City of Oakland

For Official Use Only

Public Ethics Commission

Stamp Date/Time Received:

COMPLAINT FORM

Complaint Number: 09-07

Please Type or Print in Ink and Complete this Form.

This complaint concerns a possible violation of: (please check all that apply)

☒ The Oakland Sunshine Ordinance, California Public Records Act or Brown Act. (Access to public meetings or documents.)

☒ Oakland Campaign Reform Act

☒ Oakland City Council's Rules of Procedure/Code of Ethics

☐ Oakland Limited Public Financing Act

☒ Oakland Conflict of Interest regulations

ATTACHMENT 1

Item E-3
Date 9-3-09
Page 4 of 11

☐ Oakland Lobbyist Registration Act

☐ Oakland False Endorsement In Campaign Literature Act

☐ I am/We are not sure which specific law, ordinance or regulations apply. However, I am/We are requesting that the Ethics Commission determine if my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s)

Campaign period and on going

The alleged violation occurred at the following place:

City of Oakland

Please provide specific facts describing your complaint. (Or attach additional pages as necessary.)

Councilwoman (at large) Rebecca Kaplan, as named treasure of Campaign Committee, "Yes 4 Oakland: A coalition in support of Measures C, D, F & H. Organized by R. Kaplan", as of this date has failed to file the FPPC required campaign disclosure forms, 460, et al with the City Clerk's Office. Also, see below:

The persons you allege to be responsible for the violation(s) are:

Also, it is believed she has violated the trust of her Office and as treasure of the above named committee she is engaged in a blatant conflict of interest. Additionally, it is believed she has and is currently abusing her office in the "misuse of public funds" for campaign purposes and illegally utilizing the Council office and City facilities in the promotion of the four Measures.

Any witnesses who were involved and/or who can provide additional information are: (Please indicate names and phone numbers, if available.)

Unknown

ATTACHMENT 1

PLEASE NOTE:

There may be other laws that apply to the violation(s) you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filing this complaint. You should contact an attorney immediately to protect any rights available to you under the law.

By filing this complaint with the Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public.

NAME: David E. Mix PHONE NO.(Day):(510) [redacted]

ADDRESS: [redacted] Drive PHONE NO.(Eve.):( )

CITY: Oakland STATE: CA ZIP: 94611

FAX NO.: ( )

E-MAIL:

PLEASE RETURN THIS FORM TO:

Public Ethics Commission
One Frank Ogawa Plaza, 4th floor
Oakland, CA 94612

Phone: (510) 238-3593
FAX:(510) 238-3315

Submit by Email

Print Form

ATTACHMENT 1

Item E-3
Date 9-3-09
Page 6 of 11

Statement of Organization
Recipient Committee

Type or print in ink

STATEMENT OF ORGANIZATION

Date Stamp

CALIFORNIA FORM **410**

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09 MAY 14 PM 4:51

Item E-2 Date 9-23-09 Page 7 of 11

Statement Type ☒ Initial — Not yet qualified ☐ or

05 / 07 / 09
Date qualified as committee

☐ Amendment
List I.D. number:
#
___/___/___
Date qualified as committee (if applicable)

☐ Termination – See Part 5
List I.D. number:
#
___/___/___
Date of Termination

1. Committee Information

NAME OF COMMITTEE
Yes 4 Oakland: A coalition in support of Measures C, D, F & H. Organized by R. Kaplan

STREET ADDRESS (NO P.O. BOX)
1904 Franklin Street, Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612	510-301-8480

MAILING ADDRESS (IF DIFFERENT)
1714 Franklin Street, #100-133, Oakland, CA 94612

OPTIONAL: FAX / E-MAIL ADDRESS
Yes4Oakland@gmail.com web: www.Yes4Oakland.org

COUNTY OF DOMICILE	COUNTY WHERE COMMITTEE IS ACTIVE IF DIFFERENT THAN COUNTY OF DOMICILE
Alameda	

Attach additional information on appropriately labeled continuation sheets.

2. Treasurer and Other Principal Officers

NAME OF TREASURER
Rebecca Kaplan

STREET ADDRESS
1904 Franklin Street, Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612	510-301-8480

NAME OF ASSISTANT TREASURER, IF ANY
Kenneth Linney

STREET ADDRESS
1904 Franklin Street, Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612	510-444-4710

NAME AND POSITION OF OTHER PRINCIPAL OFFICER(S), IF APPLICABLE

MAILING ADDRESS

CITY	STATE	ZIP CODE	AREA CODE/PHONE

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ (DATE) By _____ (SIGNATURE OF TREASURER OR ASSISTANT TREASURER) x

Executed on _____ (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT) x

Executed on _____ (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT)

Executed on _____ (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT)

ATTACHMENT 2

Statement of Organization
Recipient Committee

STATEMENT OF ORGANIZATION

CALIFORNIA FORM 410

Page 2

INSTRUCTIONS ON REVERSE

COMMITTEE NAME	I.D. NUMBER
Yes 4 Oakland: A coalition in support of Measures C, D, F & H. Organized by R. Kaplan	Pending

Item E-3 Date 2-4-09 Page 8 of 11

ATTACHMENT 2

4. Type of Committee

Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "non-partisan."
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY
Rebecca D. Kaplan, Officeholder	City Councilmember, At-large, City of Oakland	2008	☒ Non-Partisan
			☐ Non-Partisan

- List the financial institution where the campaign bank account is located (controlled "candidate election" committees only)

NAME OF FINANCIAL INSTITUTION	AREA CODE/PHONE	BANK ACCOUNT NUMBER
N/A		

ADDRESS	CITY	STATE	ZIP CODE

Primarily Formed Committee Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)	CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION (INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)	CHECK ONE: SUPPORT	OPPOSE
Measures C, D, F, and H	City of Oakland special election July 21, 2009, ballot Measures	X	
		SUPPORT	OPPOSE

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

Type or print in ink.

COVER PAGE

CALIFORNIA FORM 460

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Date Stamp: FILED OFFICE OF THE CITY CLERK OAKLAND 09 JUL 14 PM 4:43

SEE INSTRUCTIONS ON REVERSE

Statement covers period from 01/01/2009 through 06/06/2009

Date of election if applicable: (Month, Day, Year) 07/21/2009

Item E-3 Date 9-3-09 Page 9 of 11

ATTACHMENT 3

1. Type of Recipient Committee: All Committees - Complete Parts 1, 2, 3, and 4.

- ☐ Officeholder, Candidate Controlled Committee
  - ◯ State Candidate Election Committee
  - ◯ Recall (Also Complete Part 5)
- ☐ General Purpose Committees
  - ◯ Sponsored
  - ◯ Small Contributor Committee
  - ◯ Political Party/Central Committee
- ☒ Primarily Formed Ballot Measure Committee
  - ◉ Controlled
  - ◯ Sponsored (Also Complete Part 6)
- ☐ Primarily Formed Candidate/ Officeholder Committee (Also Complete Part 7)

2. Type of Statement:

- ☒ Preelection Statement
- ☐ Semi-annual Statement
- ☐ Termination Statement (Also file a Form 410 Termination)
- ☐ Amendment (Explain below)
- ☐ Quarterly Statement
- ☐ Special Odd-Year Report
- ☐ Supplemental Preelection Statement - Attach Form 495

3. Committee Information

I.D. NUMBER: 1318478

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)
Yes 4 Oakland: A coalition in support of Measures C,D,F&H. Organized by R. Kaplan

STREET ADDRESS (NO P.O. BOX)
1904 Franklin Street Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612-2922	(510) 301-8480

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

CITY	STATE	ZIP CODE	AREA CODE/PHONE

OPTIONAL: FAX / E-MAIL ADDRESS
Yes4Oakland@gmail.com

Treasurer(s)

NAME OF TREASURER
Rebecca D Kaplan

MAILING ADDRESS
1904 Franklin Street Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612-2922	(510) 301-8480

NAME OF ASSISTANT TREASURER, IF ANY
Kenneth Linney

MAILING ADDRESS
1904 Franklin Street Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612-2922	(510)444-4710

OPTIONAL: FAX / E-MAIL ADDRESS

4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed on 7/14/09 (Date) By X Kenneth Linney (Signature of Treasurer or Assistant Treasurer)

Executed on _____ (Date) By X _____ (Signature of Controlling Officer, Candidate, State Measure Proponent or Responsible Officer of Sponsor)

Executed on _____ (Date) By _____ (Signature of Controlling Officer, Candidate, State Measure Proponent)

Executed on _____ (Date) By _____ (Signature of Controlling Officer, Candidate, State Measure Proponent)

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

Type or print in ink.

COVER PAGE

Date Stamp

FILED
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OAKLAND
09 JUL 14 PM 4:45

CALIFORNIA FORM 460

Page 1 of 12

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SEE INSTRUCTIONS ON REVERSE

Statement covers period from 06/07/2009 through 07/04/2009

Date of election if applicable: (Month, Day, Year) 07/21/2009

Item E-3 Date 9-2-09 Page 10 of 11

1. Type of Recipient Committee: All Committees - Complete Parts 1, 2, 3, and 4.

- ☐ Officeholder, Candidate Controlled Committee
  - ○ State Candidate Election Committee
  - ○ Recall (Also Complete Part 5)
- ☐ General Purpose Committees
  - ○ Sponsored
  - ○ Small Contributor Committee
  - ○ Political Party/Central Committee
- ☒ Primarily Formed Ballot Measure Committee
  - ⊛ Controlled
  - ○ Sponsored (Also Complete Part 6)
- ☐ Primarily Formed Candidate/ Officeholder Committee (Also Complete Part 7)

2. Type of Statement:

- ☐ Preelection Statement
- ☒ Semi-annual Statement
- ☐ Termination Statement (Also file a Form 410 Termination)
- ☐ Amendment (Explain below)
- ☐ Quarterly Statement
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- ☐ Supplemental Preelection Statement - Attach Form 495

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Yes 4 Oakland: A coalition in support of Measures C,D,F&H.
Organized by R. Kaplan

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Oakland	CA	94612-2922	(510) 301-8480

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CITY	STATE	ZIP CODE	AREA CODE/PHONE

OPTIONAL: FAX / E-MAIL ADDRESS
Yes4Oakland@gmail.com

Treasurer(s)

NAME OF TREASURER
Rebecca D Kaplan

MAILING ADDRESS
1904 Franklin Street Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612-2922	(510) 301-8480

NAME OF ASSISTANT TREASURER, IF ANY
Kenneth Linney

MAILING ADDRESS
1904 Franklin Street Suite 609

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakland	CA	94612-2922	510-444-4710

OPTIONAL: FAX / E-MAIL ADDRESS

4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Executed on 7/14/09 (Date) By X Kenneth Linney (Signature of Treasurer or Assistant Treasurer)

Executed on _____ (Date) By X _____ (Signature of Controlling Officer, Candidate, State Measure Proponent or Responsible Officer of Sponsor)

Executed on _____ (Date) By _____ (Signature of Controlling Officer, Candidate, State Measure Proponent)

Executed on _____ (Date) By _____ (Signature of Controlling Officer, Candidate, State Measure Proponent)

ATTACHMENT 3

Purnell, Daniel

From: Rebecca Kaplan [kaplanforoakland@gmail.com]
Sent: Monday, August 17, 2009 9:38 AM
To: Purnell, Daniel
Subject: Response to Mix complaint

Dear Dan Purnell

Oakland Public Ethics Commission

I am writing in response to the complaint by David Mix, regarding the "Yes 4 Oakland" campaign. Thank you very much for the opportunity to respond to the issues raised.

The Mix complaint raises a variety of issues, most of which contain no information regarding the complained-about activity. However, I would like to address first the issue of the campaign finance filings, with regard to filing on the incorrect dates. All but this one allegation are totally and entirely false. With regard to the incorrect filing dates, I would like to apologize to you, the Commission, and the people of Oakland for any mistakes that have been made, and any inconvenience this may have caused.

It turns out, upon review, that some "Yes 4 Oakland" campaign finance filings were mistakenly filed on the incorrect date. I can assure you that there was no intentional misconduct on my part, and, I have spoken with my treasurer/bookkeeper, and he has assured me that this mistake was not intentional on his part either. The mistake occurred due to looking up the campaign finance filing deadlines on the website of the FPPC (California's Fair Political Practices Commission), and calendaring the dates listed there as the filing deadlines. Immediately upon receiving the phone call regarding the different filing deadlines, he did then file the correct documents.

The remainder of the Mix complaint alleges Conflict of Interest and use of government funds, but does not contain any information explaining what misconduct is alleged. Nonetheless, I can state that this aspect of the complaint is untrue. Government-funded resources were NOT used in the campaign. In fact, a consulting firm, "The Next Generation" was hired to conduct the work, and campaign work took place using their office and their materials. Most campaign meetings took place at their offices. Occasionally, campaign meetings took place at restaurants. The resources, equipment and materials used for the campaign were entirely drawn from outside, private sources, and no city hall funds nor other publicly-funded resources were used.

The Mix complaint appears to allege that elected officials are prohibited from participating in campaigns for or against ballot measures, which is NOT a true statement of law. Furthermore, the complaint does not cite any particular law source for this concept. Elected officials, like other people, have a First Amendment right to advocate for or against ballot Measures, so long as government funded resources are not used.

Thanks very much for your time and attention,

Sincerely,

Rebecca Kaplan

ATTACHMENT 4

Item E-3
Date 9-3-09
Page 11 of 11