

ATTACHMENT 4

**PUBLIC ETHICS COMMISSION
STIPULATION, DECISION, AND ORDER
SEI Non-Filer – Streamlined Stipulation¹**

PEC CASE NO.: 19-07

[Pro-Active/Referred by PEC Filing Officer]

RESPONDENT NAME AND POSITION: Joseph Betesh, Treasurer/Preparer

DESCRIPTION OF VIOLATION: Failure to timely file Major Donor Semi-Annual Campaign Statement(s), in violation of Oakland Campaign Reform Act O.M.C. 3.12.340A and Gov. Code Sec. 84215.

TYPE OF SEI	PERIOD COVERED BY SEI	DUE DATE	DATE FILED	FINE AMOUNT²
Semi-Annual Campaign Statement	July 1 through December 31, 2018	Jan. 31, 2019	Not Filed	\$1000
Semi-Annual Campaign Statement	January 1 through June 1, 2018	July 31, 2018	Failed to File Accurate Statement	\$1000

TOTAL FINE AMOUNT: \$2000

Complainant, the Enforcement Unit of the Public Ethics Commission, and Respondent hereby agree to the following:

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondent;
3. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, and Public Ethics Commission Complaint Procedures, including, but not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at Respondent's own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed;

¹ A Streamlined Stipulation provides an efficient resolution for common, low-level violations of the Oakland Government Ethics Act that meet the criteria established in the Commission's Enforcement Penalty Guidelines.

² Pursuant to Streamlined Stipulation fine amounts set by the Commission's Enforcement Penalty Guidelines.

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4. This Stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it;
5. It is further stipulated and agreed that Respondent violated the Oakland Campaign Reform Act as described herein.
6. The Public Ethics Commission Filing Officer referred the Respondent to enforcement for failure to file his major donor committee campaign statement for the period of July 1, 2018 through December 31, 2018 and for failure to file a complete report on or between January 1, 2018 through June 1, 2018. After investigating the Respondent's campaign filings, PEC staff determined that he and/or his committee, despite multiple warnings and staff time helping to explain the necessary requirements and reporting obligations to correct the filing information and file the required forms, had not electronically filed the required information as required by section 3.12.340 (A) of the Oakland Campaign Reform Act (OCRA).
7. The "streamline penalty formula" is \$400 per violation, plus 1% of contributions received or expenditures made, whichever is greater. In this case, the total in expenditures made according to the Respondent's Major Donor forms was approximately \$79,000. The streamline penalty in this case would be \$400 x 2 counts plus \$790 (1% of the amount of expenditures made) which comes to a total of \$1590, without aggravating factors.
8. The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. The PEC can consider a list of factors, although not an exhaustive list, in deciding to increase or decrease the amount of a penalty. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty.
9. The aggravating factors include the following: 1) the Respondent's conduct was part of a pattern of failing to file major donor statements; 2) the Respondent knew that he had an obligation to file the forms, made promises that he would file them and failed to do so; and 3) the Respondent had enough experience with campaign filings to know that he was required to timely file the statements. The relevant mitigating factor is that the Respondent does not have a history of prior violations. For the reasons stated above, the penalty is \$2,000.
10. The Commission will impose upon Respondents a total administrative penalty in the amount of \$2,000.
11. Respondent agrees to the issuance of the Decision and Order and imposition by the Commission of a fine in the amount specified on the Stipulation, and a cashier's check or money order in said amount, payable to the "City of Oakland," has been submitted by Respondent to be held by the Commission until it issues its Decision and Order.

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12. In the event the Commission refuses to accept this Stipulation, it shall become null and void, and within fifteen business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in connection with this Stipulation will be reimbursed to Respondent; and

13. In the event the Commission rejects this Stipulation and a full evidentiary hearing before the Commission becomes necessary, neither any member of the Commission, nor the Executive Director, shall be disqualified from consideration of this Stipulation.

Dated: 12/2/2019

[Redacted Signature]

Kellie Johnson, Enforcement Chief on behalf of Complainant

Dated: 11/8/19

[Redacted Signature]

Joseph Betesh, Respondent

ORDER OF THE COMMISSION:

The foregoing stipulation has been adopted by a majority vote of the Public Ethics Commission as its final decision and order and is effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: 12/2/19

[Redacted Signature]

Jodi Smyth, Commission Chair