



Fair Campaign Practices Commission
Open Government Commission

CONCURRENT MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

MEETING AGENDA

January 21, 2021

7:00 p.m.

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting will be held telephonically. Members of the public interested in attending will be able to observe and address the meeting using the following information:

Please use the following link to join the Zoom meeting:

<https://us02web.zoom.us/j/83031834935?pwd=MGI6T0VMZ0k4V3dGZUcvYy9WRUhoUT09>

Or Telephone: +1 669 900 6833

Meeting ID: 830 3183 4935

Secretary: Samuel Harvey

The Commission may act on any item on this agenda

1. Call to Order 7:00 p.m.
2. Roll Call.
3. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
4. Approval of minutes for November 19, 2020 concurrent regular meeting.

Fair Campaign Practices Commission (FCPC) Agenda

5. Reports.
 - a. Report from Chair.
 - b. Report from Staff.
6. Complaint alleging violation of BERA by Rent Stabilization Board candidates Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, Wendy Saenz Hood Neufeld and Pawel Moldenhawer; discussion and possible action.

7. Complaint alleging violations of BERA by Wayne Hsiung for Mayor 2020 and Compassionate Bay; discussion and possible action.
8. Referrals from the City Clerk Department re outstanding campaign committee amendments:
 - a. Investigation re Maria Poblet for Rent Board 2022 (ID # 1407904); discussion and possible action.
 - b. Investigation re Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502); discussion and possible action.
9. Referrals from the City Clerk re Public Finance Program campaigns; discussion and possible action:
 - a. Andrew for Berkeley Council 2020
 - b. Wayne Hsiung for Mayor 2020

Open Government Commission (OGC) Agenda

10. Reports.
 - a. Reports from Chair.
 - b. Reports from Staff.
11. Referral from the Office of the City Clerk re failure by multiple City lobbyists to file quarterly reports; possible creation of rules, procedures and regulations to guide the Lobbyist Registration Act enforcement process; discussion and possible action.
12. Complaint filed by Martin and Olga Schwartz alleging violations of the Open Government Ordinance relating to Zoning Adjustments Board proceedings; discussion and possible action.
13. Adopting 2021 FCPC-OGC regular meeting schedule
14. Adjournment.

Communications

- Email from Allan Mann

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD). Please refrain

from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4th Fl., Berkeley, CA.



Fair Campaign Practices Commission
Open Government Commission

DRAFT MINUTES

November 19, 2020

CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting was held telephonically.

Secretary: Samuel Harvey, Deputy City Attorney

Members Present: Brad Smith (Chair), Jedidiah Tsang (Vice Chair), Jessica Blome, Janis Ching, Dean Metzger, Patrick O'Donnell, Patrick Sheahan, Mark McLean

Also Present: Samuel Harvey, Staff Secretary / Deputy City Attorney
Brendan Darrow, Deputy City Attorney
Sarah Bunting, Assistant City Clerk
April Richardson, Assistant City Clerk

1. **Call to Order**

Chair Called the meeting to order at 7:05 p.m.

2. **Roll Call**

Roll call taken.

3. **Public Comment (items not on agenda)**

One speaker.

4. **Approval of minutes for the October 15, 2020 concurrent regular meeting**

- a. Public comment: No speakers.
- b. Commission discussion and action.

Motion to approve minutes (M/S/C: O'Donnell/Ching; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

Fair Campaign Practices Commission (FCPC) Agenda

5. **FCPC Reports**

- a. Report from Chair.
- b. Report from Staff.

6. **Complaint alleging violations of BERA by Committee for Ethical Housing.**

- a. Public comment: One speaker.
- a. Commission discussion and action.

Motion to dismiss complaint (M/S/C: Metzger/Ching; Ayes: Metzger, O'Donnell, Ching, Blome, McLeean, Tsang, Smith; Noes: none; Abstain: Sheahan; Absent: none.)

7. **Investigation re Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502).**

- b. Public comment: No speakers.
- b. Commission discussion.

8. **Investigation re Maria Poblet for Rent Board 2022 (ID # 1407904).**

- a. Public comment: Two speakers.
- b. Commission discussion and action.

Motion to dismiss (M/S/C: Metzger/Ching; Ayes: Metzger, Sheahan, Tsang; Noes: O'Donnell, Ching, Blome, McLean, Smith; Abstain: none; Absent: None.)

9. **Complaint alleging violations of the Berkeley Election Reform Act by Re-Elect Mayor Jessie Arreguin 2020.**

- a. Public comment: Three speakers.
- b. Commission discussion and action.

Motion to dismiss complaint and direct staff to return with a legal analysis of BERA section 2.12.335 (M/S/C: Sheahan/Metzger; Ayes: Metzger, Sheahan, Blome; Noes: O'Donnell, Ching, McLean, Tsang, Smith; Abstain: none; Absent: none.)

Motion to direct staff to continue investigation of the facts and return at future meeting with report as well as analysis of BERA section 2.12.335 to inform FCPC's review of this complaint and other complaints concerning section 2.12.335. [Secretary's note: other complaints affected by section 2.12.335 are (1) Ahmadi et al. and (2) Simon-Weisberg

et al.] (M/S/C: O'Donnell/McLean; Ayes: O'Donnell, Ching, McLean, Tsang, Smith; Noes: Metzger, Sheahan, Blome; Abstain: none; Absent: none.)

10. **Complaint regarding painted sidewalk signs advocating for Councilmember Cheryl Davila.**

- a. Public comment: Five speakers
- b. Commission discussion and action.

Motion to dismiss complaint (M/S/C: Blome/Ching; Ayes: Metzger, O'Donnell, Ching, Blome, McLeean, Tsang, Smith; Noes: none; Abstain: Sheahan; Absent: none.)

11. **Complaint alleging violation of BERA by Rent Board candidates Leah Simon-Weisberg, Mari Mendonca, Andy Kelley, Dominique Walker, and Xavier Johnson**

- a. Public comment: Two speakers.
- b. Commission discussion and action.

Motion to direct staff to investigate and report back along with an analysis of BERA section 2.12.335 to inform FCPC's enforcement on this and other matters concerning section 2.12.335 [Secretary's note: other complaints concerning section 2.12.335 are (1) Ahmadi et al. and (2) Re-Elect Mayor Jesse Arreguin 2020] (M/S/C: O'Donnell/Blome; Ayes: O'Donnell, Ching, Blome, McLean, Tsang, Smith; Noes: Metzger, Sheahan; Abstain: none; Absent: none.)

12. **Complaint alleging violations of BERA by Wayne Hsiung for Mayor 2020 and Compassionate Bay.**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to direct staff to investigate (M/S/C: Blome/Ching; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

13. **Referrals from the Office of the City Clerk re Public Finance Program campaigns.**

- a. **Andrew for Berkeley Council 2020**
- b. **Wayne Hsiung for Mayor 2020**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to continue to the January meeting at which point the Commission can make a determination on next steps based on whether the committees have returned any

outstanding public funds (M/S/C: Metzger/Blome; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

Open Government Commission (OGC) Agenda

14. **OGC Reports**

- a. Report from Chair.
- b. Report from Staff.

15. **Referral from the Office of the City Clerk re failure by multiple City lobbyists to file quarterly reports; possible creation of rules, procedures and regulations to guide the Lobbyist Registration Act enforcement process**

- a. Public comment: No speakers.
- b. Commission discussion

Motion to direct staff to work with Clerk Department to send additional letter to lobbyists informing them that OGC has initiated a review of lobbyists' failure to file and seeking information about whether lobbyists are still employed, and for the matter to be brought back to the OGC in January for determination of next steps possibly to include creation of a subcommittee on lobbyist enforcement (M/S/C: Ching/O'Donnell; Ayes: Metzger, O'Donnell, Ching, Sheahan, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

Commissioner Blome recused due to mutual employer of referred lobbyist.

16. **Complaint filed by Martin and Olga Schwartz alleging violations of the Open Government Ordinance relating to Zoning Adjustments Board proceedings**

- a. Public comment: One speaker.
- b. Commission discussion.

Motion to direct staff to return to the OGC with a proposal to change City policy regarding inclusion of public communications with online project records (M/S/C: Metzger/Tsang; Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: none.)

Commissioner Sheahan recused due to conflict as member of Zoning Adjustments Board.

17. **Scheduling next concurrent meeting and drafting 2021 regular meeting schedule**

- a. Public comment: One speaker.
- b. Commission discussion.

Motion to schedule next concurrent meeting of the FCPC and OGC for Thursday, January 21, 2021 at 7 p.m. and direct staff to return with a proposed meeting schedule for 2021 (M/S/C: McLean/Ching; Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Sheahan.)

13. **Adjournment**

Motion to adjourn. (M/S/C: Ching/O'Donnell; Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: Sheahan.)

The meeting adjourned at 10:55 p.m.



Fair Campaign Practices Commission

Date: January 21, 2021

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Complaint alleging violation of BERA by Bahman Ahmadi, Soulmaz Panahi, Dan McDunn, Wendy Saenz Hood Neufeld, Pawel Moldenhawer

On September 8, 2020, Commission staff received a complaint alleging that a website promoting the candidacies of four candidates for Berkeley Rent Stabilization Board had failed to include the required disclaimer identifying the funding source for the website. The four Rent Board candidates are Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, and Wendy Saenz Hood Neufeld. Following the filing of the complaint, the website was updated to promote a fifth Rent Board candidate, Pawel Moldenhawer.

The complaint includes screenshots from the website showing that a disclaimer did not appear at the bottom of various pages of the website. On September 8, 2020, after receipt of the complaint, staff verified that the website did not contain a disclaimer. The website was updated to include a disclaimer providing the names of the funding committees sometime before the Commission's meeting on September 17, 2020.

As of Tuesday, October 6, 2020, the website disclaimer read:

COPYRIGHT 2020 PAID FOR BY BAHMAN AHMADI FOR RENT BOARD 2020 FPPC #1431231; MCDUNN FOR RENT BOARD 2020 FPPC # PENDING; SOULMAZ PANAH I FOR RENT BOARD 2020 FPPC #1431229; WENDY SAENZ HOOD NEUFELD FOR BERKELEY RENT STABILIZATION BOARD FOR 2020, FPPC # 1432145; MOLDENHAWER FOR RENT BOARD 2020 FPPC #1432468

According to the candidates' campaign statements (Form 460) for the period from July 1, 2020 to September 19, 2020, each of the five candidates reported a payment of \$203 to a company called Saenz Global Virtual Assistant Services for web design and other services. It therefore appears that that the costs of the website (and other services) were split evenly among the five candidates appearing on the website.

The campaign statement for Moldenhawer for Rent Board 2020 for the period July 1, 2020 to September 19, 2020 indicates that the committee received a loan of \$1,000 from the candidate, Pawel Moldenhawer. None of the other four candidates' committees have received loans or other contributions of more than \$250.

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At its October 15, 2020 meeting, the Commission determined that there was probable cause to believe that the committees had violated BMC § 2.12.335 by temporarily failing to include a disclaimer on the website disclosing the names of the committees and for subsequently omitting the “Major Funding” information which should have been included to reflect the \$1,000 loan made by Mr. Moldenhawer to his campaign. The Commission directed staff to attempt to negotiate a stipulated agreement with the committees for a penalty of \$250 (\$50 from each committee). The staff report and attachments from the Commission’s October 15, 2020 meeting are attached to this report as Attachment 1.

At the Commission’s November 19, 2020 meeting, the Commission was presented with two additional complaints alleging violations of BMC § 2.12.335 by candidate campaign committees. At that meeting, some commissioners expressed concern about the application of section 2.12.335 to candidate committees, noting that the language of the section could be intended to only apply to ballot measure and independent committees. As a result, at its November 19, 2020 meeting, the Commission directed staff to perform additional analysis of section 2.12.335, including review of the section’s legislative history and prior Commission actions. The Commission expressed interest in revisiting the three pending enforcement matters affected by the interpretation section 2.12.335 following an opportunity to review the legislative and enforcement history. Staff ceased working on a stipulated agreement in this matter pending further direction from the Commission.

Staff presented an analysis of the legislative and enforcement history of section 2.12.335 to the Commission at a special meeting on January 21, 2021. Staff has agendaized this item so that the Commission can review its prior determinations in the matter and direct staff to take any further needed in light of the Commission’s analysis of the history of section 2.12.335.

Pursuant to the Commission’s Procedures (FCPC Procedures § VI.C.2), following a finding of probable cause, the Commission may take any of the following actions:

- Dismiss the complaint, where appropriate, and take no further action;
- Request the Secretary conduct further investigation;
- Invite the respondents to participate in settlement negotiations. (The Commission may request that the Secretary participate in negotiation, or the Chairperson may appoint a negotiating committee);
- Schedule and conduct a hearing;
- Ask the City Attorney or the District Attorney to seek legal remedies; or
- Seek any other remedy within its authority.

Attachments:

1. October 15, 2020 Staff Report and attachments



Date: October 9, 2020
To: Fair Campaign Practices Commission
From: Samuel Harvey, Secretary
Subject: Complaint alleging violation of BERA by Bahman Ahmadi, Soulmaz Panahi, Dan McDunn, Wendy Saenz Hood Neufeld

On September 8, 2020, Commission staff received the attached complaint alleging that a website promoting the candidacies of four candidates for Berkeley Rent Stabilization Board has failed to include the required disclaimer identifying the funding source for the website. The four Rent Board candidates are Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, and Wendy Saenz Hood Neufeld. Since the filing of this complaint, the website has been updated to promote a fifth Rent Board candidate, Pawel Moldenhawer.

The complaint includes screenshots from the website showing that a disclaimer does not appear at the bottom of various pages of the website. (Attachment 1) Additionally, the complaint notes a YouTube video connected with at least one of the four candidates. Information posted below the video provides a number of website links, including a link to the candidates' website. The video in question is an interview of one of the candidates with a local real estate professional, who hosts a YouTube channel consisting of discussions and interviews about real estate, home ownership and related topics.¹

On September 8, 2020, after receipt of the complaint, staff verified that the website did not contain a disclaimer and that the screenshots provided in the complaint were accurate. The website was updated to include a disclaimer providing the names of the funding committees sometime before the Commission's meeting on September 17, 2020. (See Attachment 2.)

As of Tuesday, October 6, 2020, the website disclaimer reads:

COPYRIGHT 2020 PAID FOR BY BAHMAN AHMADI FOR RENT BOARD 2020 FPPC #1431231; MCDUNN FOR RENT BOARD 2020 FPPC # PENDING; SOULMAZ PANAHİ FOR RENT BOARD 2020 FPPC #1431229; WENDY SAENZ HOOD NEUFELD FOR BERKELEY RENT STABILIZATION BOARD FOR 2020, FPPC # 1432145; MOLDENHAWER FOR RENT BOARD 2020 FPPC #1432468

¹ Staff has determined that this YouTube interview does not constitute a "paid advertisement" and therefore does not trigger the disclaimer requirements of BMC § 2.12.335.

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According to the candidates' campaign statements (Form 460) for the period from July 1, 2020 to September 19, 2020, each of the five candidates has reported a payment of \$203 to a company called Saenz Global Virtual Assistant Services for web design and other services. It therefore appears that the costs of the website (and other services) have been split evenly among the five candidates appearing on the website.

The campaign statement for Moldenhawer for Rent Board 2020 for the period July 1, 2020 to September 19, 2020 indicates that the committee received a loan of \$1,000 from the candidate, Pawel Moldenhawer. None of the other four candidates have received loans or other contributions of more than \$250.

Applicable law:

Section 2.12.335 of the Berkeley Election Reform Act ("BERA") (BMC Chapter 2.12), titled "Disclosure on campaign communications of certain contributions and loans," provides that:

Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250 to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term "contributor" shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor. (BMC § 2.12.335.A.)

These requirements apply to, among other types of communications, "[p]aid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet." (2.12.335.B.)

BERA defines a "contribution" to include loans as well as "a candidate's own money or property used on behalf of his or her candidacy." (BMC § 2.12.200.)

Analysis

Staff has determined that the website failed to include a disclaimer identifying the names of the committees funding the website for a period of roughly one week, if not longer. As a result, the website violated BMC § 2.12.335 by failing to "include the name of the committee[s]" funding the website.

In addition to providing the name of the committee, BMC § 2.12.335 requires that the disclaimer list the top four contributors who have made contributions over \$250. The disclaimer must list the contributor's name, city of domicile and total cumulative contributions in the last six months. (BMC § 2.12.335.A.) A

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“contributor” for the sake of this requirement includes a “lender.” (Id.) Additionally, BERA’s definition of “contribution” includes loans as well as “a candidate’s own money or property used on behalf of his or her candidacy.” (BMC § 2.12.200.) Therefore, the \$1,000 loan provided to the committee Moldenhawer for Rent Board 2020 by Pawel Moldenhawer should be included in the disclaimer following the name of the committee.

Specifically, the disclaimer should include the following language following the name of the committee Moldenhawer for Rent Board 2020: “Major Funding Provided By Pawel Moldenhawer, Berkeley, \$1,000.”

BERA therefore requires that the website disclaimer contain the following language:

BAHMAN AHMADI FOR RENT BOARD 2020; MCDUNN FOR RENT BOARD 2020; SOULMAZ PANAH I FOR RENT BOARD 2020 FPPC; WENDY SAENZ HOOD NEUFELD FOR BERKELEY RENT STABILIZATION BOARD FOR 2020; MOLDENHAWER FOR RENT BOARD 2020 MAJOR FUNDING PROVIDED BY PAWEL MOLDENHAWER, BERKELEY, \$1,000

Although BERA does not require the words “Paid for by” to appear in the disclaimer, including the words “Paid for by” along with the required language is permissible and may provide the public with additional clarity regarding the sources of funding behind the website.

Severity of violation:

Staff believes that the deviations from the requirements of BMC § 2.12.335 constitute a minor to moderate violation of BERA.

Failure to include the names of the committees funding the website and the source of substantial funding over \$250 of one of the committees deprives the public of important information about the sources of money behind campaign communications. Indeed, one of the key intents behind BERA is that “[r]eceipts and expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.” (BMC § 2.12.015.)

This concern is exacerbated by the fact that the website supports five different Rent Stabilization Board candidates. First, the violation deprives the public of important information about not one, but five candidates. Second, communications supporting multiple candidates are more commonly made by independent expenditures, slate mailer organizations or political parties. Though joint candidate advertisements are not unheard of, the variety of entities which are generally responsible for such advertisements increases the importance of ensuring adequate disclosure of funding sources.

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There are also a significant number of mitigating factors. First, the website has been updated to include a disclaimer listing each of the funding committees. As a result, the website was without a disclaimer for a relatively brief period of time and was updated more than a month before the November election.

Second, it could be argued that the harm to the public where a candidate committee fails to provide a disclaimer is less compared to when an independent expenditure fails to provide a disclaimer because there is an assumption that an advertisement supporting a candidate is paid for by that candidate's committee. In fact, under State law (California Political Reform Act, Cal. Gov. Code § 81000 et seq.), the candidates' website would not require any disclaimer. However, this mitigating factor is undercut somewhat by the fact that the website supports five different candidate, presenting greater potential confusion for the public than a website supporting a single candidate.

Third, BMC § 2.12.335 is titled somewhat confusingly and so it is easy to understand how a committee unfamiliar with BERA would not recognize that section 2.12.335 requires a disclaimer on the website. Specifically, section 2.12.335 is titled "Disclosure on campaign communications of certain contributions and loans." This title does not suggest that, absent certain contributions or loans, a committee would be required to disclose the name of the committee on the website. However, given that one of the committees (Moldenhawer for Rent Board 2020) has received a loan requiring disclosure on the website, the importance of this section of BERA should have been recognized by the committees.

Fourth, each of these candidates is a first-time candidate for City office. As the Commission is well aware, navigating the requirements of BERA and overlapping State law requirements is a complicated task. First-time candidates often risk violating local and state campaign laws due to their lack of familiarity with the numerous, often-arcane requirements of these laws.

Fifth, staff have uncovered no evidence of any intent by the committees to conceal information or deceive or mislead the public. Rather, the violation appears inadvertent. In fact, at least one of the candidates has expressed their belief that the website was not required to contain any disclaimer. As noted above, a candidate unfamiliar with BERA who merely reviewed the state requirements could reasonably, but incorrectly, come to this conclusion.

Recommendation

Staff recommends that, based upon the evidence and analysis above, the Commission make a finding of probable cause that a violation of BERA has occurred.

Pursuant to the Commission's Procedures (FCPC Procedures § VI.C.2), following a finding of probable cause, the Commission may:

- Dismiss the complaint, where appropriate, and take no further action;

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- Request the Secretary conduct further investigation;
- Invite the respondents to participate in settlement negotiations. (The Commission may request that the Secretary participate in negotiation, or the Chairperson may appoint a negotiating committee);
- Schedule and conduct a hearing;
- Ask the City Attorney or the District Attorney to seek legal remedies; or
- Seek any other remedy within its authority.

First, staff recommends the Commission direct the respondent committees to revise the disclaimer on the website to comply with BERA § 2.12.335 as soon as possible, to the extent not already done so by the time of the Commission's October 15, 2020 meeting. Second, if the Commission believes that a penalty is appropriate, staff recommends the Commission direct staff (or a negotiating subcommittee appointed by the Chair) to enter into negotiations with respondents to reach a stipulated agreement setting forth a penalty amount.

To inform the Commission's goals in seeking a penalty through a negotiated settlement, in the event of a violation, the Commission may order the respondents to do any of the following:

1. Cease and desist violation of this Chapter.
2. File any reports, statements, or other documents or information required by this Chapter.
3. Pay a monetary penalty of up to \$1,000.00 per violation, or up to the amount or value of the unlawful or undisclosed contribution or expenditure, whichever is greater, to the Fair Elections Fund of the City.

(BMC § 2.12.231.)

Staff has identified one prior enforcement matter in which the Commission addressed a violation of BMC § 2.12.335. In 2017, the Commission reached a stipulated agreement with a candidate for failure to include the "Major Funding Provided By" disclaimer on a mailer of which approximately 6,000 copies were sent to Berkeley voters. (See Attachment 4, FCPC Stipulation with Ben Bartlett for Berkeley City Council 2016.) In that instance, the mailers failed to disclose a \$10,000 loan from the candidate's spouse. In that case, the Commission and respondent reached a settlement for a penalty of \$50.)

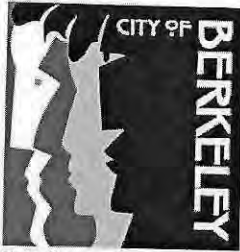
Staff recommends the Commission seek a similar result in this matter. Although the 2017 Bartlett matter involved a larger undisclosed contribution (\$10,000 compared to \$1,000),

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the instant matter involves five candidates rather than one. Thus, the relative harm to the public is likely similar.

Attachments:

1. Complaint of Andrea Mullarky and attachments
2. Screenshot of transparentrentboard.com from Sep. 15, 2020, 4:45 p.m.
3. Campaign Statement excerpts for Bahman Ahmadi, Dan McDunn, Soulmaz Panahi, Wendy Saenz Hood Neufeld and Pawel Moldenhawer campaign committees
4. Ben Bartlett for Berkeley City Council 2016 stipulation



Fair Campaign Practices Commission

Complaint of Noncompliance Berkeley Election Reform Act ("BERA")*

Full Name: Andrea Mullarkey
 Date: 9/5/2020
 Address: 107 Commodore Drive, Richmond, CA, 94804
 E-mail (optional but suggested): andrea.mullarkey@gmail.com
 Phone (optional but suggested): (510) 260-9274

Party or parties alleged to have committed or are about to commit a violation of BERA:
Bahman Ahmadi, Soulmaz Panahi, Dan McDunn, Wendy Saenz Hood Neufeld, Homeowners for Berkeley Rent Board


Clear, concise and accurate statement of the facts that constitute the violation of BERA.
 If additional space is needed, you may attach additional pages:

As of 9/5/2020, a website promoting, raising money for, and urging people to vote for Bahman Ahmadi, Soulmaz Panahi, Dan McDunn, and Wendy Saenz Hood Neufeld (collectively Home Owners for the Berkeley Rent Board) did not list any financial disclosures as required under Berkeley and California law. Screenshots of multiple pages of the website are attached. The website is listed at transparentrentboard.com. Additionally, a Youtube video of an interview of one of the candidates included a link to the website in its description.

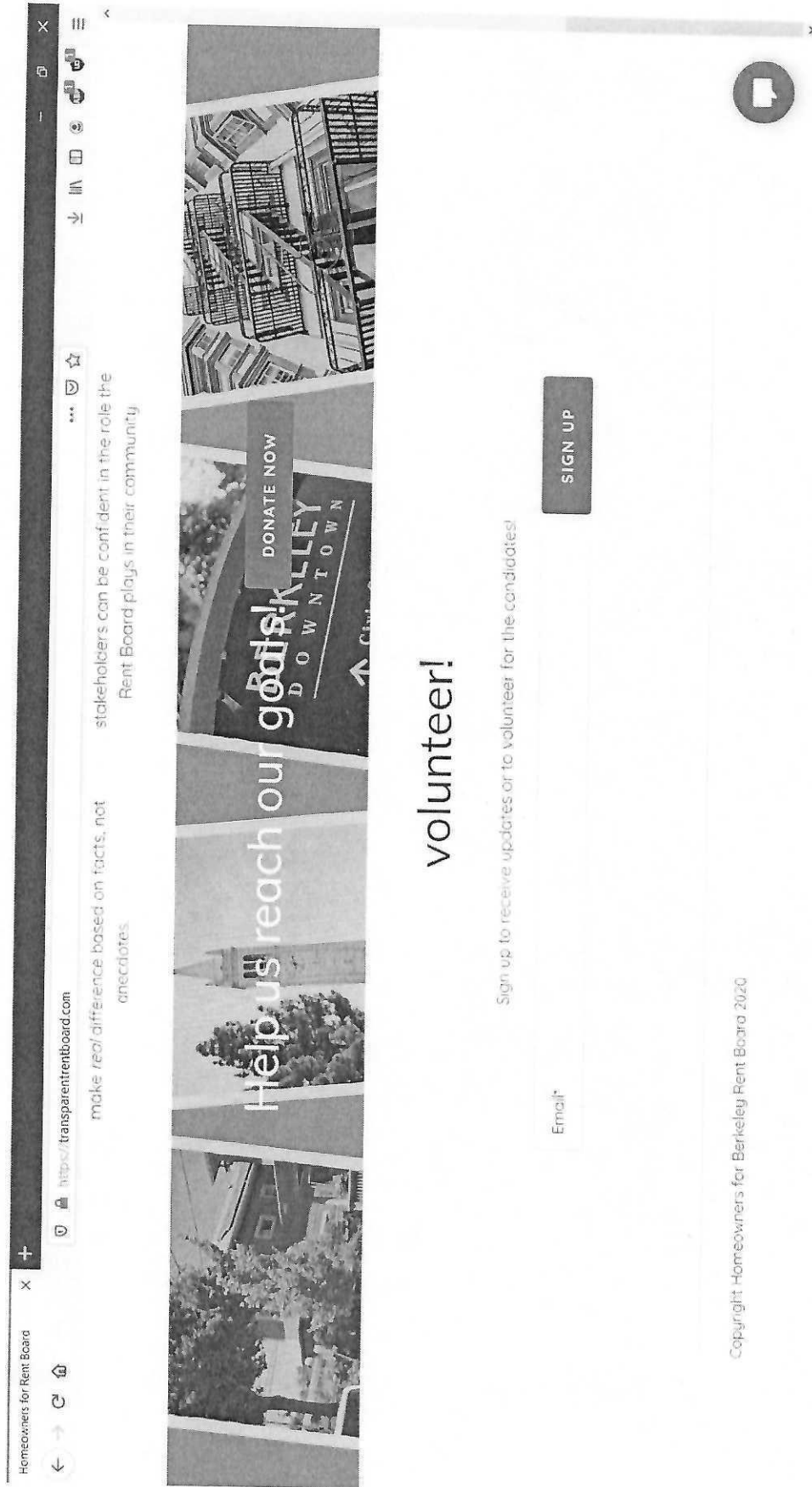
Documents: Attach any documentation supporting the facts alleged.

Statements that are not based upon personal knowledge should identify the source of information that gives rise to the complainant's belief in the truth of such statements.

I declare under penalty of perjury under the laws of the State of California that all information submitted hereon and in the attachments is true and correct.


Signature  Date 9/5/2020

*Use this "Complaint of Noncompliance" form to allege a violation of BERA pursuant to Berkeley Municipal Code Section 2.12.225 and the *Procedures of the Fair Campaign Practices Commission*.




Candidates | Homeowners for Rent

https://transparentrentboard.com/candidates



Dan McDunn
Accessory Dwelling Unit Builder &
Homeowner

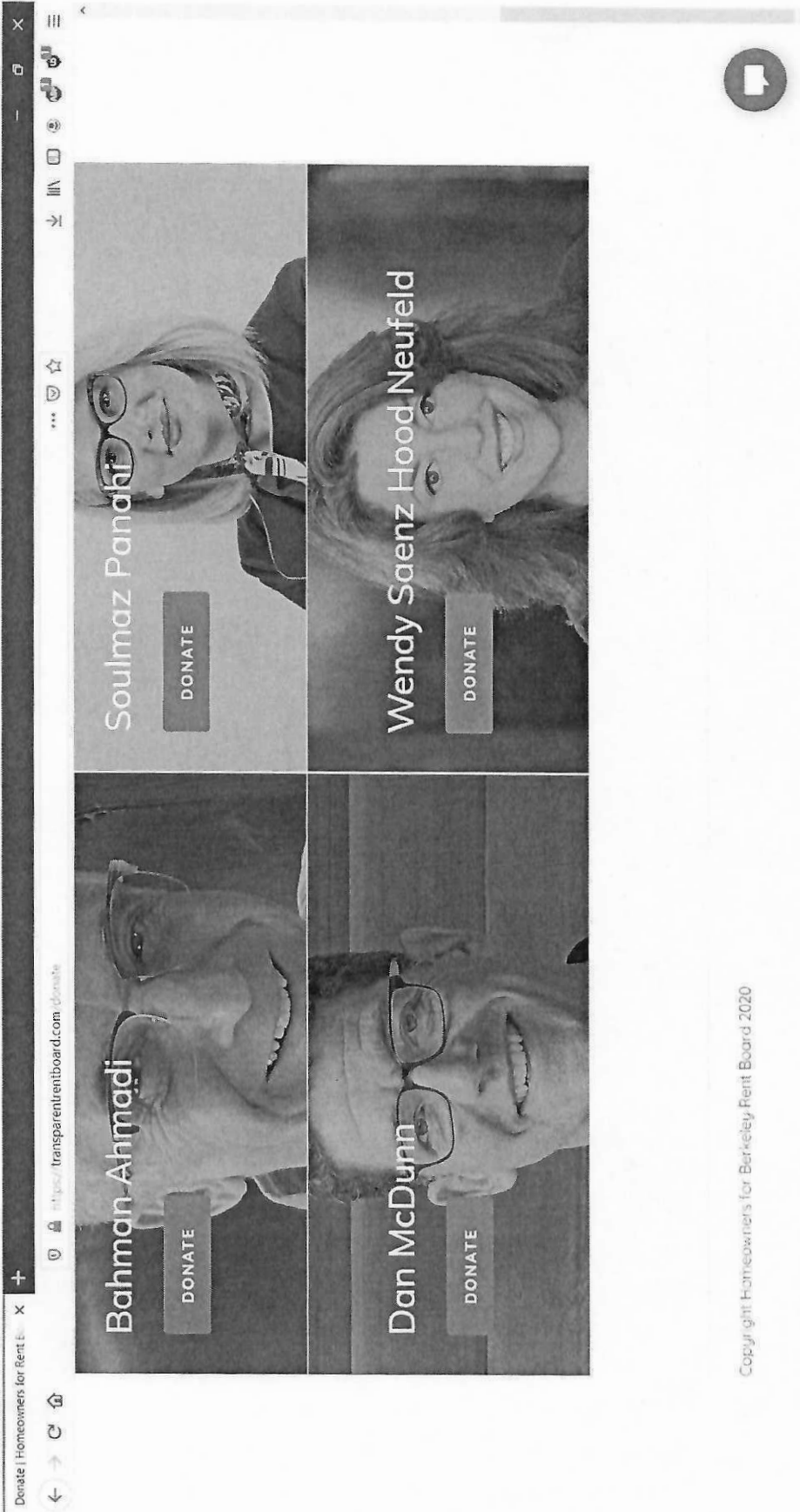


Wendy Saenz Hood Neufeld
Retired Media Coordinator & Homeowner

Volunteer!

Email Address

Copyright Homeowners for Berkeley Rent Board 2020



Copyright Homeowners for Berkeley Rent Board 2020



Current Policy is Making the Housing Crisis Worse

When housing policy starts to constrict an owner's ability to choose how to use their investment, owners are less likely to offer their property for rent. Decades of increased regulation in Berkeley is starting to take its toll. Owners are concerned about the risk they take when renting to a tenant. Add to that the constant barrage of opposition to building additional housing - now you've got a real housing crisis on your hands. We want to create policy that creates a balance so owners are encouraged to put their units on the market, not take them off.

Bureaucracy & Increased Costs Keep Supply Low

Homeowners make up the bulk of the city's tax base. Increased parcel taxes and other fees not only drive up the cost of living in Berkeley, but they keep some from being able to afford to buy property in Berkeley. Continually taxing homeowners and adding regulations isn't going to magically solve the crisis. Complicated and cumbersome building processes isn't making it any easier either. Whether it's the exorbitant fees tacked onto the cost to build, or increased regulation that causes owners to take their rental units off the market, lack of diversified supply is driving rents up. We need a variety of housing options that meet the needs of our community.



Homeowners for Rent Board X Berkeley Rent Board: Dan Mc... X +
<https://www.youtube.com/watch?v=zKqJyCEWVg0>
 Search
 YouTube
 Tommy Garabedian-Cone 11:23 / 21:49
 Dan McDunn
 Egarabedianassociates
Berkeley Rent Board: Dan McDunn
 14 views · Sep 2, 2020
 Like 0 Dislike 0 Share Save
 SUBSCRIBE
 Join me as I sit down with Dan McDunn, a local builder and candidate running for Berkeley's Rent Board. Dan's campaign is based on the fair representation of both tenants and property owners within Berkeley. Dan played a crucial role in advising Berkeley on recent ADU (auxiliary dwelling unit) policy, and will bring his professional expertise to the Rent Board if elected.
 Donate to Dan's campaign here:
<https://transparentrentboard.com/dan->
 Sign up for my FREE weekly newsletter on the East Bay housing market:
<https://linktr.ee/Tommygarabedian>

Help us reach our goals!

DONATE NOW

Homeowner for Berkeley Rent Board

Sign up to receive updates or to volunteer for the homeowner candidates!

SIGN UP



**Schedule E
Payments Made**

Amounts may be rounded
to whole dollars.

Statement covers period		CALIFORNIA FORM 460
from	08/07/2020	
through	09/19/2020	Page 8 of 8
NAME OF FILER		I.D. NUMBER
Dan McDunn for Rent Board 2020		PENDING

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Dan McDunn for Rent Board 2020

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP	campaign paraphernalia/misc.	MBR	member communications	RAD	radio airtime and production costs
CNS	campaign consultants	MTG	meetings and appearances	RFD	returned contributions
CTB	contribution (explain nonmonetary)*	OFC	office expenses	SAL	campaign workers' salaries
CVC	civic donations	PET	petition circulating	TEL	t.v. or cable airtime and production costs
FIL	candidate filing/ballot fees	PHO	phone banks	TRC	candidate travel, lodging, and meals
FND	fundraising events	POL	polling and survey research	TRS	staff/spouse travel, lodging, and meals
IND	independent expenditure supporting/opposing others (explain)*	POS	postage, delivery and messenger services	TSF	transfer between committees of the same candidate/sponsor
LEG	legal defense	PRO	professional services (legal, accounting)	VOT	voter registration
LIT	campaign literature and mailings	PRT	print ads	WEB	information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Saenz Virtual Global Assistant Boynton Beach, FL 33426	WEB		Consultation, design for web optimization, design for mail piece	203.00

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 203.00

Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	\$	203.00
2. Unitemized payments made this period of under \$100	\$	0.00
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	\$	0.00
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	TOTAL \$	203.00

**Schedule E
Payments Made**

Amounts may be rounded
to whole dollars.

Statement covers period		CALIFORNIA FORM 460
from	08/24/2020	
through	09/19/2020	Page 10 of 10
NAME OF FILER		I.D. NUMBER
Soulmaz Panahi for Berkeley Rent Board 2020		1431229

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Soulmaz Panahi for Berkeley Rent Board 2020

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP	campaign paraphernalia/misc.	MBR	member communications	RAD	radio airtime and production costs
CNS	campaign consultants	MTG	meetings and appearances	RFD	returned contributions
CTB	contribution (explain nonmonetary)*	OFC	office expenses	SAL	campaign workers' salaries
CVC	civic donations	PET	petition circulating	TEL	t.v. or cable airtime and production costs
FIL	candidate filing/ballot fees	PHO	phone banks	TRC	candidate travel, lodging, and meals
FND	fundraising events	POL	polling and survey research	TRS	staff/spouse travel, lodging, and meals
IND	independent expenditure supporting/opposing others (explain)*	POS	postage, delivery and messenger services	TSF	transfer between committees of the same candidate/sponsor
LEG	legal defense	PRO	professional services (legal, accounting)	VOT	voter registration
LIT	campaign literature and mailings	PRT	print ads	WEB	information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Saenz Global Virtual Assistant Services West Palm Beach, FL 33405	CNS		Web optimization, postcard mailer design	203.00
Secretary of State of California, Political Reform Division Sacramento, CA 95814	FIL		Form 410 (amended)	50.00

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 253.00

Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	\$	253.00
2. Unitemized payments made this period of under \$100	\$	5.92
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	\$	0.00
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	TOTAL \$	<u>258.92</u>

**Schedule E
Payments Made**

Amounts may be rounded
to whole dollars.

Statement covers period		CALIFORNIA FORM 460
from	08/07/2020	
through	09/19/2020	Page 7 of 8
NAME OF FILER		I.D. NUMBER
Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2020		PENDING

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2020

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

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|---|---|---|
| CMP campaign paraphernalia/misc. | MBR member communications | RAD radio airtime and production costs |
| CNS campaign consultants | MTG meetings and appearances | RFD returned contributions |
| CTB contribution (explain nonmonetary)* | OFC office expenses | SAL campaign workers' salaries |
| CVC civic donations | PET petition circulating | TEL t.v. or cable airtime and production costs |
| FIL candidate filing/ballot fees | PHO phone banks | TRC candidate travel, lodging, and meals |
| FND fundraising events | POL polling and survey research | TRS staff/spouse travel, lodging, and meals |
| IND independent expenditure supporting/opposing others (explain)* | POS postage, delivery and messenger services | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense | PRO professional services (legal, accounting) | VOT voter registration |
| LIT campaign literature and mailings | PRT print ads | WEB information technology costs (internet, e-mail) |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Saenz Global Virtual Assistant Services Boynton Beach, FL 33426	WEB		WEB Consultation, design for web optimization, design for mail piece	203.00

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 203.00

Schedule E Summary

- | | | |
|--|-----------------|--------|
| 1. Itemized payments made this period. (Include all Schedule E subtotals.) | \$ | 203.00 |
| 2. Unitemized payments made this period of under \$100 | \$ | 0.00 |
| 3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) | \$ | 0.00 |
| 4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) | TOTAL \$ | 203.00 |

**Schedule E
Payments Made**

Amounts may be rounded
to whole dollars.

Statement covers period		CALIFORNIA FORM 460
from	08/24/2020	
through	09/19/2020	Page 9 of 9
NAME OF FILER		I.D. NUMBER
Bahman Ahmadi for Berkeley Rent Board 2020		1431231

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Bahman Ahmadi for Berkeley Rent Board 2020

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP	campaign paraphernalia/misc.	MBR	member communications	RAD	radio airtime and production costs
CNS	campaign consultants	MTG	meetings and appearances	RFD	returned contributions
CTB	contribution (explain nonmonetary)*	OFC	office expenses	SAL	campaign workers' salaries
CVC	civic donations	PET	petition circulating	TEL	t.v. or cable airtime and production costs
FIL	candidate filing/ballot fees	PHO	phone banks	TRC	candidate travel, lodging, and meals
FND	fundraising events	POL	polling and survey research	TRS	staff/spouse travel, lodging, and meals
IND	independent expenditure supporting/opposing others (explain)*	POS	postage, delivery and messenger services	TSF	transfer between committees of the same candidate/sponsor
LEG	legal defense	PRO	professional services (legal, accounting)	VOT	voter registration
LIT	campaign literature and mailings	PRT	print ads	WEB	information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
Berkeley Democratic Club Berkeley, CA 94703	LIT		Inclusion in City-wide campaign mailer	500.00
Saenz Global Virtual Assistant Services Boynton Beach, FL 33426	CNS		Campaign Mailer Design/Production	203.00
Secretary of State of California, Political Reform Division Sacramento, CA 95814	FIL		Form 410 Filing	50.00

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 753.00

Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	\$	753.00
2. Unitemized payments made this period of under \$100	\$	5.92
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	\$	0.00
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	TOTAL \$	758.92

Statement covers period
from 07/01/2020
through 09/19/2020

IFORNIA FORM 460
4 5

Moldenhawer for Rent Board 2020

I.D. NUMBER
Pending

FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT RECEIVED THIS PERIOD	(c) AMOUNT PAID OR FORGIVEN THIS PERIOD*	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST PAID THIS PERIOD	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE CONTRIBUTIONS TO DATE
Pawel Moldenhawer Berkeley, CA 94708 † <input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Green builder contractor Self-Employed, Berkeley CA	\$ 0.00	\$ 1,000.00	<input type="checkbox"/> PAID \$ 0.00 <input type="checkbox"/> FORGIVEN \$ 0.00	\$ 1,000.00 DATE DUE	% RATE \$ 0.00	\$ 1,000.00 09/03/2020 DATE INCURRED	CALENDAR YEAR \$ 1,000.00 PER ELECTION** \$ G2020 1,000.00
† <input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$	\$	<input type="checkbox"/> PAID \$ <input type="checkbox"/> FORGIVEN \$	\$ DATE DUE	% RATE \$	\$ DATE INCURRED	CALENDAR YEAR \$ PER ELECTION** \$
† <input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$	\$	<input type="checkbox"/> PAID \$ <input type="checkbox"/> FORGIVEN \$	\$ DATE DUE	% RATE \$	\$ DATE INCURRED	CALENDAR YEAR \$ PER ELECTION** \$

1,000.00\$ 0.00\$ 1,000.00\$ 0.00

Schedule B Summary

(Enter (e) on Schedule E, Line 3)

- Loans received this period \$ 1,000.00
(Total Column (b) plus unitemized loans of less than \$100.)
- Loans paid or forgiven this period \$ 0.00
(Total Column (c) plus loans under \$100 paid or forgiven.)
(Include loans paid by a third party that are also itemized on Schedule A.)
- Net change this period. (**Subtract** Line 2 from Line 1.) **NET \$** 1,000.00
Enter the net here and on the Summary Page, Column A, Line 2.
(May be a negative number)

†Contributor Codes
IND – Individual
COM – Recipient Committee
(other than PTY or SCC)
OTH – Other (e.g., business entity)
PTY – Political Party
SCC – Small Contributor Committee

*Amounts forgiven or paid by another party also must be reported on Schedule A.
** If required.

Schedule E
Payments Made

Amounts may be rounded to whole dollars.

Statement covers period from 07/01/2020 through 09/19/2020
CALIFORNIA FORM 460
Page 5 of 5
I.D. NUMBER Pending

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Moldenhawer for Rent Board 2020

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- CMP campaign paraphernalia/misc.
CNS campaign consultants
CTB contribution (explain nonmonetary)*
CVC civic donations
FIL candidate filing/ballot fees
FND fundraising events
IND independent expenditure supporting/opposing others (explain)*
LEG legal defense
LIT campaign literature and mailings
MBR member communications
MTG meetings and appearances
OFC office expenses
PET petition circulating
PHO phone banks
POL polling and survey research
POS postage, delivery and messenger services
PRO professional services (legal, accounting)
PRT print ads
RAD radio airtime and production costs
RFD returned contributions
SAL campaign workers' salaries
TEL t.v. or cable airtime and production costs
TRC candidate travel, lodging, and meals
TRS staff/spouse travel, lodging, and meals
TSF transfer between committees of the same candidate/sponsor
VOT voter registration
WEB information technology costs (internet, e-mail)

Table with 4 columns: NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER), CODE, OR, DESCRIPTION OF PAYMENT, AMOUNT PAID. Rows include Saenz Global Virtual Assistant Services, Secretary of State, and Vistaprint.

* Payments that are contributions or independent expenditures must also be summarized on Schedule D. SUBTOTAL \$ 618.98

Schedule E Summary

- 1. Itemized payments made this period. (Include all Schedule E subtotals.) \$ 618.98
2. Unitemized payments made this period of under \$100 \$ 13.90
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) \$ 0.00
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) TOTAL \$ 632.88

1 FARIMAH BROWN, City Attorney SBN 201227
2 2180 Milvia Street, Fourth Floor
3 Berkeley, CA 94704
4 TEL.: (510) 981-6998
5 FAX: (510) 981-6960

6 Attorney for FAIR CAMPAIGN PRACTICES COMMISSION

7 **BEFORE THE FAIR CAMPAIGN PRACTICES COMMISSION**

8 **CITY OF BERKELEY**

9 In the Matter of:

10 ***Ben Bartlett for Berkeley City Council 2016,***

11 Respondent.

[DRAFT] STIPULATION,
DECISION AND ORDER

12 This stipulation is entered into by and between the Fair Campaign Practices Commission
13 (the "Commission" or "FCPC") and Candidate-Controlled Committee *Ben Bartlett for Berkeley*
14 *City Council 2016* ("committee" or "Respondent"), through its controlling candidate Ben
15 Bartlett. The following is a true and accurate summary of the facts in this matter:

16 1. The committee violated the Berkeley Election Reform Act (BERA), which is
17 codified in Chapter 2.12 of the Berkeley Municipal Code (BMC).

18 2. Respondent accepted one contribution in excess of Berkeley's contribution limit,
19 codified in Section 2.12.415 of the BMC. The contribution was a loan from the candidate's
20 spouse Yelda Bartlett in the amount of \$10,000, incurred on June 29, 2016. The contribution
21 was reported on the committee's Form 460 campaign statements, including statements filed
22 August 1, 2016 and January 31, 2017. The committee violated BMC Section 2.12.415 by
23 accepting a contribution in excess of \$250 from a person other than the candidate, *i.e.*, the
24 \$10,000 loan from the candidate's spouse.

25 3. On November 2, 2016, the committee mailed 6,021 pieces of campaign
26 literature, at a cost of \$4,195.40, which were subject to the City's "major funding provided by"
27 disclosure requirement contained in BMC Section 2.12.335. The committee violated BMC
28 Section 2.12.335 by failing to disclose the \$10,000 contribution on campaign communications

1 within 6 months of the contribution, i.e., 6,021 pieces of campaign literature mailed on
2 November 2, 2016.

3 **\$10,000 LOAN FROM YELDA BARTLETT**

4 4. BERA prohibits “contributions,” including loans (BMC § 2.12.100), which
5 exceed \$250 to any candidate-controlled committee by any person other than the candidate
6 himself or herself. (BMC § 2.12.415.) Accordingly, only a “candidate himself or herself” may
7 contribute more than \$250 to his or her candidate-controlled committee.

8 5. FCPC Regulation R2.12.415.3 governs contributions from joint accounts.
9 Contributions from joint accounts are presumed to come *from the person who signs the check*.
10 In order for a contribution to be allocated between accountholders, both accountholders have to
11 sign the check or an accompanying written statement. The regulation, in full, is as follows:

12 A contribution drawn on a joint account is presumed to come from the person or
13 persons who signed the check or other instrument. When more than one party to
14 the joint account intends to make a contribution using a single check or other
15 instrument, each party to the joint account intending to make the contribution
16 must sign the check or other instrument, or sign a written statement
17 accompanying the check or other instrument indicating that all of the signatories
18 intend to make the contribution. The amount of the contribution shall be
19 allocated equally between or among the signers, unless otherwise indicated by
20 the contributors.

21 (FCPC Reg. R2.12.415.3; *see also* BMC § 2.12.210 (authorizing the regulations).)

22 6. On June 29, 2016, Yelda Bartlett, the spouse of candidate Ben Bartlett, wrote
23 and signed a check in the amount of \$10,000, described as a loan, to the candidate-controlled
24 committee *Ben Bartlett for Berkeley City Council 2016*. Yelda Bartlett alone signed the check.
25 The funds came from a joint, personal bank account held by both Yelda Bartlett and Ben
26 Bartlett. Ben Bartlett explained to staff that Yelda Bartlett customarily signed their checks.
27 The committee reported the amount as a loan from Yelda Bartlett in its Form 460 campaign
28 statements for the periods covering January 1 through June 30, 2016, filed August 1, 2016, and
October 23 through December 31, 2016, filed January 31, 2017.

1 7. Under BERA, the loan from Yelda Bartlett to the committee constituted a
2 “contribution” under BMC Section 2.12.100, and was subject to the contribution limit set forth
3 in Section 2.12.415. The loan constituted a contribution from Yelda Bartlett alone under FCPC
4 Regulation R2.12.415.3. While the contribution was drawn on a joint account held by Yelda
5 Bartlett and Ben Bartlett, only Yelda Bartlett signed the check. Yelda Bartlett is not the
6 “candidate himself or herself,” and was therefore subject to the contribution limit of BMC
7 Section 2.12.415. Accordingly, Yelda Bartlett’s loan to the committee exceeded the \$250
8 contribution limit by \$9,750. The committee violated Section 2.12.415 by accepting this
9 contribution.

10 **“MAJOR FUNDING PROVIDED BY” DISCLOSURE REQUIREMENT**

11 8. BERA’s “major funding provided by” disclosure requirement is set forth in
12 BMC Section 2.12.335, which provides disclosure requirements for certain “campaign
13 communications,” including “*one thousand or more* substantially similar pieces of campaign
14 literature, including but not limited to mailers, flyers, pamphlets, and door hangers.” BMC §
15 2.12.335.B.1 (emphasis added). These campaign communications must state the phrase “Major
16 Funding Provided By” followed by “the name of the contributor, the city of domicile, and the
17 total cumulative sum of contributions *by each of the top four contributors over \$250 to the*
18 *committee funding the expenditure made within six months of the expenditure.*” BMC §
19 2.12.335.A (emphasis added).

20 9. The committee received the \$10,000 loan from Yelda Bartlett on June 29, 2016.
21 Within six months, on October 27, 2016, the committee (through Yelda Bartlett) ordered the
22 printing and mailing of 6,021 postcards at a cost of \$4,195.40 from Pacific Printing. Pacific
23 Printing’s sales representative filed a mass mailing certification with the City Clerk’s Office on
24 behalf of the committee, as required by BMC Section 2.12.150, on November 2, 2016,
25 certifying under penalty of perjury that the “political mailers” were or would be mailed on
26 November 2, 2016. The mass mailing did not include any “Major Funding Provided By”
27 disclosure information.

1 30, 2016, filed August 1, 2016, and October 23 through December 31, 2016, filed January 31,
2 2017.

3 **FACTORS IN AGGRAVATION**

4 14. The committee's November 2, 2016 mass mailer included 6,021 identical
5 mailers, which is well above the one thousand pieces of campaign literature threshold, which
6 triggers the "Major Funding Provided By" disclosure under BMC Section 2.12.335.

7 15. The committee failed to provide the "Major Funding Provided By" disclosure for
8 the \$10,000 contribution on the face of the mailer, which is a sizeable contribution in a Berkeley
9 election, given the \$250 contribution limit in BMC Section 2.12.415 for all persons aside from
10 the candidate himself or herself.

11 **PROCEDURAL POSTURE**

12 16. At its July 20, 2017 meeting, the FCPC found probable cause that the committee
13 had violated both BERA's contribution limit in violation of Section 2.12.415 and the
14 requirement to provide a "Major Funding Provided By" disclosure on campaign
15 communications in violation of Section 2.12.335.

16 17. If the Commission held a hearing and concluded that the committee violated
17 Section 2.12.415, the Commission would have authority to issue a monetary penalty of up to
18 \$9,750, the amount by which the unlawful contribution exceeded the City's contribution limit.
19 Following a hearing and a finding that the committee violated Section 2.12.335, the
20 Commission would have authority to issue a separate monetary penalty of up to \$10,000, which
21 is the amount of the contribution that the committee failed to disclose on its campaign
22 communications within six months within the date of the \$10,000 contribution.

23 18. In lieu of setting this matter for a hearing after probable cause determination, the
24 FCPC delegated authority to the FCPC chair and staff to prepare a Stipulation resolving the two
25 BERA violations.

26 19. The FCPC moved to require a written statement signed under penalty of perjury
27 by Ben Bartlett stating that the \$10,000 loan from Yelda Bartlett to the committee was made
28 with his knowledge, consent, and at his direction, and that the \$10,000 loan, although signed by

1 Yelda, should be attributed as a contribution to his committee from him. The FCPC moved to
2 impose no monetary penalty for this violation.

3 20. The FCPC recommended a monetary penalty of \$50.00 for the committee's
4 violation of Section 2.12.335.

5 **ADMISSIONS AND STIPULATIONS**

6 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the
7 parties as follows:

8 1. Respondent violated BMC Section 2.12.297 as set forth in paragraphs 1 through
9 10, above, which are a true and accurate summary of the facts in this matter.

10 2. Based on the facts and law detailed above, factors in aggravation and mitigation,
11 and BMC Section 2.12.231, Respondent agrees to pay the sum of fifty dollars (\$50.00) as a
12 monetary penalty, payable to the City of Berkeley for deposit into the City's Fair Elections
13 Fund, no later than October 12, 2017.

14 3. Respondent agrees to take necessary and prudent precautions to comply with all
15 provisions of BERA and FCPC regulations in the future. Further, Respondent will seek advice,
16 as needed, from the City Clerk and FCPC staff on compliance with BERA and FCPC
17 regulations prior to filing deadlines to aid in future compliance.

18 4. The parties agree to this Stipulation to resolve all factual and legal issues raised
19 in this matter and to reach a final disposition without having to hold an administrative hearing to
20 determine the liability of Respondent. Respondent understands and hereby knowingly and
21 voluntarily waives any and all procedural rights under BERA and the FCPC Procedures in
22 regards to this matter.

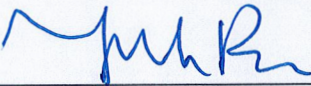
23 5. The FCPC agrees that if Respondent executes this Stipulation, it will forego any
24 further enforcement action against Respondent as to this matter, and if approved by the FCPC,
25 this Stipulation will resolve all factual and legal issues raised in this matter and will be the final
26 disposition of this matter for purposes of BMC Sections 2.12.450 and 2.12.455. Nothing in this
27 section shall be read to preclude the Commission's consideration of any complaint or other
28

1 action for any false statements stemming from any of Respondent's representations in this
2 Stipulation.

3 6. The parties agree that if the FCPC refuses to accept this Stipulation, it shall
4 become null and void. Respondent stipulates and agrees that if a full evidentiary hearing before
5 the Commission becomes necessary, no member of the Commission or FCPC staff shall be
6 disqualified because of their consideration of this Stipulation and Order.

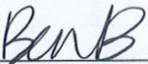
7 7. Respondent acknowledges that the FCPC retains jurisdiction over this
8 Stipulation and Order, and is acting under Section VI.C.2.d of the FCPC Procedures, enacted
9 pursuant to the Commission's authority to enact rules and procedures under BMC Section
10 2.12.210.

11 Dated: September 15, 2017



FARIMAH BROWN, City Attorney
Attorney for Fair Campaign Practices Commission

14 Dated: September 15, 2017



BEN BARTLETT, Candidate
Ben Bartlett for City Council 2016

28

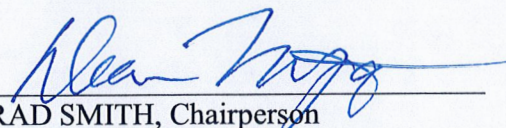
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ORDER

The foregoing Stipulation of the parties *In the Matter of Ben Bartlett for Berkeley City Council 2016*, is hereby accepted as the final decision and order of the Fair Campaign Practices Commission effective upon execution below by the Chairperson. Further, it is hereby ordered that this Stipulation, Decision and Order be appended to the committee's campaign statements on file with the Office of the City Clerk, City of Berkeley.

IT IS SO ORDERED.

Dated: September 21, 2017



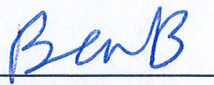
BRAD SMITH, Chairperson
DEAN METZGER, Vice Chairperson
FAIR CAMPAIGN PRACTICES COMMISSION

I, Ben Bartlett, attest under the penalty of perjury that I issued a check from my joint bank account for \$10,000 in the form of a loan to my campaign account for City Council.

My wife signed the check from our joint personal account bearing both of our names on my behalf and at my direction because she typically writes the checks for our family expenses.

In retrospect, I should have signed the check myself to make it clear that I was making a loan to the campaign.

Dated: September 17, 2017



BEN BARTLETT, Candidate
Ben Bartlett for City Council 2016



Fair Campaign Practices Commission

Date: January 21, 2021
To: Fair Campaign Practices Commission
From: Samuel Harvey, Secretary
Subject: Enforcement referrals from the office of the City Clerk

The City Clerk Department referred the following committees to the Commission for review and potential enforcement action. The following committees had not been responsive to multiple requests from the City Clerk Department regarding necessary amendments to their campaign filings. At the Commission's October meeting, commissioners voted unanimously to open investigations into both committees.

The Commission Secretary notified the committees that the Commission had opened an investigation. Based on the level of response from the two committees, the City Clerk Department has made the following recommendations.

Case No. 1: Maria Poblet for Rent Board 2022 (ID # 1407904)

As the attached report from the City Clerk indicates, Maria Poblet for Rent Board 2022 has now satisfied its filing obligations. The City Clerk Department recommends the Commission dismiss the matter.

Case No. 2: Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502)

As the attached report from the City Clerk Department indicates, Berkeley Community for Police Oversight has not satisfied its filing obligations in response to requests from staff. The City Clerk Department recommends that this matter remain open.

Attachments:

1. City Clerk Report: Update on Campaign Committees – Referral Investigations (Jan. 13, 2021)
2. City Clerk Report: Campaign Committees – Staff Referral (Sep. 14, 2020)



City Clerk Department

January 13, 2021

To: Sam Harvey, Secretary, Fair Campaign Practices Commission
From: Mark Numainville, City Clerk
Subject: Update on Campaign Committees - Referral Investigations

In September 2020, the City Clerk Department made two referrals to the Fair Campaign Practices Commission for outstanding amendments related to campaign committees. The FCPC opened investigations on both of these cases.

Case No. 1: Maria Poblet for Rent Board 2022 (ID # 1407904)

In September 2020, the City Clerk referred Maria Poblet for Rent Board 2020 to the FCPC for outstanding amendments necessary to the terminating campaign statement Form 460 filed on August 25, 2019. Following the FCPC meeting in November 2020, Maria filed the required amendment.

The City Clerk recommends that the investigation re Maria Poblet for Rent Board 2022 (ID#1407904) be closed. Maria Poblet has fulfilled her filing obligations.

Case No. 2: Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502).

In September 2020, the City Clerk referred Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID #1403502) to the FCPC for outstanding amendments to the second semi-annual and termination statement Form 460 filed on January 15, 2019. Assistant Treasurer Elliott Halpern contacted the department by phone following the November FCPC meeting and was once again reminded of the outstanding amendment.

The City Clerk recommends that the investigation re Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID #1403502) as no amendment has been filed and the committee remains open.



City Clerk Department

September 14, 2020

To: Sam Harvey, Secretary, Fair Campaign Practices Commission
From: Mark Numainville, City Clerk
Subject: Campaign Committees – Staff Referral

City Clerk staff is referring the following two cases to the Fair Campaign Practices Commission for outstanding issues regarding Form 460 semi-annual and terminating statements that appear to be noncompliant with BERA or the PRA.

Case No. 1: Berkeley Community for Police Oversight Committee Supporting Police Commission Oversight Charter Amendment (ID # 1403502).

Campaign Filing(s) Subject to Referral: Second Semi-Annual and Termination statement Form 460 filed on January 15, 2019, covering the period from August 1, 2018, through December 31, 2018.

Summary of Facts

On January 14, 2019 a terminating Form 410 was submitted for the committee with a termination date of 12/31/2018. At that time, City Clerk staff informed Assistant Treasurer Elliot Halper that a terminating Form 460 was also required, covering the filing period through the termination date.

On January 15, 2019, the City Clerk Department received the electronic terminating Form 460 filing for the Berkeley Community for the campaign committee for the period of 8/1/2018 – 12/31/2018. While the terminating date matched the date on the terminating Form 460, the period covered was incorrect. The committee was attempting to file a terminating semi-annual statement (7/1 – 12/31). The campaign statement was signed by Assistant Treasurer Elliot Halpern.

According to the Secretary of State, the committee is terminated as of 12/31/2018. In order to terminate, a committee has to file all required campaign statements, disclosing all reportable transactions, including the disposition of left-over funds; and have no campaign funds remaining. The committee did file all required forms and presented a \$0.00 balance remaining.

However, as filing officer and after reviewing the filing, on January 22, 2019, City Clerk staff informed the committee that an amendment was required for several issues listed below. The notice was sent via U.S. Mail and email to committee Treasurer Forrest Liu. Except for amendments required to provide missing contributor information, there is no specified deadline for filing amendments to campaign statements. Amendments should be filed as soon as practicable in the same location(s) as the original.

The amendment request included three components:

- (1). Contributions with negative values and unmatched refund amounts.

The statement lists a negative value for several contributors. According to FPPC Manual 2: “A contribution that is cashed, negotiated, or deposited, and is not returned prior to the closing date of the campaign statement, must be reported on Schedule A. If the contribution is returned within 30 days of receipt, and within the reporting period, the return may be shown as a negative figure on Schedule A. Otherwise, the return of the contribution must be reported on Schedule E.”

We were unable to locate an original contribution amount for refunded contributions to Diana Bohn and the returned contribution to Elliot Halpern was refunded more than his original contribution amount.

- (2). Missing occupation/employer information.

Under BMC Sections 2.12.280.G and H and state law, committees must list the occupations and employers of contributors and payees.

The committee failed to specify the occupation and employer for the contributors Russel Bates, Diana Bohn, JP Masser and Caroline Sanders.

- (3). Missing contributor’s principal place of business information.

Under BMC Sections 2.12.280.G and H and state law, committees must list the occupations and employers of contributors and payees. For self-employed contributors, committees must list the contributor's principal place of business.

The committee failed to specify the principal place of business for self-employed contributor James Chanin.

On August 1, 2019, Assistant Treasurer Elliot Halpern contacted the City Clerk Department inquiring about his outstanding amendment. Staff followed-up with an email and resent the January 22, 2019 amendment letter request that outlined the issues.

On April 20, 2020, City Clerk staff received a phone call from Elliot Halpern to inquire about setting up a new ballot measure committee. On May 1, 2020, Assistant City

Clerk Michael MacDonald spoke with Elliot Halpern regarding the amendment on the existing committee's filing and provided information on establishing a new committee.

On August 27, 2020, Elliot Halpern visited the City Clerk Department to establish a new campaign committee, designating him as the treasurer. He was again reminded of the outstanding amendment on the existing committee's filing.

Case No. 2: Maria Poblet for Rent Board 2022 (ID # 1407904)

Campaign Filing(s) Subject to Referral: Terminating campaign statement Form 460 filed on August 25, 2019, covering the period from July 1, 2019, through August 23, 2019.

Summary of Facts

On August 23, 2019 the committee filed their semi-annual Form 460, covering the period of 1/1/2019 – 6/30/2019, which was due on 7/31/2019. On August 25, 2019, the committee filed a terminating Form 460 covering the period of July 1, 2019 – August 23, 2019. On August 28, 2019 the committee filed a terminating Form 410 as well. However, there was no date of termination indicated on the Form 410.

After reviewing the two filings, City Clerk staff determined that an amendment was required to terminate the committee. On August 28, 2019, an amendment letter was sent to Treasurer Maria Poblet and Assistant Treasurer Noah Sochet. The letter that was sent to Noah was returned for the wrong address. Staff followed up with an email to Noah on September 25, 2019.

The amendment request contained two components:

- (1). Beginning cash balance not equal to prior ending cash balance.

Semi-annual filing (1/1/2019 – 6/30/2019): The statement showed a beginning cash balance of \$2,966.84. That number is less than the ending cash balance of \$3,364.21 for the previous filing period. This statement also shows that committee made an expenditure of \$3,073.40, resulting in a negative ending cash balance.

The statement shows no accrued expenses or other issues that would result in a negative balance. Amendments are required to accurately reflect the transactions that resulted in the new beginning cash balance and the negative ending cash balance.

- (2). Termination statement; ending cash balance is not \$0

Terminating Form 460 (7/1/2019 – 8/23/2019) shows a **negative balance of \$106.56, with no indication of outstanding debt.**

Additionally, the City Clerk Department issued a fine in the amount of \$230 for filing the semi-annual filing 23 days late. The amendment letter requested a response by September 7, 2019.

The negative balance with no indication of outstanding debt caused the state to reject the terminating Form 410. Therefore, the committee is still active.

On October 3, 2019, Maria came into the City Clerk Department to pay the committee's fine. At that time, staff discussed the details of the amendment request and steps needed to finalize the committee's termination. Maria indicated that it was a data entry error and that she would correct it and submit an amendment.

As of September 1, 2020, no amendment has been filed and the committee remains open. The City Clerk Department recommends that the Secretary refer this matter to the FCPC for immediate consideration and direction regarding enforcement.



Fair Campaign Practices Commission

Date: January 21, 2021
 To: Fair Campaign Practices Commission
 From: Samuel Harvey, Secretary
 Subject: Enforcement referrals from the City Clerk

The office of the City Clerk has referred the following items to the Commission for review and potential enforcement action:

Case No. 1: Andrew for Berkeley Council 2020 (ID # 1426039)

Case No. 2: Wayne Hsiung for Mayor 2020 (ID # 1425923)

As the attached report from the City Clerk indicates, both campaigns have participated in the City's Public Financing Program and received matching funds for eligible contributions. However, both campaigns returned one or more eligible contributions to their contributors. The City Clerk asserted, and Commission staff agreed, that the matching funds given to these committees for the returned contributions must be remitted to the City's Fair Elections Fund. At its November 2020 meeting, the Commission voted to continue this item to the Commission's January 2021 meeting, at which point the Commission can make a determination on next steps based on whether the committees have returned any outstanding public funds

The deadline for a publicly financed campaigns to return any unspent public funds is sixty days after the election. BERA section 2.12.505.H provides:

Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election.

This election cycle, unspent funds were therefore due to the City by January 4, 2021.

However, the Berkeley Election Reform Act (BERA) is silent on the treatment of public funds which were provided as matching funds for a contribution that has been returned to the contributor. City Clerk staff and the Commission Secretary agree that it would be improper for a committee to spend matching funds for a returned contribution. The

October 9, 2020

Page 2 City Clerk enforcement referrals

unspent matching funds would then be returned to the City on the 60-day deadline along with any other unspent funds.

As the attached report indicates, the City Clerk Department has confirmed receipt of the matching funds from Andrew for Berkeley Council 2020 and recommends the Commission take no further action regarding that committee. The Clerk is still awaiting confirmation of repayment of funds from Wayne Hsiung for Mayor 2020.

Staff recommends that the Commission consider whether, for future elections, matching funds for returned contributions should be returned at the ordinary 60-day deadline, or whether campaign committees should be required to return funds on a different deadline. The Commission has discretion to promulgate regulations under BERA and to alter deadlines for the public financing program. (See BMC § 2.12.535.) The Commission therefore may adopt clarifying regulations on this question.

Attachments:

1. City Clerk Staff Referral Report (Jan. 13, 2021)
2. City Clerk Staff Referral Report (Nov. 12, 2021)



City Clerk Department

January 13, 2021

To: Sam Harvey, Secretary, Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Update on Referral of Returned Contributions by Public Finance Program Participants After Receiving Matching Public Funds

The City Clerk referred two potential BERA violations to the Fair Campaign Practices Commission in November. The candidates participated in the City's Public Financing Program and failed to refund the matching funds to the City of Berkeley after returning the original contributions to the contributors.

On December 11, 2020, Committee Officers and Candidates were sent a reminder that Public Financing participants are required to return all unspent campaign funds to the Fair Elections Fund within 60 days from Election Day (January 2, 2021). They were also notified that requirements for the submission of funds include: 1. A check from the campaign bank account; and 2. A printed draft Form 460 showing that the ending cash balance matches the amount on the check.

Case No 1: Andrew for Berkeley Council 2020, Campaign ID #1426039

The City Clerk recommends that this referral be closed. On January 4, 2021, my office received a check from the campaign in the amount of \$6,191.41. We have not received the draft Form 460 to verify the correct closing amount, but we are under the assumption that the matching funds (\$300) are included in this amount. My office is still working with the campaign on this issue.

Case No. 2: Wayne Hsiung for Mayor 2020, Campaign ID #1425923

The City Clerk recommends that this referral remain open. While the campaign has been in contact with our office, only a portion of the matching funds have been returned, \$300 of the \$600 owed.

On January 11, 2021, my office sent a letter to the Treasurer stating that we received a check in the amount of \$300 on January 4, 2021, indicating that it was payment for matching funds paid on a returned contribution, as well as a draft Form 460 indicating a

Referral of Non-Filing by Quarterly Lobbyist Filers

January 13, 2021

closing balance of \$103.68. The campaign has since electronically submitted a terminating Form 460 indicating a payment to the City of Berkeley of \$103.68, but my office has not received payment.

My office is still actively working with the campaign and is investigating if the \$300 in additional matching funds were actually requested and dispersed to the campaign.



Fair Campaign Practices Commission

Date: November 12, 2020
To: Fair Campaign Practices Commission
From: Samuel Harvey, Secretary
Subject: Enforcement referrals from the City Clerk

The office of the City Clerk has referred the following items to the Commission for review and potential enforcement action:

Case No. 1: Andrew for Berkeley Council 2020 (ID # 1426039)

Case No. 2: Wayne Hsiung for Mayor 2020 (ID # 1425923)

As the attached report from the City Clerk indicates, both campaigns have participated in the City's Public Financing Program and received matching funds for eligible contributions. However, both campaigns returned one or more eligible contributions to their contributors. The City Clerk asserts, and Commission staff agree, that the matching funds given to these committees for the returned contributions must be remitted to the City's Fair Elections Fund.

Staff recommends the Commission direct the Secretary to initiate an enforcement investigation of both referrals and return at a future meeting with a subsequent report. The Commission should vote separately on each of these referrals.

Attachments:

1. City Clerk Staff Referral Report



City Clerk Department

November 12, 2020

To: Sam Harvey, Secretary, Fair Campaign Practices Commission
From: Mark Numainville, City Clerk
Subject: Referral of Returned Contributions by Public Finance Program
Participants After Receiving Matching Public Funds

The City Clerk Department is referring two potential BERA violations to the Fair Campaign Practices Commission for consideration and appropriate enforcement action.

In these cases, candidates participating in the City's Public Financing Program requested and received matching public funds for an eligible contribution, and subsequently returned the original contribution to the contributor without refunding the matching public funds to the City of Berkeley. Details of each case are outlined below.

Case No. 1: Andrew for Berkeley Council 2020, Campaign ID #1426039

- On July 21, 2020, a request for matching funds was submitted to the City Clerk Department, including a contribution received on July 14, 2020 from Peter Ross in the amount of \$50.
- Staff reviewed the submission, confirmed eligibility for matching public funds, and disbursed \$300 in matching public funds for the above-named contribution.
- On September 25, 2020, a Pre-Election Campaign Statement (Form 460) was filed with the City Clerk Department, showing that the contribution from Peter Ross was returned to the contributor on August 5, 2020.

Once a contribution has been returned, it is no longer eligible to receive matching public funds. Therefore, the \$300 in public funds must be returned to the Fair Elections Fund. To date, the City Clerk Department has not received the return.

Referral of Returned Contributions

November 12, 2020

Case No. 2: Wayne Hsiung for Mayor 2020, Campaign ID #1425923

- On August 21, 2020, a request for matching funds was submitted to the City Clerk Department, including a contribution received on July 1, 2020 from Suki Shephard in the amount of \$50; and
- On September 16, 2020, a request for matching funds was submitted to the City Clerk Department, including a contribution received August 21, 2020 from Belinda Sifford in the amount of \$50.
- Staff reviewed the submissions, confirmed eligibility for matching public funds, and disbursed \$300 in matching public funds for each of the above-named contributions, for a total of \$600.
- On October 22, 2020, a Pre-Election Campaign Statement (Form 460) was filed with the City Clerk Department, showing that the contribution from Suki Shephard was returned to the contributor on September 24, 2020; and the contribution from Belinda Sifford was returned October 11, 2020.

Once a contribution has been returned, it is no longer eligible to receive matching public funds. Therefore, the \$600 in public funds for the above-named contributions must be returned to the Fair Elections Fund. To date, the City Clerk Department has not received the return.

If you have any questions regarding the above referenced campaign finance transactions, please contact me or my staff directly.



City Clerk Department

January 13, 2021

To: Sam Harvey, Secretary, Open Government Commission
 From: Mark Numainville, City Clerk
 Subject: Update on Referral of Non-Filing by Quarterly Lobbyist Filers

The Lobbyist Registration Act requires certain local government lobbyists to file quarterly disclosures of lobbying activity with the City Clerk Department.

In November of 2020, the City Clerk reported that it had 14 non-filers for quarterly disclosures for the reporting period of July 1-September 30, 2020 (due by October 31, 2020). A Notice of Non-Filing was sent on November 12, 2020. The following five lobbyists still have outstanding disclosures due for this reporting period:

Lobbyist Filer	Employer
Thomas Alexander	Fred Finch Youth Center
John Caner	Downtown Berkeley Association
Fernando Echeverria	East Bay Community Law Center
Michelle Martinea	Modus, LLC
Jassmin Poyaoan	East Bay Community Law Center

Additionally, one of the individuals noted above failed to file a disclosure for the previous reporting period of April 1 - June 30, 2020 (Thomas Alexander).

On January 11, 2021, my office sent out reminder notices for the fourth quarter filing, October 1 – December 31, 2020. Annual filers were also notified of their filing obligations for the 2020 year. All filings are due by January 30, 2021.



Fair Campaign Practices Commission
Open Government Commission

DATE: January 21, 2021
TO: Fair Campaign Practices Commission & Open Government Commission
FROM: Samuel Harvey, Commission Secretary
SUBJECT: Commission 2021 regular meeting schedule

The Commission must set its annual meeting schedule for 2021. In recent years, the Commission has not had a regular meeting scheduled in August or December. The Commission may need to schedule additional meetings as needed throughout the year.

Based on the current format of meeting every third Thursday at 7 p.m., the proposed schedule for the remainder of the year would be:

- Thursday, February 18
- Thursday, March 18
- Thursday, April 15
- Thursday, May 20
- Thursday, June 17
- Thursday, July 15
- Thursday, September 16
- Thursday, October 21
- Thursday, November 18

COMMUNICATIONS

Campaign Finance Regulation evaluation

Allan <allanmann68@gmail.com>

Thu 12/10/2020 8:26 AM

To: FCPC (Fair Campaign Practices Commission) <FCPC@cityofberkeley.info>

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

I am working on a project for the Alameda chapter of the League of Women Voters to determine whether the City of Alameda should adopt campaign finance regulations similar to those in place in Berkeley and other Bay Area jurisdictions. Specially, I would like to know if any qualitative or quantitative studies have been done in Berkeley to determine whether the current regulations have been effective. If such studies have been done, please let me know how to obtain them.

Thank you,

Allan Mann