

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Barbara J. Parker, City Attorney, SBN069722  
Tricia Hynes, Deputy City Attorney, SBN 212550  
Oakland City Attorney's Office; One Frank H. Ogawa Plaza, 6th Floor  
Oakland, California, 94612  
TELEPHONE NO.: (510) 238-3184 FAX NO.: (510) 238-6500  
ATTORNEY FOR (Name): Petitioner, City of Oakland, Public Ethics Commission

FOR COURT USE ONLY  
**ENDORSED  
FILED  
ALAMEDA COUNTY**  
JAN 24 2020  
CLERK OF THE SUPERIOR COURT  
By Jayana Deputy

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda**  
STREET ADDRESS: 1225 Fallon Street  
MAILING ADDRESS:  
CITY AND ZIP CODE: Oakland 94612  
BRANCH NAME: Rene C. Davidson Courthouse

CASE NAME:  
**City of Oakland Public Ethics Commission vs. Phuc Hong Tran**

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**  
 **Counter**  **Joinder**  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **RG20051805**  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |   |   |  |
|---|---|--|
| <p><b>Auto Tort</b></p> <input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46) <p><b>Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PD/W/D (23) <p><b>Non-PI/PD/W/D (Other) Tort</b></p> <input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/W/D tort (35) <p><b>Employment</b></p> <input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <p><b>Contract</b></p> <input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37) <p><b>Real Property</b></p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26) <p><b>Unlawful Detainer</b></p> <input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38) <p><b>Judicial Review</b></p> <input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p><b>Enforcement of Judgment</b></p> <input type="checkbox"/> Enforcement of judgment (20) <p><b>Miscellaneous Civil Complaint</b></p> <input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42) <p><b>Miscellaneous Civil Petition</b></p> <input type="checkbox"/> Partnership and corporate governance (21)<br><input checked="" type="checkbox"/> Other petition (not specified above) (43) |
|---|---|--|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): one
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 23, 2020  
Tricia Hynes  
(TYPE OR PRINT NAME)

Tricia Hynes  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <b>BARBARA J. PARKER, City Attorney - SBN 069722</b>  <b>MARIA BEE, Chief Assistant City Attorney - SBN 167716</b>  <b>TRICIA HYNES, Deputy City Attorney - SBN 212550</b>  <b>One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612</b>          TELEPHONE NO.: (510) 238-3184 FAX NO. (Optional): (510) 238-6500          E-MAIL ADDRESS (Optional): TShafie@oaklandcityattorney.org          ATTORNEY FOR (Name): CITY OF OAKLAND</p>	<p>FOR COURT USE ONLY</p> <p><b>ENDORSED FILED ALAMEDA COUNTY</b></p> <p><b>JAN 24 2020</b></p> <p>CLERK OF SUPERIOR COURT</p> <p>By <u>[Signature]</u> Deputy</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b>          STREET ADDRESS: 1225 Fallon Street          MAILING ADDRESS:          CITY AND ZIP CODE: Oakland, CA 94612          BRANCH NAME: Rene C. Davidson Courthouse</p>	
<p>PLAINTIFF/PETITIONER: City of Oakland Public Ethics Commission</p>	<p>CASE NUMBER: <b>RG20051805</b></p>
<p>DEFENDANT/RESPONDENT: <b>PHUC HONG TRAN</b></p>	<p>JUDICIAL OFFICER:</p>
<p><b>NOTICE OF RELATED CASE</b></p>	<p>DEPT.:</p>

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: City of Oakland Public Ethics Commission vs. Kevin Jiang  
 b. Case number: RG19044308  
 c. Court:  same as above  
 other state or federal court (name and address):  
 d. Department: 511  
 e. Case type:  limited civil  unlimited civil  probate  family law  other (specify): Petition  
 f. Filing date: November 21, 2019  
 g. Has this case been designated or determined as "complex?"  Yes  No  
 h. Relationship of this case to the case referenced above (check all that apply):  
 involves the same parties and is based on the same or similar claims.  
 arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.  
 involves claims against, title to, possession of, or damages to the same property.  
 is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.  
 Additional explanation is attached in attachment 1h  
 i. Status of case:  
 pending  
 dismissed  with  without prejudice  
 disposed of by judgment
  
2. a. Title: City of Oakland Public Ethics Commission vs. Anna Wong  
 b. Case number: RG20050135  
 c. Court:  same as above  
 other state or federal court (name and address):  
 d. Department:

PLAINTIFF/PETITIONER: City of Oakland Public Ethics Commission	CASE NUMBER:
DEFENDANT/RESPONDENT: PHUC HONG TRAN	

2. (continued)

- e. Case type:  limited civil  unlimited civil  probate  family law  other (specify): Petition
- f. Filing date: January 13, 2020
- g. Has this case been designated or determined as "complex?"  Yes  No
- h. Relationship of this case to the case referenced above (check all that apply):
  - involves the same parties and is based on the same or similar claims.
  - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
  - involves claims against, title to, possession of, or damages to the same property.
  - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
  - Additional explanation is attached in attachment 2h
- i. Status of case:
  - pending
  - dismissed  with  without prejudice
  - disposed of by judgment

3. a. Title: City of Oakland Public Ethics Commission v. Bau Ung

b. Case number: RG20050137

- c. Court:  same as above
- other state or federal court (name and address):

d. Department:

e. Case type:  limited civil  unlimited civil  probate  family law  other (specify): Petition

f. Filing date: January 13, 2020

g. Has this case been designated or determined as "complex?"  Yes  No

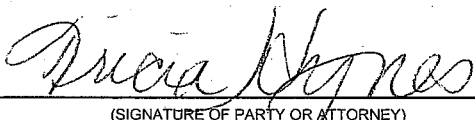
- h. Relationship of this case to the case referenced above (check all that apply):
  - involves the same parties and is based on the same or similar claims.
  - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
  - involves claims against, title to, possession of, or damages to the same property.
  - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
  - Additional explanation is attached in attachment 3h

- i. Status of case:
  - pending
  - dismissed  with  without prejudice
  - disposed of by judgment

4.  Additional related cases are described in Attachment 4. Number of pages attached:

Date: January 23, 2020

TRICIA L. HYNES  
(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)

  
(SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF/PETITIONER: City of Oakland Public Ethics Commission	CASE NUMBER:
DEFENDANT/RESPONDENT: PHUC HONG TRAN	

**PROOF OF SERVICE BY FIRST-CLASS MAIL  
NOTICE OF RELATED CASE**

**(NOTE: You cannot serve the Notice of Related Case if you are a party in the action. The person who served the notice must complete this proof of service. The notice must be served on all known parties in each related action or proceeding.)**

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612

2. I served a copy of the *Notice of Related Case* by enclosing it in a sealed envelope with first-class postage fully prepaid and (*check one*):

- a.  deposited the sealed envelope with the United States Postal Service.
- b.  placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Related Case* was mailed:

- a. on (*date*):
- b. from (*city and state*):

4. The envelope was addressed and mailed as follows:

- |   |   |
|---|---|
| <p>a. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p> | <p>c. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p> |
| <p>b. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p> | <p>d. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p> |

Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

---

(TYPE OR PRINT NAME OF DECLARANT) ▶ (SIGNATURE OF DECLARANT)

PLAINTIFF/PETITIONER: City of Oakland Public Ethics Commission CASE NUMBER:  
DEFENDANT/RESPONDANT: Phuc Hong Tran, et al.

ATTACHMENT 4

4. (a) Title: City of Oakland Public Ethics Commission v. Mon Kil Quan, et al.  
(b) Case Number:  
(c) Court:  same court as above  
 other state or federal court  
(d) Department:  
(e) Case type:  limited civil  unlimited civil  probate  family law  
 other (*specify*): Petition  
(f) Filing date:  
(g) Has this case been designated or determined as "complex?"  Yes  No  
(h) Relationship of this case to the case referenced above (*check all that apply*):  
 involves the same parties and is based on the same or similar claims.  
 arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.  
 involves claims against, title to, possession of, or damages to the same property.  
 is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.  
(i) Status of case:  
 pending  
 dismissed  with  without prejudice  
 disposed of by judgment
5. (a) Title: City of Oakland Public Ethics Commission v. Stacy Binh, et al.  
(b) Case Number:  
(c) Court:  same court as above

\_\_\_ other state or federal court

(d) Department:

(e) Case type: \_\_\_ limited civil \_\_\_ unlimited civil \_\_\_ probate \_\_\_ family law

x  other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?" \_\_\_ Yes  x  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

\_\_\_ involves the same parties and is based on the same or similar claims.

x  arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

\_\_\_ involves claims against, title to, possession of, or damages to the same property.

x  is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

\_\_\_ pending

\_\_\_ dismissed \_\_\_ with \_\_\_ without prejudice

\_\_\_ disposed of by judgment

6. (a) Title: City of Oakland Public Ethics Commission v. Silvia Zhang, et al.

(b) Case Number:

(c) Court:  x  same court as above

\_\_\_ other state or federal court

(d) Department:

(e) Case type: \_\_\_ limited civil \_\_\_ unlimited civil \_\_\_ probate \_\_\_ family law

x  other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?" \_\_\_ Yes  x  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

\_\_\_ involves the same parties and is based on the same or similar claims.

arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

involves claims against, title to, possession of, or damages to the same property.

is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

pending

dismissed  with  without prejudice

disposed of by judgment

7. (a) Title: City of Oakland Public Ethics Commission v. Ping Ping Chen

(b) Case Number:

(c) Court:  same court as above

other state or federal court

(d) Department:

(e) Case type:  limited civil  unlimited civil  probate  family law

other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?"  Yes  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

involves the same parties and is based on the same or similar claims.

arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

involves claims against, title to, possession of, or damages to the same property.

is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

pending

dismissed  with  without prejudice

disposed of by judgment

8. (a) Title: City of Oakland Public Ethics Commission v. Sylvia Leung Wong

(b) Case Number:

(c) Court:  same court as above

other state or federal court

(d) Department:

(e) Case type:  limited civil  unlimited civil  probate  family law

other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?"  Yes  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

involves the same parties and is based on the same or similar claims.

arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

involves claims against, title to, possession of, or damages to the same property.

is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

pending

dismissed  with  without prejudice

disposed of by judgment

9. (a) Title: City of Oakland Public Ethics Commission v. Nancy Kim Le

(b) Case Number:

(c) Court:  same court as above

other state or federal court

(d) Department:

(e) Case type:  limited civil  unlimited civil  probate  family law



other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?" \_\_\_ Yes  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

\_\_\_ involves the same parties and is based on the same or similar claims.

arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

\_\_\_ involves claims against, title to, possession of, or damages to the same property.

is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

\_\_\_ pending

\_\_\_ dismissed \_\_\_ with \_\_\_ without prejudice

\_\_\_ disposed of by judgment

10. (a) Title: City of Oakland Public Ethics Commission v. Sen Saechao

(b) Case Number:

(c) Court:  same court as above

\_\_\_ other state or federal court

(d) Department:

(e) Case type: \_\_\_ limited civil \_\_\_ unlimited civil \_\_\_ probate \_\_\_ family law

other (*specify*): Petition

(f) Filing date:

(g) Has this case been designated or determined as "complex?" \_\_\_ Yes  No

(h) Relationship of this case to the case referenced above (*check all that apply*):

\_\_\_ involves the same parties and is based on the same or similar claims.

arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.

involves claims against, title to, possession of, or damages to the same property.

is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(i) Status of case:

pending

dismissed  with  without prejudice

disposed of by judgment



1 associates. The laundering scheme spans several election cycles, and involves the use of multiple straw  
2 donors making contributions to several different candidate-controlled committees. The straw donors made  
3 their donations at the behest of the scheme's authors and were reported as the true donors on public  
4 campaign finance filings but were surreptitiously reimbursed for their contributions. The authors of this  
5 scheme engaged in this activity in a deliberate effort to circumvent various restrictions on the true source and  
6 amount of campaign donations. Petitioner has issued subpoenas in this matter to identify all of the authors  
7 and participants in this scheme, as well as the extent of the laundering activity.

8 3. On September 11, 2019, the PEC served Respondent with an investigative subpoena  
9 requiring Respondent to produce the requested documents on or before October 1, 2019. As of the date of  
10 the filing of this petition, the PEC has still not received Respondent's response to the subpoena.  
11 Respondent has also wholly refused to search for any relevant written correspondence as requested by the  
12 subpoena related to the PEC investigation of suspected violations of the OCRA. Thus, Respondent is not  
13 just continuing to drag his feet in response to the PEC's investigation, he is failing to comply with a  
14 lawfully issued subpoena.

15 4. Accordingly, the People of City of Oakland, acting through the Commission, petition this  
16 Court pursuant to section 11188 of the Government Code to enforce compliance with the PEC investigative  
17 subpoena. This investigation involves investigating the potential violations of sections 3.12.050, 3.12.065,  
18 and 3.12.140 of the OCRA. Respondent's delays and refusals to comply with the PEC subpoena should  
19 not thwart this important and independent investigation into whether the OCRA was violated or illegal  
20 campaign contributions took place.

## 21 THE PARTIES

22 5. Petitioner is the City of Oakland Public Ethics Commission. The PEC is the government  
23 agency charged with the function and duty to enforce compliance with the City of Oakland's government  
24 campaign reform act and ethics ordinances, among other things.<sup>1</sup> In furtherance of that function and  
25 duty, the PEC is authorized to conduct investigations and issue subpoenas to compel the production of  
26 papers, records, and documents on any matter pending before them.<sup>2</sup> Sections 11187 and 11188 of the  
27

28 <sup>1</sup> City of Oakland Charter § 603(b); Oakland Mun. Code chapters 2.24 and 3.12.

<sup>2</sup> City of Oakland Charter § 603(f)(1)(i) – (f)(1)(iv).

1 Government Code allow the PEC to petition this Court to enforce compliance with the PEC investigative  
2 subpoena.

3 6. Respondent is PHUC HONG TRAN. Phuc Hong Tran is an insurance agent based in  
4 Oakland's Chinatown. He was also the President of the Vietnamese Chamber of Commerce at least as of  
5 2016, and his daughter Jennifer Tran is currently the Executive Director there and was previously its  
6 Director of External Affairs. Jennifer Tran was also a campaign consultant to Sheng Thao For Oakland City  
7 Council 2018, a committee with a suspect cluster in this case, which includes a contribution from Kim  
8 Huong Vietnamese Cuisine ("KHVC") that we know to be laundered.

### 9 JURISDICTION AND VENUE

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

### 13 BACKGROUND

#### 14 I. Suspicious Campaign Contributions

15 8. Respondent was the President of the Vietnamese Chamber of Commerce at least as of 2016,  
16 and his daughter Jennifer Tran is currently the Executive Director there and was previously its Director of  
17 External Affairs. Jennifer Tran was also a campaign consultant to Sheng Thao For Oakland City Council 2018,  
18 a committee with a suspect cluster in this case, which includes a contribution from KHVC that we know to be  
19 laundered. Tran's \$5,000 contribution to the *McElhane*y Legal Defense committee was made on the same day  
20 as the KHVC laundered contribution and the (likely laundered) contributions from Marvin Thang and Arda,  
21 LLC. Note that Phuc Hong Tran's contributions to the Guillen (in 2018), Thao, Kalb, and Brooks committees  
22 are also part of suspect clusters at issue in this case. There are indications that Phuc Hong Tran may not only  
23 be making laundered contributions, but also might have a more prominent role in the Duong laundering  
24 scheme (perhaps as a facilitator, like Andy Duong).

25 9. The handwriting on Phuc Hong Tran's checks matches that on the checks from Anna Wong  
26 and Kim Tuyen Thi Tran to the Kalb committee, and from Anna Wong to the Guillen committee.

27 10. According to the Kalb committee's records, all of the potentially laundered checks it received  
28

1 were given in a single bundle directly to Dan Kalb during something called “Phuc Lunch” (probably referring  
2 to Phuc Hong Tran). There were no contributor cards to go along with those checks.

3 11. Phuc Hong Tran has a Facebook page, on which his only “friend” is David Duong (Andy  
4 Duong’s father and owner of California Waste Solutions, where Andy works).

5 **II. The City of Oakland Public Ethics Commission’s Investigation**

6 12. The PEC has the authority through sections 603(f)(1)(i)–(iii) of the Oakland City Charter  
7 and section 2.24.030 of the Oakland Municipal Code to conduct investigations, audits, and public  
8 hearings in furtherance of its duties and functions.<sup>3</sup> The PEC is further authorized by section 603 of the  
9 Oakland City Charter and section 2.24.030(B) of the Oakland Municipal Code to issue subpoenas in  
10 furtherance of its investigations, audits and public hearings.<sup>4</sup>

11 13. Agencies are given authority to issue subpoenas for the production of papers, books,  
12 accounts, documents, and any writing as defined in California Code of Evidence section 250 including  
13 photocopies, emails, faxes and sound recordings, tangible things, and testimony pertinent or material to  
14 any inquiry, investigation, hearing, proceeding or action conducted in any part of the state.<sup>5</sup> Therefore,  
15 the PEC has the authority to conduct an administrative investigation and subpoena the written  
16 correspondence of PHUC HONG TRAN, including any emails, email attachments, text messages, or  
17 letters relating to their administrative investigation into campaign contribution and the reimbursement  
18 thereof.

19 14. The City of Oakland Public Ethics Commission is the government agency charged with  
20 the function and duty to enforce compliance with the City of Oakland’s government campaign reform act  
21 and ethics ordinances, among other things.<sup>6</sup> In furtherance of that function and duty, the PEC is  
22 authorized to conduct investigations and issue subpoenas to compel the production of papers, records,  
23  
24

25 <sup>3</sup> Oak. City Charter §§ 603(b) and 603(f)(1)(i)–(iii); Oak. Mun. Code. §§ 2.24.020 and 2.24.030.

26 <sup>4</sup> Oak. City Charter § 603; Oak. Mun. Code 2.24.030(B).

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

<sup>6</sup> City of Oakland Charter § 603(b); Oakland Mun. Code chapters 2.24 and 3.12.

1 and documents on any matter pending before them.<sup>7</sup>

2 15. If a person does not voluntarily comply with a subpoena the agency's recourse is to file a  
3 petition with the superior court for an order compelling compliance.<sup>8</sup> Pursuant to California Government  
4 Code section 11187, subdivision (a), this court is the proper court because the subpoena in question  
5 designates documents to be produced in the County of Alameda.<sup>9</sup> Consistent with its duty to enforce  
6 compliance with the City of Oakland's Campaign Reform Act, the PEC is investigating whether  
7 Respondent violated OCRA sections 3.12.050, 3.12.065 and 3.12.140.

8 16. The PEC used its investigatory powers granted by OMC section 2.24.030 and OCC section  
9 603 to issue an investigative subpoena to Respondent PHUC HONG TRAN to produce all written  
10 correspondence of PHUC HONG TRAN, including any emails, email attachments, text messages, or  
11 letters relating to the PEC administrative investigation into campaign contribution and the reimbursement  
12 thereof.

13 17. On August 15, 2019, the PEC issued a subpoena for documents ("PEC Subpoena No.  
14 190014-95"), which named PHUC HONG TRAN as a witness to the Commission's investigation and  
15 required him to produce certain records in his control or possession for the Commission to inspect. On  
16 September 11, 2019, Petitioner personally served Respondent through a valid process server requiring  
17 him to produce the requested documents on or before October 1, 2019.

18 18. PEC investigator, Simon Russell, personally served PHUC HONG TRAN at his office on  
19 September 11, 2019 at 412 8th St, Ste D, Oakland, CA 94607. Mr. Russell also explained the subpoena  
20 to Mr. Tran at that time, telling him he was legally required to search his emails and texts and get back to  
21 me with his response and "Declaration of Custodian of Records," signed under penalty of perjury. Tran  
22 indicated that he understood, because he showed Mr. Russell his email inbox and said he has a lot of  
23 emails to search. The deadline on Tran's subpoena was October 1, 2019. On September 30, 2019, Tran  
24 emailed Mr. Russell and requested a 45-day extension due to "stress." Mr. Russell gave him an extension  
25 to October 8, 2019 at 4PM and told Tran that he would only grant a longer extension if Tran had a more  
26

27 <sup>7</sup> City of Oakland Charter § 603(f)(1)(i) – (f)(1)(iv).

28 <sup>8</sup> Cal. Gov. Code § 11186–88.

<sup>9</sup> Cal. Gov. Code § 11187(a).

1 substantive reason, e.g. medical emergency. That deadline passed with no response from Tran. On  
2 October 16, 2019, Mr. Russell emailed Tran again and said that he had missed his deadline, and that if  
3 the PEC did not receive his response by October 23, 2019 at 4PM then the PEC would seek a court order.  
4 Tran replied less than two hours later saying, "thanks for the reminder" and claiming that he has no texts  
5 or emails relating to campaign contributions. He did not attach a Declaration of Custodian of Records.  
6 Mr. Russell replied on October 18, 2019, saying Tran's response is not complete until the PEC gets his  
7 signed Declaration, and also saying that Mr. Russell finds it hard to believe Tran has no emails regarding  
8 campaign contributions given his political activity and suggesting Tran search one more time. To date the  
9 PEC has not heard anything further from him. As of the date of filing this petition, the Commission has  
10 yet to receive the documents requested in the PEC subpoena or any valid objection.

11 19. The PEC subpoena was regularly issued, and it relates to the Commission's ongoing  
12 investigation of possible violations of the OCRA. The PEC's subpoena seeks all written correspondence  
13 that meets all of the following criteria:

- 14 • it was sent or received to/from any person;
- 15 • it was sent or received on or after January 1, 2016; and
- 16 • it contains any discussion of, or reference to, any of the following:
  - 17 ○ proposed or actual campaign contributions made in the name of Phuc Hong Tran, or
  - 18 ○ proposed or actual campaign contributions made in the name of family, friends or
  - 19 associates of Phug Hong Tran; or
  - 20 ○ payment or reimbursement for campaign contributions.

21 For purposes of this subpoena, "written correspondence" includes any written communication in either  
22 paper or electronic form, including but not limited to e-mail, e-mail attachments, text messages, or  
23 letters, regardless of whether that communication was sent or received to/from a personal or business  
24 address, account or phone number.

### 25 **III. Phug Hong Tran Has Failed to Respond**

26 20. As of the date of filing this petition, the Commission has yet to receive a response, the  
27 documents requested in the PEC subpoena, or any valid objection from Respondent. Respondent has  
28



1 instead chosen to ignore the valid PEC subpoena entirely. Therefore, an order compelling response is  
2 appropriate. Petitioner now seeks an order compelling PHUC HONG TRAN's response to the  
3 Commission's subpoena.

4 **PRAYER FOR RELIEF**

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

- 7 1. Issue an order directing Respondent to appear before this Court and to show cause why he has  
8 refused to comply with the Subpoena, and, upon Respondent's failure to show cause;  
9 2. Enter an order directing Respondent to comply with the Subpoena; and  
10 3. All other relief to which the people are legally entitled.

11  
12 Dated: January 23, 2020

Respectfully submitted,

13  
14  
15 By: 

16 TRICIA HYNES,

Attorney for Petitioner

17 CITY OF OAKLAND PUBLIC ETHICS  
18 COMMISSION, A CITY GOVERNMENT  
19 AGENCY  
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JAN 24 2020

1 BARBARA J. PARKER, City Attorney (State Bar No. 069722)  
MARIA BEE, Chief Assistant City Attorney (State Bar No. 167716)  
2 DAVID A. PEREDA, Special Counsel (State Bar No. 237982)  
TRICIA HYNES, Deputy City Attorney (State Bar No. 212550)  
3 One Frank Ogawa Plaza, 6th Floor  
Oakland, California 94612  
4 Telephone: 510.238.3184  
Facsimile: 510.238.6500  
5 Email: thynes@oaklandcityattorney.org

6 Attorney for Petitioner City of Oakland  
Public Ethics Commission, a city government agency

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF ALAMEDA

10 CITY OF OAKLAND PUBLIC ETHICS  
11 COMMISSION,

12 Petitioner,

13 v.

14 SEN SAECHAO

15 Respondent.  
16

EXEMPT FROM FILING FEES  
(GOVT. CODE § 6103)

Case No. **RG20051807**

[PROPOSED] ORDER GRANTING OSC TO  
ENFORCE INVESTIGATIVE SUBPOENA

17  
18 Having considered the Petition, such oral and testamentary evidence that may have been  
19 offered, and for good cause shown, IT IS HEREBY ORDERED THAT Respondent Sylvia Leung  
20 Wong appear in Department 511 of the Superior Court of the County of Alameda, located at  
21 24405 Amador Street in Hayward, California on \_\_\_\_\_, at **9:00 a.m.** and show  
22 cause for her failure to comply with PEC Subpoena No. PEC-190014-05. Any moving and  
23 opposition papers shall be filed in accordance with the Code of Civil Procedure.

24 **IT IS SO ORDERED:**

25 Dated: \_\_\_\_\_, 2020

26 \_\_\_\_\_  
27 JUDGE OF THE SUPERIOR COURT  
28