



March 20, 2013

President Benedict Hur  
Commissioner Jamiene Studley  
Commissioner Dorothy Liu  
Commissioner Beverly Hayon  
Commissioner Paul Renne  
San Francisco Ethics Commission  
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President Hur and Members of the Commission:

We are writing to bring to your attention our continued disappointment with the Ethics Commissions work to protect the public trust. We had hoped that the 2011 Civil Grand Jury report and this year's Board Budget Analyst review would bring a renewed vigor and commitment to the mission of the Ethics Commission.

We write from the perspective of many different organizations and communities active in our city's public life. Some of our organizations are active in city elections and some are active as advocates for steps we believe will improve the quality of life and government for all of us regardless of our political differences.

Many of us have had no outreach from the Ethics Commission, including regarding the upcoming Interested Persons meeting, although the Commission directed staff to create a robust outreach for community views on the June 5, 2012 Rose Report comparing San Francisco to Los Angeles ethics policy and practices.

Within memory, Ethics staff has yet to seek public input on how the Commission is meeting its mandate or to hear from our proposals on steps that are long overdue. We note that even when members of the Board or a state judge recommended action by Ethics to protect the public trust, Ethics staff did not act. This significantly impacts our confidence in the Commission and its oversight.

Now with the upcoming Interested Persons meeting, the IP notice of the report eliminates significant findings in the Rose Report from the topics on its agenda. We plan to raise those issues either at the meeting or in a separate communication to the Commissioners.

We draw your attention to these specific findings in the Rose Report that were eliminated from the IP discussion topics:

- Los Angeles provides greater disclosure of contributors to soft money spenders, something that is at the heart of the current FPPC effort to determine the contributors hidden from public view in the last state election. San Francisco's system shields these donors from public view.
- Los Angeles provides a Guide for Contributors that makes clear to everyone what the rules are for making donations. We strongly support this, but San Francisco does not

- provide such a Guide and it is not mentioned in the IP discussion topics.
- Los Angeles allows private citizen suits to enforce penalties. San Francisco does not. Yet this one step would address many of the tensions that surround the Ethics Commission's lackluster enforcement record.
- Los Angeles requires committees making robocalls to voters to disclose their funding sources and provides a reasonable threshold for when disclosures must be made. San Francisco arbitrarily sets a high bar that results in many campaigns being able to avoid making these disclosures.
- Los Angeles prohibits city commissioners from fundraising for other candidates. In San Francisco, city commissioners are the lifeblood of pay-to-play style politics as donors cultivate those contacts for their own interests.
- Los Angeles limits the amount of contributions that candidates may accept from independent expenditure committees if the candidate accepts public financing or agrees to the expenditure ceiling.

We draw your attention to key differences in what LA is doing vs what SF is doing:

- LA bans political contributions from registered lobbyists. So does the State of California. Why doesn't SF?
- LA regards attorneys who give political advice – even if they aren't actually lobbying city officials – as lobbyists who must register and report their activities. We don't.
- LA bans contributions from political appointees to those who appoint them (this is the key ingredient in the money machine of SF pay-to-play as City Commissioners pour money into the mayor's re-election or various committees). Why doesn't SF?
- SF prohibits contractors from making contributions to officials who will decide on their contracts, but leaves open the loophole that allows these same contractors to fundraise for the officials who will make the decisions on their development permits. The great majority of City Hall lobbying is development-related – shouldn't this be addressed?
- SF has another loophole in pay-to-play politics: we ban contributions from those seeking City Hall favors, but we don't ban them from collecting and bundling contributions from others. That's where the real influence is felt.
- SF allows officials to accept political contributions right in City Hall and in City buildings; LA doesn't. Checks can be handed to officials right in the Board chambers or behind closed doors in the Mayor's Office. The State of California bans the acceptance of political contributions in the Capitol. Why doesn't SF?
- LA has a much higher enforcement rate than SF – Harvey Rose found that SF dismisses 76 percent of all cases compared to 19 percent in LA.

As noted above, not only is LA ahead of SF in numerous policy areas, the State of California has adopted a number of reforms as best practices, leaving San Francisco far behind and belying any presumed role as a leader in ethics reform. The Rose Report and the Ethics staff's handling of this issue illustrate our concerns about the general direction and effectiveness of the Commission, and exemplify a dramatic lack of due diligence in ensuring that the SF public is informed about the role of money in politics. We are troubled that San Francisco relies on an Ethics staff that has no known experience in San Francisco campaigns. Without some experience in the real world of politics, San Francisco has constructed a paper house of cards that collapses when it confronts the reality of how politics operates in our city. The Rose Report offers a critical opportunity for action and reform leading to more transparency, fuller accountability and stronger enforcement. We implore the Ethics Commission to review the well-researched Rose Report and develop a package of ethics reforms that will enable SF to assume a new leadership role.

Compared to ten years ago, when Ethics had a smaller staff and smaller budget, today's commission provides less public notice of campaign and lobbying activity, places obstacles in the way of easy access to information on non-compliance with our laws, and makes less information available to the public.

There have been no press releases on the quarterly lobbyist reports in more than seven years. There is no list of city officials who have failed to file the required public disclosures of their financial interests. Instead, the public must undertake a search name by name of every filer to find the non-filers. There is no information for contributors to educate them about the law, and no information on any Ethics activity in languages other than English.

All of this represents significant steps backward from the Ethics Commission's launch and first decade.

We recommend that the Commission members themselves participate in an Interested Persons meeting, that the Commission solicit from the community issues that have yet to be addressed, and that the Commission adopt Ethics Commission-specific performance standards for the Executive Director and the Commission's work that are subject to public comment.

We recommend that the Commission seriously address the Rose Report – now nearly nine months old and still without any attention.

We recommend that the Commission set deadlines for staff implementation of all materials that the law requires be publicly disclosed. It should be noted that the legal requirement of consultant filings by December 15 did not result in public posting of the filings but merely a statement from the Executive Director that the filings would be posted "in due time." Six weeks later, at the end of January, those filings still were not posted, and the public was told to come to the Ethics office to review them.

We believe the Ethics Commission has adopted a passive posture. It has no outreach beyond the groups that themselves contacted Ethics.

Most importantly, there is no discussion of the shifting political landscape that affects the flow of money toward officials who make decisions for the public.

For example, in 2012 a new committee was formed called the Mayor Ed Lee Committee for San Francisco that raised \$400,000, much of it in contributions of over \$25,000 and from those with a financial interest in City Hall decisions. This is legally permitted but avoids the generally understood limits of \$500 contributions and a ban on city contractors regarding committees controlled by elected officials or candidates. By opening this door, we can foresee a time when every city supervisor and official will have their own "general purpose" committee that provides a work-around on campaign contribution limits and sources of contributions. This is an issue that should be a topic for the Ethics Commission.

We fear that the effect is to treat ethics as a political country club, operated for the convenience of staff and the regulated community rather than the public, and that is deferential to the regulated community rather than to its public obligations.

We do not come to this belief easily, and only after repeated instances of the Ethics Commission's reviews by the Civil Grand Jury and others showing that it is not succeeding in its mission.

We have in common a fundamental belief that any progress depends in large measure on transparency in public decisions and the influences brought to bear on decisions, in conjunction with accountability for those decisions and an open process. In our view, this is the most significant responsibility of the city's Ethics Commission, and it is not succeeding.

We respectfully recommend that the Commissioners adopt a posture that leads us into a future that more fully protects the public trust and rejects the passive approach of recent years. We join with many other organizations and individuals in signing on to this letter and remain available to discuss these issues.

Respectfully,

The Harvey Milk L/G/B/T Democratic Club