

# San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190  
State of California | Gavin Newsom – Governor | [info@bcdc.ca.gov](mailto:info@bcdc.ca.gov) | [www.bcdc.ca.gov](http://www.bcdc.ca.gov)

<b>Files:</b>	ER2018.028
<b>Permits:</b>	M2008.030.00
<b>Date Mailed:</b>	December 2, 2019
<b>35th Day After Mailing:</b>	January 6, 2020
<b>60th Day After Mailing:</b>	January 31, 2020
<b>Hearing Date:</b>	TBD

## VIOLATION REPORT ENFORCEMENT INVESTIGATION NO. ER2018.028 CITY OF OAKLAND; PORT OF OAKLAND

**FAILURE TO RESPOND TO THIS VIOLATION REPORT BY COMPLETING THE ENCLOSED STATEMENT OF DEFENSE FORM AND ENCLOSING ALL PERTINENT DECLARATIONS UNDER PENALTY OF PERJURY, PHOTOGRAPHS, LETTERS, AND OTHER WRITTEN DOCUMENTS COULD RESULT IN A CEASE AND DESIST ORDER, A PERMIT REVOCATION ORDER, OR OTHER APPROPRIATE INJUNCTIVE RELIEF BEING IMPOSED ON YOU WITHOUT YOUR HAVING AN OPPORTUNITY TO CONTEST THEM OR TO INTRODUCE ANY EVIDENCE.**

The San Francisco Bay Conservation and Development Commission is issuing this Violation Report ("Violation Report") and statement of defense form because the Commission's staff believes that you may be responsible for or involved with a possible violation of the Commission's laws and a Commission permit. The report contains a brief summary of all the pertinent information that staff currently has concerning the possible violation and reference to all the pertinent evidence on which the staff currently relies. All the evidence this Violation Report refers to is available in the permit and enforcement files for this matter located at the Commission's office. You can review these materials at the Commission's office or have copies made at your expense or both by contacting the Commission's staff at telephone number (415) 352-3600. This Violation Report also informs you of the nature of the possible violations so that you can fill out the enclosed statement of defense form and otherwise be prepared for Commission enforcement proceedings.

Issuance of this Violation Report and the enclosed statement of defense form is the first step in formal Commission enforcement proceedings. Subsequently, either the Commission or its enforcement committee may hold an enforcement hearing, and the Commission will determine what, if any, enforcement action to take.

Careful reading of and a timely response to these materials is essential to allow you to present your side of the case to the Commission. A copy of the Commission's enforcement regulations is also included so that you can fully understand the Commission's enforcement procedures. If you



have any questions concerning either the Violation Report, the enclosed statement of defense form, the procedures that the Commission and its enforcement committee follow, or anything else pertinent to this matter, you should contact, Schuyler Olsson or Karen Donovan of the Commission's staff at telephone number (415) 352-3600 as quickly as possible. Thank you for your cooperation.

**I. Entity believed responsible for the illegal activity:**

**Name:** City of Oakland ("City")  
c/o Joe DeVries, Assistant to the City Administrator  
**Address:** 1 Frank Ogawa Plaza, 11th floor  
Oakland, CA 94612  
**Telephone:** (510) 238-3083

**Name:** Port of Oakland ("Port")  
c/o Richard Sinkoff, Director of Environmental Programs and Planning  
**Address:** 530 Water Street  
Oakland, CA 94607  
**Telephone:** (510) 627-1100

**II. Brief description of the nature of the illegal activity:**

- A. Failure to make the designated area available exclusively to the public for public purposes such as walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes, in Violation of Special Condition II.C.1 of Permit No. M2008.030.00 ("Permit").
- B. Failure to maintain the required public access area and improvements specified in Special Conditions II.B.1 and II.B.2 of the Permit, in Violation of Special Condition II.B.4, "Maintenance".
- C. Failure to provide all required public access improvements, in Violation of Special II.B.2 of the Permit, "Improvements within the Total Public Access Area", including missing required public shore signs.
- D. Unauthorized fill in the Commission's Shoreline Band jurisdiction, in violation of Section 66632 of the McAteer-Petris Act, consisting of unauthorized encampments and associated debris.

**III. Description of and location of property on which illegal activity occurred:**

The violations are located within and adjacent to the Cryer Site Park portion of Union Point Park<sup>1</sup>, in the City of Oakland, Alameda County (See Exhibit 01).

The project site is comprised of all or part of the parcels identified as Alameda County Assessor Parcel Numbers (APNs) 018-0505-001, 019-0060-001-14, 019-0060-001-06, 019-0060-001-13, and 018-0500-001.

**IV. Name of owner who controls property on which illegal activity occurred:**

Each of the five parcels identified above are owned by the City of Oakland. They are controlled by the Port of Oakland Commissioners and leased back to the City of Oakland.

**V. Approximate date (and time if pertinent and known) illegal activity occurred:**

- A. The violations cited in Sections II.A and II.B have persisted since at least June 7, 2018, the date of the first photos submitted to BCDC showing the existence of unauthorized encampments and associated debris within the Cryer Site Park portion of Union Point Park, a BCDC-required public access area under the Permit.
- B. The violation cited in Section II.C has persisted since at least March 31, of 2017, when Google Earth imagery first demonstrates the absence of public access signage required under the Permit.
- C. The violation cited in Section II.D has persisted since at least June 7, 2018, the date of the first photos submitted to BCDC showing the existence of unauthorized encampments within BCDC's shoreline band jurisdiction.

**VI. Summary of all pertinent information currently known to the staff in the form of proposed findings with references to all pertinent supporting evidence contained in the staff's enforcement file** (the file is available at the Commission's office for your review; you should call the above listed staff enforcement officer to arrange to the review the file):

- A. **Relevant Files.** This violation report is based on the following findings and the relevant San Francisco Bay Conservation and Development Commission (BCDC) files including:
  - 1. Permit File No. M2008.030.00
  - 2. Enforcement File No. ER2018.028
- B. **Permit.**

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<sup>1</sup> According to Anthony Reese, Real Estate Agent at the City of Oakland, Cryer Site Park is considered part of the larger Union Point Park and the two sites are treated as a contiguous park. Located at the northern end of Union Point Park, the Cryer Site area was constructed several years after the rest of the park, under a separate BCDC Permit (No. M2008.030.00), for which the permittees are the City of Oakland and Port of Oakland. Both sites are displayed on Exhibit 01 of this Violation Report.

1. On August 25, 2010, BCDC issued Permit No. M2008.030.00 ("Permit") to the City of Oakland and Port of Oakland (See Exhibit 02).
  2. The Permit includes Special Conditions related to Public Access, including but not limited to:
    - a. **Special Condition II.C.1, "Area"** requires that the approximately 40,172-square-foot area, along approximately 300 feet of shoreline as generally shown on Exhibit "A" [of the Permit] be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, picnicking, and related purposes. If the permittees wish to use the public access area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission
    - b. **Special Condition II.C.2, "Improvements within the Public Access Area"**, requires the permittees to install multiple improvements in the public access area: a) an approximately 370-foot-long, 12-foot-wide asphalt trail and an adjacent 260-foot-long, three-foot-wide decomposed granite trail; b) an approximately 10,299-square-foot concrete plaza with eleven tree wells and seat walls, and an approximately 3,360-square-foot concrete paved area for connector paths; c) an approximately 21,165-square-foot landscaped area; and d) a minimum of three public access parking spots, two trash receptacles, three seat walls or benches, and two BCDC public shore signs and, where appropriate, Bay Trail signs.
    - c. **Special Condition II.C.3, "Maintenance"**, requires that the improvements authorized in the permit be permanently maintained by and at the expense of the permittees or its assignees, including but not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as paths, signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.
  3. On July 2, 2010, Staff approved a set of plans entitled "Cryer Site Park," dated December 22, 2009, which specified the BCDC-approved design of the required public access area and associated improvements.
- C. On June 12, 2018, Brock de Lappe, Harbor Master of Union Point Marina, which is immediately adjacent to Union Point Park, submitted to BCDC Staff several photos, dated June 7, 2018, of unauthorized encampments in the Cryer Site Park portion of Union Point Park (see Exhibit 03). The photos also indicated the presence of numerous

tents and debris in BCDC's Shoreline Band jurisdiction, located outside the boundaries of the BCDC-required public access area under Permit No. M2008.030.00, constituting unauthorized fill in the Commission's jurisdiction. This email followed previous Staff communications over phone and e-mail with Mr. de Lappe regarding encampments in the larger Union Point Park area in January and March of 2018, however it is unclear whether encampments were present in the Cryer Site Park portion of the park at that time.

- D. On July 28, 2018, Staff spoke by phone with City of Oakland staff members Brian Carthan and Herman Miller, who reported to staff that the City had already cleaned up Union Point Park approximately 18 or 19 times. During those cleanup operations, citizens living in encampments had been asked to leave the park, but they had usually returned after each cleanup operation. Mr. Cathan and Mr. Miller also reported that the City was generally unable to conduct maintenance work in the park, because certain inhabitants in the park were threatening City workers. Finally, they reported that the City once had Park Rangers in Union Point Park who provided needed services and security, but that the Park Rangers had been removed from the park approximately five or six years prior (See Exhibit 04).
- E. On August 4, 2018, Mr. de Lappe reported to Staff via email that many of the encampments previously located in other parts of Union Point Park had relocated to the Cryer Site Park portion of Union Point Park (See Exhibit 05), after the City had conducted cleanup operations in other portions of the park. On that same email, Mr. de Lappe reported that a member of the public had recently been severely beaten with a baseball bat in the park.
- F. On November 2, 2018, Staff received a complaint from a concerned member of the public, who expressed discontent with the lack of law enforcement occurring at Union Point Park, and reported he had been physically assaulted once, threatened several times, and robbed three times in the park (see Exhibit 06).
- G. On January 25, 2019, Mr. de Lappe reported that the illegal encampments in the park were ongoing, and that a fire had occurred on January 23 in the Cryer Site portion of the park (See Exhibit 07).
- H. On February 1, 2019, the Commission, along with the State Coastal Conservancy and the Association of Bay Area Governments, sent a joint letter to the City, the Unity Council, and the Port of Oakland, formally expressing their concerns with the lack of maintenance and safe management of the Park (see Exhibit 08).
- I. On February 4, 2019, Joe DeVries of the City of Oakland responded by email, stating that the City's Encampment Management Team was aware of the concerns and had worked to address issues at the park on a regular basis. Mr. DeVries said the City understood more work was needed, and had received similar complaints about the park from other entities. Mr. DeVries stated that in the meantime, the City would continue to provide regular clean-up operations (Exhibit 09).

- J. In late 2018 or early 2019 (precise date unknown), the Oakland Parks and Recreation Foundation released their “2018 Report on the State of Maintenance in Oakland Parks”, which stated that the park was “completely unusable” and gave it a score of “F” – the lowest possible score in the report, and the only park in Oakland to receive that score (Exhibit 10).
- K. On March 21, 2019, Staff received an email indicating that the City had aborted an attempted cleanup operation at Union Point Park on March 19 after a group of homeless individuals, with the help of advocates, filed a Temporary Restraining Order in Federal Court against the City (See Exhibit 11).
- L. On April 5, 2019, Staff visited Union Point Park to assess the park’s current condition, and found numerous tents and piles of debris throughout the park.
- M. On April 23, 2019, Judge Charles Breyer of the United States District Court for the Northern District of California issued an order in the *Le Van Hung v. Schaff* action enjoining the City from cleaning Union Point Park in a manner that violates the City’s stated policies. The Court referred the parties to a magistrate judge on the issues of (1) the City’s voicemail policies and practices regarding the phone number listed in the Vacate Notices; and (2) the City’s policies regarding shelter availability. The Order stated that after the parties reached resolution on the listed issues, the City may clean and clear the park in compliance with its stated policies (See Exhibit 12).
- N. In the coming months, staff continued to receive multiple complaints about the state of the park and its parking lots from members of the public, some of whom had previously contacted Staff. These include communications on April 23 (see Exhibit 13), May 17 (see Exhibit 14), May 24 (see Exhibit 15), June 24 (in which it was reported that a child had been shot in the park – See Exhibit 16), July 11 (see Exhibit 17), July 23 (see Exhibits 18, 19, and 20), and August 7 (see Exhibit 21).
- O. On August 20, 2019, Staff received notice from Jamilah Jefferson of the Oakland City Attorney’s office that the federal injunction had been lifted on August 12 and that the City would be conducting a clean and clear operation on August 20.
- P. On October 1, 2019, Staff met with representatives from the City and The Unity Council, who informed Staff that on August 20, the City had conducted an operation to clean and clear Union Point Park and its parking lots, including removing several tons of debris. The parking lots were declared formal closure areas, while the central portion of the park was not, nor was the northern Cryer Site Portion of the park. The City clarified that many people and tents remained in the park after the operation, and that upon Staff’s request, the City would consider a formal closure operation in the inhabited areas of the park. Also on that day, Staff visited the site and visually confirmed the presence of numerous tents in the park.
- Q. On October 2, 2019, BCDC Staff visited the site again and found that, while the parking lots had been cleared as the City stated, there remained numerous tents and facilities

- in need of maintenance throughout the park, including the Cryer Site Portion of the park (see Exhibit 22).
- R. On October 22, 2019, Staff again met with representatives from the City and the Unity Council. In that meeting, City staff shared a draft encampment closure and park restoration plan, and Staff provided feedback on that plan (see Exhibits 23 and 24).
  - S. In October and November of 2019, Staff received additional complaints from the public about multiple issues at the park (see Exhibits 25 and 26).
  - T. On November 6, 2019, Staff again met with representatives from the City over the phone, and provided additional feedback to the City about the latest version of their draft encampment closure and park restoration plan. Specifically, Staff requested additional details about the timeline for park restoration efforts after the encampments were no longer present.
  - U. On November 8, 2019, Staff visited Union Point Park, including the Cryer Site Park portion, to examine the current state of the encampments and of park maintenance. Staff found numerous tents, vehicles, and other evidence of people living in various areas throughout the park; substantial amounts of dead or overgrown vegetation; numerous piles of debris; substantial graffiti; poorly maintained benches; and other instances of poor maintenance (see Exhibit 27). Furthermore, staff found that certain required public access amenities were missing entirely, including two BCDC public shore signs. Staff was not able to fully assess the specific number of missing required public access improvements, due to the presence of encampments which prohibited access to many portions of the park. Staff observed that the park was unavailable to the public for safe walking, picnicking, or related purposes. According to Google Earth imagery, at least one missing public shore sign has been absent since at least March 31 of 2017, but it is not clear how long the other missing amenities have been absent (see Exhibit 28).
  - V. Also during the November 8, 2019, site visit, staff observed numerous tents and debris in BCDC's Shoreline Band jurisdiction, located outside the boundaries of the BCDC-required public access area under Permit No. M2008.030.00, constituting unauthorized fill in the Commission's jurisdiction.
  - W. On November 13, 2019, the City submitted over email their latest draft of the encampment closure and park restoration plan (see Exhibit 29). Joe DeVries of the City then presented this plan to the BCDC Enforcement Committee on November 20, 2019. At that meeting, the Enforcement Committee concurred with Staff's plan to issue two violation reports for two separate permits on which violations had occurred (one for the City of Oakland and Unity Council, and one to the City of Oakland and the Port of Oakland), and to begin work on a stipulated Cease and Desist order (see Exhibit 30).

**VII. Provisions of law or Commission permit that the staff alleges has been violated:** Section 66632. Permit for Fill, Extraction of Materials or Substantial Change in Use of Land, Water or Structure; Application for Permits.



Violations of the Permit are identified in Section VI of this Report.

**VIII. If the staff is proposing that the Commission impose an administrative penalty as part of this enforcement proceeding, the amount of the proposed penalty:**

Staff is not proposing a penalty at this time.

**IX. Any other statement or information that the staff believes is either pertinent to the alleged violation or important to a full understanding of the alleged violations:** Staff has provided all necessary information in the findings outlined in Section VIII above.

**X. List of staff exhibits\*:**

Staff Exhibit 01	Site Map for Union Point Park and Cryer Site Park
Staff Exhibit 02	BCDC Permit No. M2008.030.00
Staff Exhibit 03	Email from Brock de Lappe
Staff Exhibit 04	Call notes with City of Oakland
Staff Exhibit 05	Email from Brock de Lappe
Staff Exhibit 06	Complaint from member of public
Staff Exhibit 07	Email from Brock de Lappe
Staff Exhibit 08	Joint letter to City of Oakland, Port of Oakland, and The Unity Council
Staff Exhibit 09	Email from Joe Devries
Staff Exhibit 10	Excerpt from the "2018 Report on the State of Maintenance in Oakland Parks"
Staff Exhibit 11	Email from Joe Devries regarding Temporary Restraining Order
Staff Exhibit 12	Order granting preliminary injunction
Staff Exhibit 13	Complaint from member of public
Staff Exhibit 14	Email from Brock de Lappe
Staff Exhibit 15	Complaint from member of public
Staff Exhibit 16	Email from Brock de Lappe
Staff Exhibit 17	Email from Brock de Lappe
Staff Exhibit 18	Email from Brock de Lappe
Staff Exhibit 19	Complaint from member of public
Staff Exhibit 20	Complaint from member of public
Staff Exhibit 21	Complaint from member of public
Staff Exhibit 22	Photos from October 2, 2019 staff site visit

Staff Exhibit 23	Draft Encampment Closure and Park Restoration Plan (1)
Staff Exhibit 24	Meeting notes with City of Oakland
Staff Exhibit 25	Complaint from member of public
Staff Exhibit 26	Complaint from member of public
Staff Exhibit 27	Photos from November 8, 2019 staff site visit
Staff Exhibit 28	Google Earth imagery demonstrating missing signage
Staff Exhibit 29	Draft Encampment Closure and Park Restoration Plan (2)
Staff Exhibit 30	Meeting Summary from November 20, 2019 Enforcement Committee

**\*Note:** Exhibits 02, 12, and 23 will be provided upon request. Any attachments to other exhibits that are not included with this Violation Report will also be provided upon request.

## Statement of Defense Form

### Enforcement Investigation ER2018.028

#### City of Oakland & Port of Oakland

FAILURE (1) TO COMPLETE THIS FORM, (2) TO INCLUDE WITH THE COMPLETED FORM ALL DOCUMENTS, DECLARATIONS UNDER PENALTY OF PERJURY, AND OTHER EVIDENCE YOU WANT PLACED IN THE RECORD AND TO BE CONSIDERED BY THE COMMISSION, (3) TO LIST ANY WITNESSES WHOSE DECLARATION IS PART OF THE STAFF'S CASE AS IDENTIFIED IN THE VIOLATION REPORT THAT YOU WISH TO CROSS-EXAMINE, THE AREA OF KNOWLEDGE ABOUT WHICH YOU WANT TO CROSS-EXAMINE THE WITNESS, AND THE INFORMATION YOU HOPE TO ELICIT BY CROSS-EXAMINATION, AND (4) TO RETURN THE COMPLETED FORM AND ALL INCLUDED MATERIALS TO THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION STAFF OR TO CONTACT **SCHUYLER OLSSON** OR **KAREN DONOVAN** OF THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION ENFORCEMENT STAFF BY January 6, 2020 MEANS THAT THE COMMISSION CAN REFUSE TO CONSIDER SUCH STATEMENTS AND EVIDENCE WHEN THE COMMISSION HEARS THIS MATTER.

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU, IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION ENFORCEMENT STAFF.

This form is enclosed with a violation report. The violation report indicates that you may be responsible for or in some way involved in either a violation of the Commission's laws, a Commission permit, or a Commission cease and desist order. The violation report summarizes what the possible violation involves, who may be responsible for it, where and when it occurred, if the Commission staff is proposing any civil penalty and, if so, how much, and other pertinent information concerning the possible violation.

This form requires you to respond to the alleged facts contained in the violation report, to raise any affirmative defenses that you believe apply, to request any cross-examination that you believe necessary, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the possible violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps drawings, etc. and written declarations under penalty of perjury that you want the Commission to consider as part of this enforcement hearing. This form also requires you to identify by name any person whom you may want to cross-examine prior to the enforcement hearing on this matter, the area of knowledge that you want to cover in the cross-examination, the nature of the testimony that you hope to elicit, and the reasons that you believe other means of producing this evidence are unsatisfactory. Finally, if the staff is only proposing a civil penalty, i.e., no issuance of either a cease or desist order or a permit revocation order, this form allows you alternatively to pay the proposed fine without contesting the matter subject to ratification of the amount by the Commission.

IF YOU WANT TO CROSS-EXAMINE ANY PERSON ON WHOSE TESTIMONY THE STAFF HAS RELIED IN THE VIOLATION REPORT, YOU MUST COMPLETE PARAGRAPH SEVEN TO THIS STATEMENT OF DEFENSE FORM. THIS PARAGRAPH REQUIRES YOU TO SET OUT (1) THE NAME(S) OF THE PERSON(S) YOU WANT TO CROSS-EXAMINE, (2) REFERENCES TO ANY DOCUMENTS ABOUT WHICH YOU WANT TO CROSS-EXAMINE THE PERSON, (3) THE AREA OF KNOWLEDGE ABOUT WHICH YOU WANT TO CROSS-EXAMINE THE PERSON, (4) THE INFORMATION THAT YOU BELIEVE CAN BE ELICITED BY CROSS-EXAMINATION, AND (5) THE REASON WHY YOU BELIEVE THIS INFORMATION CANNOT BE PRESENTED BY DECLARATION OR OTHER DOCUMENT.

You should complete the form as fully and accurately as you can as quickly as you can and return it no later than 35 days after its having been mailed to you to the Commission's enforcement staff at the address:

**San Francisco Bay Conservation and Development Commission**  
**375 Beale Street, Suite 510**  
**San Francisco, California 94105**

If you believe that you have good cause for not being able to complete this form within 35 days of its having been mailed, please complete it to the extent that you can and within 35 days of the mailing of the violation report send the statement of defense form completed as much as possible with a written explanation of what additional information you need to complete the form in its entirety, how long it will take to obtain the additional information needed to complete the form, and why it will take longer than 35 days to obtain the additional information, send all of this to the Commission's staff at the above address. Following this procedure does not mean that the Executive Director will automatically allow you to take the additional time to complete the form. Only if the Executive Director determines that you have shown good cause for the delay and have otherwise complete the form as much as is currently possible will be grant an extension to complete the form.

If the staff violation report that accompanied this statement of defense form included a proposed civil penalty, you may, if you wish, resolve the civil penalty aspect of the alleged violation by simply providing to the staff a certified cashier's check in the amount of the proposed fine within the 35-day time period. If you choose to follow this alternative, the Executive Director will cash your check and place a brief summary of the violation and proposed penalty along with a notation that you are choosing to pay the penalty rather than contesting it on an administrative permit listing. If no Commissioner objects to the amount of the penalty, your payment will resolve the civil penalty portion of the alleged violation. If a Commissioner objects to the proposed payment of the penalty, the Commission shall determine by a majority of those present and voting whether to let the proposed penalty stand. If such a majority votes to let the proposed penalty stand, your payment will resolve the civil penalty portion of the alleged violation. If such a majority does not let the proposed penalty stand, the Commission shall direct the staff to return the money paid to you and shall direct you to file your completed statement of defense form and all supporting documents within 35 days of the Commission's action. Of course, you also have the opportunity of contesting the fine from the outset by completing this form and filing it and all supporting documents within 35 days of its having been mailed to you.

If you have any questions, please contact as soon as possible **SCHUYLER OLSSON** or **KAREN DONOVAN** of the Commission Enforcement Staff at telephone number **415-352-3600**.

1. Facts or allegations contained in the violation report that you admit (with specific reference to the paragraph number in the violation report):

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2. Facts or allegations contained in the violation report that you deny (with specific reference to paragraph number in the violation report):

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3. Facts or allegations contained in the violation report of which you have no personal knowledge (with specific reference to paragraph number in the violation report):

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4. Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any documents, photographs, maps, letters, or other evidence that you believe are relevant, please identify it by name, date, type, and any other identifying information and provide the original or a copy if you can):

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5. Any other information, statement, etc. that you want to make:

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6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this statement to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, title and enclose a copy with this completed form):

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7. Name of any person whose declaration under penalty of perjury was listed in the violation report as being part of the staff's case who the respondent wants to cross-examine, all documents about which you want to cross-examine the person, area or areas of information about which the respondent wants to cross-examine the witness, information that the respondent hopes to elicit in cross-examination, and the reason(s) why some other method of proving this information is unsatisfactory:

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