

**SUNSHINE ORDINANCE
TASK FORCE**



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April 30, 2012

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

**Re: Referral for Enforcement of Order of Determination, Action on Failure to Appear
Sunshine Complaint No. 11056, Allen Grossman v. Dennis Herrera and Jack Song
of the City Attorney's Office**

The Sunshine Ordinance Task Force ("Task Force") hereby refers for enforcement the Order of Determination ("Order") issued on November 7, 2011 in Sunshine Complaint No. 11056, Allen Grossman v. Dennis Herrera and Jack Song of the City Attorney's Office.

This referral for enforcement is made pursuant to:

- (1) Sunshine Ordinance Section 67.30(c) whereby "the Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts";
- (2) San Francisco City Charter Section 15.102 which provides that the Ethics Commission "may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records"; and
- (3) Sunshine Ordinance Section 67.35(d) whereby "any person may institute proceedings for enforcement and penalties under this act in any court of competent jurisdiction or before the Ethics Commission if enforcement action is not taken by a city or state official 40 days after a complaint is filed.

The Task Force further refers Jack Song, Deputy Press Secretary for the City Attorney's Office, for failure to appear at the hearing on compliance with the Order in violation of Sunshine

Ordinance Section 67.21(e). This referral is made pursuant to Sunshine Ordinance Section 67.30(c) as previously cited.

Background

Allen Grossman filed a complaint with the Task Force on August 4, 2011 alleging that City Attorney Dennis Herrera and Mr. Song failed to fully respond to both an Immediate Disclosure public records request dated July 13, 2011 and a supplemental public records request dated August 1, 2011.

Task Force Hearing on Complaint

On October 25, 2011, the Task Force held a hearing on the complaint, finding City Attorney Herrera and Mr. Song in violation of Sunshine Ordinance public records provisions. The City Attorney was ordered to investigate the existence of and produce relevant records for the past two years to Mr. Grossman no later than November 14, 2011.

On January 10, 2012, the Task Force's Compliance and Amendments Committee held a hearing on compliance with the Order to investigate and produce records, finding respondents had failed to comply. The matter was returned to the Task Force for further action with a recommendation that the Task Force refer the Order to the Ethics Commission for enforcement and refer Mr. Song for violating Sunshine Ordinance Section 67.21(e) for walking out of the compliance hearing prior to its completion.

On February 28, 2012, the Task Force held a hearing to consider further action. The Task Force found that respondents continued to fail to produce the records and found Mr. Song in violation of Sunshine Ordinance Section 67.21(e) for failing to complete his appearance at the compliance hearing.

A description of the first Task Force hearing, violations found, and decision are described in the attached Order.

Thank you for your attention to this matter. Please contact the Task Force Administrator at sotf@sfgov.org or (415) 554-7724 for any additional information needed.



Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

cc: Allen Grossman, Complainant
Dennis Herrera, City Attorney, Respondent
Jack Song, Deputy Press Secretary, City Attorney's Office, Respondent
Jerry Threet, Deputy City Attorney