunshine Ordinance Declaration and the Certificate of Ethics Training violations are not specifically delineated under SARP, this matter is best resolved using a SARP penalty modifier for Form 700, as they collectively are required to fulfill the filing requirements contained within sections 3.1-102 and 3.1-105 of the Governmental Conduct Code. 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 these violations not appearing within SARP, because both the Sunshine Ordinance Declaration and the Certificate of Ethics Training are parallel requirements to the Form 700 filing requirement and thus could be treated similarly for penalty purposes. Also, the \$500, \$700, and \$900 penalty tiers are standard across most violations included in the SARP program. Here, Respondent remedied the six training violations within 30 days of being contacted by investigators.

Participating in Agenda Items while Disqualified

Regarding Count 2, because Respondent failed to timely file the annual Certificates of Ethics Training and Sunshine Ordinance Declarations, he was disqualified from participating in and voting on matters agendized before the Human Rights Commission. This rule exists to ensure that if an official has not undergone training in ethics rules and the Sunshine Ordinance as required, they will not participate in government decisions during the time that their trainings remain outstanding.

To determine the penalty amount for acting while disqualified, 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 \$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 Thomas Harrison*, SFEC Complaint No. 24-719, the Commission approved a penalty of \$1,000 against a member of a board that makes governmental decisions for acting while disqualified during twelve meetings, which included his participation in the approval of a grant modification. Here, Respondent participated in 24 meetings during which he participated in matters that involved the approval of grants with a total amount of \$1.78 million. Thus, Respondent not only participated in more meetings while disqualified than Harrison, but the Human Rights Commission also made significant financial decisions at the relevant meetings, unlike in the Harrison matter. Thus, it is appropriate to use a penalty rate higher than the Harrison matter.

In mitigation, Respondent does not have a history of prior enforcement matters with the Commission.

In balancing the totality of factors described above and to promote a future deterrent effect, a penalty of \$500 for Count 1 and a penalty of \$2,000 for Count 2 is warranted. The penalty for Count 2 takes into account the fact that Respondent appears to have attended 24 meetings of the Human Rights Commission while being disqualified from doing so and made decisions of significant financial impact. The parties agree that this \$2,500 in total penalties is warranted based on the facts in this matter.

Count 1 (Failure to File Annual Certificates of Ethics Training and Sunshine Ordinance Declarations):
\$500

Count 2 (Participation in Agenda Items while Disqualified): \$2,000

Total Penalties: \$2,500