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14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 15 COUNTY OF ALAMEDA
 16 (UNLIMITED JURISDICTION)

17 CITY OF OAKLAND PUBLIC ETHICS
 18 COMMISSION,

19 Petitioner,

20 vs.

21 CHARLIE NGO,

22 Respondent.

No.: RG20070117

**AMENDED PETITION TO ENFORCE
 INVESTIGATIVE SUBPOENAS FOR
 DOCUMENTS AND AN IN-PERSON
 INTERVIEW**

(OMC § 2.24.030)

Hearing:

Date:
 Time:
 Dept.:
 Judge:

**No Filing Fee:
 Cal. Gov't Code § 6103**

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INTRODUCTION

1. In 2019, the City of Oakland’s Public Ethics Commission (“PEC” or “Commission”) launched an investigation into possible violations of the Oakland Campaign Reform Act (“OCRA”). To further that investigation, the PEC used its pre-litigation investigatory powers granted by Oakland Municipal Code (“OMC”) section 2.24.030 and Oakland City Charter (“OCC”) section 603 to issue investigative subpoenas requiring several individuals, including Respondent CHARLIE NGO (“Respondent” or “Ngo”), to produce documents relating to its investigation.

2. The investigation concerns suspected campaign money laundering activity (i.e. illegal reimbursement of “straw donors”) by agents of a major City contractor (California Waste Solutions, owned and managed by members of the Duong family, including David Duong and Andy Duong) and their associates. The laundering scheme spans several election cycles and involves the use of multiple straw donors making contributions to several different candidate-controlled committees. The straw donors made their donations at the behest of the scheme’s authors and were reported as the true donors on public campaign finance filings but were surreptitiously reimbursed for their contributions. The authors of this scheme engaged in this activity in a deliberate effort to circumvent various restrictions on the true source and amount of campaign donations. Petitioner has issued subpoenas in this matter to identify all of the authors and participants in this scheme, as well as the extent of the laundering activity.

3. On September 28, 2019, the PEC served Respondent with two investigative subpoenas requiring Respondent to produce documents on October 11, 2019, and appear for an in-person interview on October 29, 2019. As of the date of the filing of this petition, Respondent still has not produced documents, nor has he appeared for his in-person interview. Respondent has wholly refused to comply with the subpoenas. Thus, Respondent is not just continuing to drag his feet in response to the PEC’s investigation, he is failing to comply with lawfully issued subpoenas.

4. Accordingly, the People of City of Oakland, acting through the Commission, petition this Court pursuant to section 11188 of the Government Code to enforce compliance with the PEC investigative subpoenas for documents and an in-person interview. This investigation involves investigating the potential violations of sections 3.12.050, 3.12.065, and 3.12.140 of the OCRA. Respondent’s delays and refusals to comply with the PEC subpoenas should not thwart this important

1 and independent investigation into whether the OCRA was violated or illegal campaign contributions
2 took place.

3 **THE PARTIES**

4 5. Petitioner is the City of Oakland Public Ethics Commission. The PEC is the
5 government agency charged with the duty to enforce compliance with the City of Oakland's
6 government campaign reform act and ethics ordinances.¹ In furtherance of that duty, the PEC is
7 authorized to conduct investigations and issue subpoenas to compel the production of papers, records,
8 and documents and to take testimony on any matter pending before them.² Sections 11187 and 11188
9 of the Government Code allow the PEC to petition this Court to enforce compliance with the PEC
10 investigative subpoena.

11 6. Respondent is CHARLIE NGO. CHARLIE NGO is the former manager of the
12 Music Café a/k/a Sancha Bar in Oakland. He currently resides in Sacramento, California. The campaign
13 donations at issue were made in the City of Oakland, Alameda County, California and the City of
14 San Jose and City of Milpitas, Santa Clara County, California.

15 **JURISDICTION AND VENUE**

16 7. Jurisdiction and venue are proper in the Superior Court of the State of California in
17 the City of Oakland and County of Alameda under Government Code section 11186. The PEC conducts
18 the investigation into possible violations of the OCRA primarily in the City of Oakland and County of
19 Alameda.

20 **BACKGROUND**

21 **I.**

22 **SUSPICIOUS CAMPAIGN CONTRIBUTIONS**

23 8. Respondent was the manager of the Music Café a/k/a Sancha Bar, a karaoke club
24 and boba tea shop formerly located at 251 9th Street in Oakland. Mr. Ngo contributed \$1,600 to
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26 _____
27 ¹ City of Oakland Charter § 603(b); Oakland Mun. Code chapters 2.24, 3.12.

28 ² City of Oakland Charter § 603(f)(1)(i)–(iv).

1 *Desley Brooks for City Council 2018* by \$800 check on June 11, 2016 and an additional \$800 check on
2 May 23, 2018. Mr. Ngo further contributed \$700 each to *Re-elect Larry Reid for Council 2016* on
3 September 1, 2016, *Viola Gonzales for City Council 2016* on October 22, 2016 and *Kaplan for Oakland*
4 *City Council 2016* on December 15, 2017. Mr. Ngo also contributed \$800 to *Sheng Thao for Oakland*
5 *City Council 2018* on July 15, 2018. Finally, Mr. Ngo contributed \$250 to *Anthony Phan for City Council*
6 *2016* (City of Milpitas) on October 22, 2016 and \$600 to *Tam Nguyen for San Jose City Council* on
7 December 17, 2017.

8 9. The PEC has subpoenaed Respondent's bank records and learned that, at the time
9 he wrote his checks to the Reid, Gonzales, Phan, Nguyen, and Thao campaigns, Respondent did not have
10 adequate funds in his account to cover the cost of his contributions. For all of the contributions at issue
11 here, Respondent made a large cash deposit just before or after writing his check.

12 10. Respondent was arrested by Alcohol Beverage Control agents in October of 2018
13 for allegedly using the Music Café a/k/a Sancha Bar location to sell drugs and prostitution services. The
14 Music Café a/k/a Sancha Bar's address is the same as Arda LLC and Teamac Imports, both of which are
15 businesses connected to Mon Kil Quan, a respondent in a related case, from whom Petitioner also is
16 seeking an in-person interview. The PEC is also in possession of private messages in which Andy Duong
17 holds himself out as the proprietor of the Music Café a/k/a Sancha Bar.

18 11. To the PEC's knowledge, Respondent has no history of making campaign
19 contributions in any jurisdiction, except during periods when he was working at a business affiliated with
20 Andy Duong and Mr. Quan.

21 12. According to campaign contribution records, there were no contributor cards to go
22 along with Respondent's checks.

23 13. Every one of Respondent's contributions at issue here came bundled with other
24 contributions that were reimbursed with funds provided by Andy Duong, as the PEC has learned from
25 witness admissions and the analysis of bank and communication records.

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II.

**THE CITY OF OAKLAND PUBLIC ETHICS
COMMISSION'S INVESTIGATION**

14. The PEC has the authority through section 603(f)(1)(i) – (iii) of the Oakland City Charter and section 2.24.030 of the Oakland Municipal Code to conduct investigations, audits, and public hearings in furtherance of its duties and functions.³ The PEC is further authorized by section 603 of the Oakland City Charter and section 2.24.030(B) of the Oakland Municipal Code to issue subpoenas in furtherance of its investigations, audits and public hearings.⁴

15. Agencies are given authority to issue subpoenas for the production of papers, books, accounts, documents, any “writing,” and to take testimony.⁵ Therefore, the PEC has the authority to conduct an administrative investigation and subpoena the in-person interview of CHARLIE NGO and subpoena Respondent to produce documents relating to the PEC’s administrative investigation into campaign contributions and the reimbursement thereof.

16. The PEC is the government agency charged with the function and duty to enforce compliance with the City of Oakland’s government campaign reform act and ethics ordinances.⁶ In furtherance of that function and duty, the PEC is authorized to conduct investigations and issue subpoenas to compel the production of papers, records, and documents and take testimony on any matter pending before them.⁷

17. If a person does not voluntarily comply with a subpoena, the agency’s recourse is to file a petition with the superior court for an order compelling compliance.⁸ Pursuant to California

³ City of Oakland Charter §§ 603(b), 603(f)(1)(i)–(iii); Oakland Mun. Code §§ 2.24.020, 2.24.030.

⁴ City of Oakland Charter § 603; Oakland Mun. Code § 2.24.030(B).

⁵ Cal. Gov’t Code § 11181(e); *see Franchise Tax Bd. v. Barnhart*, 105 Cal. App. 3d 274, 278-80 (1980) (FTB has subpoena power under § 11181 to investigate violations of Political Reform Act although not empowered by any specific statute to issue subpoenas).

⁶ City of Oakland Charter § 603(b); Oakland Mun. Code chapters 2.24, 3.12.

⁷ City of Oakland Charter § 603(f)(1)(i)–(iv).

⁸ Cal. Gov’t Code §§ 11186–11188.

1 Government Code section 11187, subdivision (a), this court is the proper court because the PEC's
2 investigation is taking place in the County of Alameda.⁹ Consistent with its duty to enforce
3 compliance with the City of Oakland's Campaign Reform Act, the PEC is investigating whether
4 Respondent violated OCRA sections 3.12.050, 3.12.065 and 3.12.140.

5 18. The PEC used its investigatory powers granted by OMC section 2.24.030 and
6 OCC section 603 to issue investigative subpoenas to Respondent to produce documents and appear for an
7 in-person interview relating to the PEC administrative investigation into campaign contributions and
8 the reimbursement thereof.

9 19. On August 22, 2019, the PEC issued two subpoenas – one for documents, which
10 named CHARLIE NGO as a witness to the Commission's investigation and required him to produce
11 certain records in his control or possession for the Commission to inspect, and one for an in-person
12 interview to appear at the state's Fair Political Practices Commission (FPPC) office on October 29,
13 2019 at 10:00 a.m. Exh. 1 (Subpoena No. 190014-02 (documents)); Exh. 2 (Subpoena No. 190014-03
14 (interview)). On September 26, 2019, during a telephone call with Respondent, PEC Investigator
15 Simon Russell obtained Respondent's consent to serve him by mail after FPPC investigators had twice
16 gone to Respondent's home in an effort to serve him personally. The certified mail receipt indicates
17 that the two subpoenas were in fact received at Respondent's address on September 28, 2019: the
18 subpoena requiring Respondent to produce the requested documents on or before October 11, 2019
19 ("PEC Subpoena No. 190014-02") and the subpoena for an in-person interview ("PEC Subpoena
20 No. 190014-03").

21 20. The PEC subpoenas were regularly issued and relate to the Commission's
22 ongoing investigation of possible violations of the OCRA. The PEC's subpoenas seek documents and
23 an in-person interview of Respondent regarding donations related to its ongoing investigation into
24 campaign finance violations.

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28 ⁹ Cal. Gov't Code § 11187(a).

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III.

CHARLIE NGO HAS FAILED TO RESPOND

21. As of the date of filing this petition, the Commission has yet to interview Respondent, receive any response relative to the PEC’s subpoenas, or any valid objection from Respondent. Respondent has instead chosen to ignore the valid PEC subpoenas entirely. Therefore, an order compelling response is appropriate. Petitioner now seeks an order compelling CHARLIE NGO’s response to the Commission’s subpoenas.

PRAYER FOR RELIEF

Pursuant to Government Code sections 11186-11188, the Oakland Public Ethics Commission prays that this Court:

1. Issue an order directing Respondent to appear before this Court and to show cause why he has refused to comply with the Subpoenas, and, upon Respondent’s failure to show cause;
2. Enter an order directing Respondent to comply with the Subpoenas; and
3. Order all other relief to which the people are legally entitled.

Dated: August 5, 2021

Respectfully submitted,

OLSON REMCHO, LLP

By: 
Benjamin N. Gevercer

Attorneys for Petitioner
City of Oakland Public Ethics Commission,
a City Government Agency

(00441063-3)