

**ORIGINAL FILED**

**OCT 21 2022**

CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
OAKLAND OFFICE

1 GENE HAZZARD, *In Pro Per*  
2 282 Adams Street, #6  
3 Oakland, CA 94610-4147  
4 (510) 418-0501  
5 Email: genehazzard@gmail.com  
6 Plaintiff, *In Pro Per*  
7  
8  
9  
10  
11

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

12 GENE HAZZARD,

13 Plaintiff,

14 v.

15 MAYOR LIBBY SCHAAF; CITY OF  
16 OAKLAND, a municipal corporation;  
17 MIALISA BONTA, former CEO of Oakland  
18 Promise; DAVID SILVER, Educational  
19 Director in Mayor SchAAF's Office;  
20 BARBARA PARKER, City Attorney;  
21 COURTNEY RUBY, City Auditor; ED  
22 REISKIN, City Administrator; ANDY  
23 FREMDER, co-founder of East Bay College  
24 Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
25 District Representative; SABRINA  
26 LANDRETH, former City Administrator, and  
27 DOES 1-100, inclusive.

28 Defendants.

Case No.: 4:22-cv-02921-JSW

**PLAINTIFF'S MOTION FOR  
RECONSIDERATION OF COURT'S (1)  
VACATION OF CASE MANAGEMENT  
CONFERENCE, (2) VACATION OF HEARING  
RE: MOTION TO DISMISS, AND (3) ORDER  
GRANTING DEFENDANTS' MOTION TO  
DISMISS**

Action Filed: May 17, 2022

Trial Date: N/A

1 Plaintiff Gene Hazzard ("Plaintiff") requests that the Court reconsider its decision on September  
2 6, 2022 to vacate the Case Management Conference and hearing on Defendants' Motion to Dismiss  
3 ("MTD") scheduled for September 9, 2022, as well as the Court's subsequent Order Granting the MTD.

#### 4 BACKGROUND

5 Plaintiff filed his original Complaint on May 17, 2022 (**Exhibit A**). On June 23, 2022, Defendants  
6 filed an MTD (Dkt. # 8) (**Exhibit B**), scheduled to be heard before Magistrate Judge Donna M. Ryu on  
7 August 11, 2022.

8 On July 7, 2022, Judge Ryu erroneously submitted an Order stating that Defendants had not  
9 successfully been served (Dkt. # 10). It appears that Judge Ryu made this Order based upon the review of  
10 Defendants' unexecuted summons from June 2, 2022 (Dkt. # 5). However, Plaintiff had cured the error of  
11 the Summons, and Defendants had been correctly served on June 2, 2022 (Dkt. # 6).

12 In response to Judge Ryu's premature Order to Dismiss Plaintiff's Original Complaint—prior to  
13 Plaintiff having an opportunity to respond to Defendants' MTD—Plaintiff filed a Motion for  
14 Reconsideration on July 8, 2022 (Dkt. # 12). On July 15, 2022, Judge Ryu submitted an Order Reassigning  
15 Case and Denying Plaintiff's Motion for Reconsideration as Moot (Dkt. # 15).

16 On July 18, 2022, a new hearing was noticed for Defendants' MTD, scheduled for September 9,  
17 2022 (Dkt. # 18).

#### 18 ARGUMENT AND ANALYSIS

19 On September 6, 2022, the Hon. Jeffrey S. White vacated both the Motion hearing and the Case  
20 Management Conference (each of which had been scheduled for September 9, 2022) (Clerk's Notice, Dkt.  
21 # 26). Then on October 4, 2022, Judge White issued an Order Granting Defendants' Motion to Dismiss  
22 (Dkt. # 27) ("Order").

23 It is difficult to understand how Judge White could make such a decision without Plaintiff having  
24 a chance to argue his case before the Court, and without having a Case Management Conference to give  
25 the parties a chance to settle their differences.

26 One troubling item in the Court's Order is at 1:27, fn. 2: "The Court does not accept any disputed  
27 facts in the exhibits as true."  
28

1 The Court's position on these disputed facts is confusing, as there is ample evidence to support  
2 Plaintiff's assertions:

- 3 - Letter from former Attorney General Xavier Becerra dated September 17, 2019  
4 (Complaint, Exhibit 7) acknowledging that Oakland Promise "never filed any  
5 documentation indicating the organization is a 501(c)(3) organization."
- 6 - Legal opinion of March 3, 2020 from City Attorney Barbara Parker (Complaint,  
7 Exhibit 8), stating that prior to 2019, Oakland Promise was not incorporated as  
8 a non-profit corporation. (See **Exhibit C**, Plaintiff's Opposition to Defendants'  
9 Reply in Support of Motion to Dismiss.)
- 10 - IRS Form 990 filed fraudulently for tax year 2017 by Chief Executive Officer  
11 Mialisa Bonta of OAKLAND PROMISE with EIN 54-2103707. (Complaint,  
12 Exhibit 18.)
- 13 - IRS Form 990, filed for tax year by Susan Stutzman for tax year 2017.  
14 (Complaint, Exhibit 27.)
- 15 - IRS Form 990 filed fraudulently for tax year 2019 by Chief Executive Officer  
16 Mialisa Bonta of Oakland Promise with EIN 54-2103707. (Complaint, Exhibit  
17 19.)
- 18 - California Constitution, Article XI, Section 5. (Complaint, Exhibit 31.)
- 19 - California Government Code § 12650(a). (Complaint, Exhibit 32.)
- 20 - California Corporations Code § 6010(a). (Complaint, Exhibit 37.)
- 21 - California Government Code § 12584 (Complaint, Exhibit 38): "The Attorney  
22 General shall establish and maintain a registry of charitable corporations."
- 23 - Transcript from Video from "By All Means" Redesigning Education to Restore  
24 Opportunities in February 2016 at the Harvard Graduate School of Education  
25 (excerpts of Defendant Mayor Schaaf's participation and comments regarding  
26 sustained funding for Mayor Schaaf organization Oakland Promise.  
27 (Complaint, Exhibit 35.)

28 In his Order, at 2:27, fn. 5, Judge White states: "In his opposition, Hazzard argues that he is the  
legal and rightful owner of the name Oakland Promise. He also argues that he donated to Oakland Promise  
and submits documentation of that donation. Those facts are not alleged in the Complaint, and the Court  
has considered them solely to determine if amendment would be futile."

Plaintiff believes that the right to the name Oakland Promise is a **significant** factor, and as such,  
he respectfully requests that he be allowed to amend his Complaint to include this assertion. (In Plaintiff's

1 Opposition to Defendants' First Amended MTD Complaint filed on July 28, 2022 (**Exhibit D**), Plaintiff  
2 has provided clear documentation of ownership of the name "Oakland Promise," as filed with the Alameda  
3 County Clerk-Recorder in July 2019 (Fictitious Business Name # 560578).)

4 By granting Defendants' MTD without holding a hearing, Judge White appears to have been  
5 operating as a proxy for Defendants, and in fact there are also examples of the Court parroting Defendants'  
6 arguments nearly word for word:

- 7 - In Defendants' MTD Plaintiff's Complaint filed on June 23, 2022, at 6:26,  
8 Defendants state that, "A liberal interpretation of a complaint **may not supply**  
9 **essential elements of the claim that were not initially pled.** *Ivey v. Bd. of*  
10 *Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982)." (Emphasis  
11 added.)
- 12 - Order, at 2:16: "Because Hazzard is proceeding pro se, The Court must construe  
13 his pleading liberally. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010).  
14 However, the Court **may not 'supply essential elements of the claim that**  
15 **were not initially pled.'** *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d  
16 266, 268 (9th Cir. 1982)." (Emphasis added.)
- 17 - MTD, at 10:15: "However, nothing in the bare text section 1001 suggests a  
18 remedy for civil litigants and **no support exists to support the proposition**  
19 **that Congress intended for section 1001 to provide a private right of action.**  
20 In a per curiam opinion, the court in *Lee v. United States Agency for Int'l Dev.*,  
21 859 F.3d 74 (D.C. Cir. 2017), ...."
- 22 - Order, at 3:14: The City Defendants move to dismiss Hazzard's first, second,  
23 and fifth claims for relief on the basis that the Federal Statutes on which  
24 Hazzard premises his claims **do not provide a private right of action. None**  
25 **of the statutes at issue expressly provide for a private right of action ....**  
26 *See, e.g., Lee v. U.S.A.I.D.*, 859 F.3d 74, 76-78 (D.C. Cir. 2017) ..." (Emphasis  
27 added.)

28 The Court has limited its dubious decision to only two provisions in granting Defendant's Motion  
to Dismiss, while ignoring all of Plaintiff's prima facie evidence.

### LEGAL STANDARD

When reviewing a Motion to Dismiss, the court must take as true all of the challenged pleadings  
and allegations with all reasonable inferences which may be drawn from them.

A pleading must not be dismissed for failure to state legally cognizable claims  
unless the allegations indicate any doubt that the litigant can prove no set of facts  
would entitle him to relief... It is not necessary for a plaintiff to either identify a

specific theory of recovery or set out the correct remedy of relief to which plaintiff may be entitled.

(Federal Rule of Civil Procedure 12)

### CONCLUSION

It is difficult to understand why the hearing that had been scheduled for Defendants' Motion to Dismiss was canceled (as well as the Case Management Conference, which had also been scheduled for the same day) only **three days** before it was supposed to take place. And it is also hard to understand how the Court could make a ruling on such an important matter as a Motion to Dismiss without Plaintiff having an opportunity to argue his case in court.

In addition, there were two puzzling events that occurred before these cancelations:

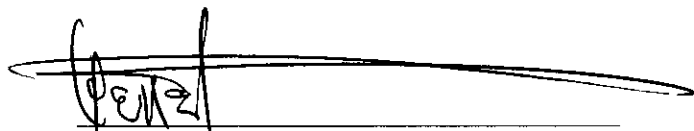
- (1) The initial judge in this matter, Magistrate Judge Donna M. Ryu, issued an Order Re: Dismissal **before the Plaintiff had even had an opportunity to respond to the Motion**; and
- (2) After Plaintiff had filed an Opposition to Defendants' MTD, as well as filing a Motion for Reconsideration of Judge Ryu's Order, the case was suddenly reassigned to Judge White and Plaintiff's Motion for Reconsideration was denied as moot.

The combination of all the above, as well as the virtually word-for-word parroting of some of Defendants' arguments (as shown on Page 3, Lines 7-21 of this Motion), would seem to give an indication of bias on the part of the Court, and Plaintiff requests that he at least be given an opportunity to argue his case before a final decision is rendered.

There are also still outstanding issues that require resolution. Thus, in addition to requesting reconsideration of the Court's Order Granting Defendants' MTD, and an opportunity to argue his case before the Court, Plaintiff requests that the Court proceed with scheduling a Case Management Conference.

DATED: October 20, 2022

Respectfully submitted,

  
Gene Hazzard  
Plaintiff, *In Pro Per*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

EXHIBIT A

1  
2 GENE HAZZARD  
3 282 Adams Street, #6  
4 Oakland, CA 94610-4147  
5 (510) 418-0501  
6 Email: genehazzard@gmail.com  
7 Plaintiff, *In Pro Per*

ORIGINAL FILED

MAY 17 2022

CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
OAKLAND OFFICE

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12  
13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF  
17 OAKLAND, a municipal corporation;  
18 MIALISA BONTA, former CEO of Oakland  
19 Promise; DAVID SILVER, Educational  
20 Director in Mayor Schaaf's Office;  
21 BARBARA PARKER, City Attorney;  
22 COURTNEY RUBY, City Auditor; ED  
23 REISKIN, City Administrator; ANDY  
24 FREMDER, co-founder of East Bay College  
25 Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
26 District Representative; SABRINA  
27 LANDRETH, former City Administrator, and  
28 DOES 1-100, inclusive.

Defendants/Respondents.

Case No.:

**C22-02921** DMR

COMPLAINT (with List of Exhibits)

I. INTRODUCTION

1           1.     Plaintiff Gene Hazzard ("Plaintiff") appears *in Propria Persona* and brings this action  
2 against Defendants Mayor Libby Schaaf, as an individual as well as in her official capacity as the Mayor  
3 of Oakland, and the other listed Defendants who have supported Mayor Schaaf in her failure to provide  
4 legal required documents attesting to the fact that Mayor Schaaf's Oakland Promise is a 501(c)(3)  
5 nonprofit, tax-exempt, public-benefit corporation ("501(c)(3)").

6           2.     Plaintiff has been unsuccessful in his attempts to obtain an order from the legal  
7 enforcement agency to compel Defendant Schaaf to comply with the provisions and the regulatory  
8 requirements to provide documentation from the Internal Revenue Service ("IRS") pursuant to 26  
9 U.S.C. 6033, which is a Determination Letter affirming that Mayor Schaaf's organization, Oakland  
10 Promise, has a legal status as a 501(c)(3). 26 U.S.C. § 6104 states:

11                     If an organization described in section 501(c) is exempt from taxation under  
12                     section 501(a) for any taxable year, the application filed by the organization  
13                     with respect to which the secretary made his determination that such  
                      organization was entitled to exemption under 501(a) ... in support of such  
                      application ... shall be open to the public.

14           3.     Pursuant to California Corporation Code 6010(a), a merger requires consent from the  
15 California Attorney General, in the form of a Certificate of Merger. (**Exhibit 6.**)

16           4.     As such, Defendant Schaaf must be compelled to provide a Certificate of Merger from  
17 the California Charitable Trust Department of the Office of the California Attorney General, establishing  
18 the fact that a merger between Oakland Promise and the East Bay College Fund exists.

19           5.     Plaintiff also brings this action against Defendant Oakland City Council ("City Council"),  
20 the legislative body as a municipal corporation, to compel the City Council to rescind its action in  
21 approving Resolution 87485 on December 14, 2018. In said resolution, the City Council illegally  
22 codified the November 6, 2018 Ballot Measure AA, a \$198 Parcel Tax and a Charter Amendment which  
23 included a nongovernmental/non-municipal affair Oakland Promise, a private business interest, therefore  
24 cannot be inserted into to section 1607 of the Oakland City Charter. (**Exhibits 1-4.**)

## 25                                     II. JURISDICTION AND VENUE

26  
27  
28                                     COMPLAINT (with List of Exhibits)



1           6.     This Court has jurisdiction over this matter pursuant to 28 USC § 1331.

2     ///

3     ///

4           7.     The venue is proper under U.S.C. § 1391 ("Venue generally"):

5                 ... (1) this section shall govern the venue of all civil actions brought in district  
6                 courts of the United States; and (2) the proper venue for a civil action shall be  
7                 determined without regard to whether the action is local or transitory in  
8                 nature.

### 9                                 III. PARTIES

10           8.     Plaintiff is a public citizen, resident and taxpayer in the City of Oakland, at all relevant  
11     times mentioned herein. Further, Plaintiff has firsthand knowledge of the material facts attested to in  
12     this matter.

13           9.     Defendants Mayor Schaaf and the other identified Defendants listed below are current,  
14     and former public employees of the City of Oakland and additional Defendants who are affiliated with  
15     the subject matter organization of this complaint, Oakland Promise:

- 16           a.     Mayor Libby Schaaf; Ed Reiskin (City Administrator); Barbara Parker (City  
17                   Attorney); Courtney Ruby (City Auditor); City of Oakland, a Municipal  
18                   Corporation; and David Silver (Educational Director in the Office of the Mayor),  
19                   Represented by Selia Warren, Office of the City Attorney, One Frank Ogawa  
20                   Plaza, 6th Floor, Oakland, CA 94612.
- 21           b.     Rob Bonta (former 18th Assembly District Representative), represented By Sean  
22                   Clinton Woods, Esq., Department of Justice, 455 Golden Gate Ave., Suite 11000,  
23                   San Francisco, CA 94102.
- 24           c.     Sabrina Landreth (former City Administrator, City of Oakland), East Bay  
25                   Regional Park District, 2950 Peralta Oaks Court, Oakland, CA 94605. (Legal  
26                   representation unknown.)

27                                 COMPLAINT (with List of Exhibits)

- 1 d. Mialisa Bonta (former Chief Executive Officer, Oakland Promise), Representative  
2 for the 18<sup>th</sup> Assembly District, Elihu Harris State Building, 1515 Clay Street, Suite  
3 2204, Oakland, CA 94612. (Legal representation unknown.)  
4 e. Andy Fremder, East Bay College Fund, 300 Frank Ogawa Plaza, Suite 430,  
5 Oakland, CA 94612. (Legal representation unknown.)

#### 6 IV. STATEMENT OF FACTS

7 10. In order to understand the gravamen of Plaintiff's Complaint and the Cause of Action  
8 with respect to an organization's legal status as a 501(c)(3), it is necessary to examine the facial  
9 components of the regulatory and statutory requirements to affect compliance by Defendants under the  
10 law.

11 11. The law is clear: in order for an organization to receive donations for a project initiative  
12 or activity, the organization must comply with the Federal Statute 26 U.S.C. § 6033 (**Exhibit 5**) or  
13 operate under a fiscal sponsor (**Exhibits 12, 20**) which is a 501(c)(3).

14 12. With respect to a merger of two nonprofits, California Corporations Code 6010(a)  
15 requires a  
16 copy of the agreement, certificate ... by the surviving ... corporation in the  
17 state or place of its incorporation for the purpose of effecting the merger,  
18 which copy shall be certified by the public officer having official custody of the  
original.

19 13. A Municipal Charter is the basic document that defines the organizations, powers,  
20 functions and essential procedures of the city government. The Municipal Charter is the most important  
21 legal document of any city.

22 14. Form 990 is the primary tool of the IRS for gathering information about a tax-exempt  
23 organization. A significant portion requires information on how the organization is governed, and  
24 specifically requests the names of its officer, directors, highly compensated employees and other  
25 employees who are managing the organization.

26  
27  
28  

---

COMPLAINT (with List of Exhibits)

1           15.     The False Claims Act, also called the Lincoln Law, is an American federal law that  
2 imposes liability on persons and companies which defraud government programs. 31 U.S.C. §§ 3729-  
3 3733 allow private citizens to sue on behalf of the government against those who have defrauded the  
4 government (**Exhibit 20**); California Government Code § 12650(b)(3); California Government Code §  
5 12651(a). (**Exhibit 32**.)

6           16.     The California Fair Political Practices Commission ("FPPC"), in its "Public Officials and  
7 Employees Rules," establishes a code of conduct, ethical standards for public officials and employees to  
8 uphold the time-honored principles of public office being a public trust, granting incentives, and rewards  
9 for exemplary service, enumerating prohibited acts and transactions and providing penalties for  
10 violations thereof:

11                   Public service is a public trust, requiring officials and employees to place  
12 loyalty to the citizens, the laws, and ethical principles above private gain.  
13 Following ethical guidelines and eliminating any improprieties, or even the  
14 appearance of potential corruption, is imperative to safeguarding the public's  
trust in government. To help accomplish this goal, laws exist to aid public  
officials in avoiding conflicts between an official's public duties and the  
official's personal interests.

15                   Whether elected, appointed, or hired, good governance depends on officials  
16 and staff knowing, understanding, and following the duties and  
responsibilities of being a public servant as well as the relevant laws and  
requirements that govern it. (**Exhibit 36**.)

17  
18           17.     A municipal corporation is a legal term for a local governing body, including cities.

19           18.     The Attorney General is the protector of the public trust in the nonprofit sector. The  
20 Attorney General has a duty to ensure that the assets contributed to the charity are used in accordance  
21 with the purpose for which they were donated. The Attorney General is charged with safeguarding the  
22 public against fraudulent and deceptive charitable appeals. The Attorney General carries the primary  
23 oversight and enforcement responsibility. (**Exhibit 32**.)

24           19.     To facilitate, most states require charities that solicit funds in the state to register with the  
25 Secretary of State. (**Exhibit 6**.)

26  
27  
28                   COMPLAINT (with List of Exhibits)

1           20. Defendant Mayor Libby Schaaf's Oakland Promise Initiative (the "Initiative") was  
2 launched out of Schaaf's office in 2015 without a funding mechanism in place and without City Council  
3 approval.

4           21. Defendant Schaaf directed Defendant Sabrina Landreth, City Administrator, during the  
5 Mayor's summer recess, to prepare an Agenda Report to enter a Memorandum of Understanding  
6 ("MOU") with East Bay College Fund to Implement the Initiative. (Exhibit 10.)

7           22. A collaborative agreement was made between Defendant Schaaf's Office, East Bay  
8 College Fund (Defendant Andy Fremder), and Oakland Unified School District to use the name Oakland  
9 Promise.

10          23. The objective of the Initiative was "to ensure that every child in Oakland graduates from  
11 high school with the expectation, resources, and skills to complete college," however there was a  
12 collaborative agreement between Defendant Schaaf, East Bay College Fund, and Oakland Unified  
13 School District to use the name Oakland Promise for organizational purposes and for Defendant Schaaf's  
14 purposes only.

15          24. Defendant Schaaf's Oakland Promise had no independent source of funding to support  
16 the objectives of the Initiative, but had to rely on contributions largely from Defendant's collaborative  
17 partners.

18          25. To secure a more stable source of funding for Defendant Schaaf's Organization Oakland  
19 Promise, there were two possibilities: (1) Pursuant to 26 U.S.C. § 6033 (Exhibits 5, 11), organizations  
20 seeking exemptions for donors who may contribute to Oakland Promise that would be a 501(c)(3); or (2)  
21 identify a fiscal-sponsor organization whose mission objectives aligned with those of Oakland Promise.

22          26. Under a fiscal-sponsor organization which is a 501(c)(3), Oakland Promise would legally  
23 be able to receive tax-exempt donations. However, the donations/contributions would have to be given  
24 in the name of the **sponsorship** organization on behalf of Oakland Promise. The sponsored organization  
25  
26

1 is responsible for all legal obligations and bears all legal liabilities for the sponsoree organization.

2 **(Exhibit 12.)**

3 27. On October 13, 2016, the Oakland Public Education Fund, the fiscal sponsor for Oakland  
4 Promise **(Exhibit 13 at p. 11)**, did not include any organizations identified in the Mayor's Agenda  
5 Report of August 12, 2015. **(Exhibit 10.) (See also Exhibit 25, East Bay Today of June 1, 2016.)**

6 28. A special donation was made to the Oakland Public Education Fund on behalf of Oakland  
7 Promise, which is located in the office of the Mayor, to specifically create a position, Director of  
8 Education, as the Administrator for Oakland Promise. Defendant David Silver was initially an  
9 employee of the Oakland Public Education Fund, a position that has now become funded and made  
10 permanent through the city's general purpose fund. **(Exhibits 13 at p. 7; 14; 15 at p. 2.)**

11 29. Defendant Courtney Ruby, City Auditor, produced an Investigation Report of November  
12 19, 2019 in response to multiple whistleblower complaints regarding Oakland Promise and the  
13 organization's legal status as a nonprofit and the unauthorized use of City Hall services. This  
14 Investigation Report was woefully and intentionally obfuscating regarding Oakland Promise's legal  
15 status as a nonprofit, as well as the legal status of Oakland Promise's false claims of a merger with East  
16 Bay College Fund. In both false claims, Defendant Schaaf and Defendant Mialisa Bonta, Chief  
17 Executive Officer of Oakland Promise, have yet to provide any documentation that would support the  
18 Defendants' claims, which should include: (1) a Determination Letter from the IRS; and (2) a Certificate  
19 of Merger from the California Attorney General's Office, whose authorization is required for any  
20 nonprofit organizational mergers, pursuant to California Corporations Code § 6010(a). **(Exhibit 37.)**

21 30. For more than two years, Oakland Promise has been operating illegally inside of City  
22 Hall at the direction of Defendant Mayor Schaaf to Defendant Landreth, without the City Council's  
23 authorization, resulting in illegal expenditure From the city's general fund account/budget totaling in  
24 excess of \$4 million, with no consequences for this clear violation of city policy. **(Exhibit 13 at p. 2.)**

25  
26  
27  
28  

---

COMPLAINT (with List of Exhibits)

1           31.     The Hood & Strong Independent Auditor's Report of June 30, 2018 on the Oakland  
2 Public Education Fund (**Exhibit 17 at p. 15, note 11**) reveals the "Ed Fund" and Oakland Promise have  
3 entered into an "Exit-Project Transfer Agreement" dated July 1, 2019. This agreement requires the "Ed  
4 Fund" to assign, transfer, convey, grant and deliver to Oakland Promise any and all of the "Ed Fund's"  
5 rights, title and interest in the Project Assets.

6           32.     There is no legal proof that Defendant Schaaf or Defendant Mialisa Bonta, Chief  
7 Executive Officer for Oakland Promise since the Exit Project Transfer-Agreement with Defendants'  
8 previous sponsor Oakland Public Education Fund, are able to provide documentation of compliance  
9 pursuant to 26 U.S.C. § 6033 and California Corporations Code § 6010(a). (**Exhibit 37.**) California  
10 Government Code 12584 states: "The Attorney General shall establish and maintain a register of  
11 charitable corporations and to that end, may conduct whatever investigation is necessary." (**Exhibit 38.**)

12           33.     The record reveals that Defendant Mialisa Bonta fraudulently filed Form 990 for tax  
13 years 2017, 2018, and 2019, using Employer Identification Number ("EIN") 54-2103707 for East Bay  
14 College Fund (**Exhibits 18, 19**) while under the fiscal sponsorship of Oakland Public Education Fund  
15 (EIN 43-2014630). 26 U.S.C. § 7206 states [in part]: "Any person who (1) willfully makes and  
16 subscribes any return, statement, or other document, which contains or is verified by a written  
17 declaration that it is made under the penalties of perjury, and which he does not believe to be true and  
18 correct as to every material matter; or (2) willfully aids or assists in, or procures, counsels or advises the  
19 preparation or presentation under or in connection with any matter arising under, the internal revenue  
20 laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material  
21 matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or  
22 required to present such return affidavit claim or document...." "The fiscal sponsor is responsible ... for  
23 reporting income and expenditures in its own financial records (such as IRS Form 990). The sponsor is  
24 also responsible for serving as a fiduciary for contributions made to benefit the sponsored program....  
25 (**Exhibit 12.**)

1           34.     In addition to Form 990 being illegally filed by Defendant Mialisa Bonta for calendar  
2 year 2017 under EIN 54-2103707, Susan Stutzman (President of East Bay College Fund) similarly filed  
3 Form 990 under the same EIN for calendar year 2017 for East Bay College Fund. **(Exhibit 27.)**

4           35.     Plaintiff filed Form 13909 and Form 211 **(Exhibit 21)** pursuant to 31 U.S.C. § 3729,  
5 False Claims Act, also historically known as the "Lincoln Law," against Defendant Schaaf and  
6 Defendant Mialisa Bonta on April 30, 2020. **(Exhibit 22.)**

7           36.     Resolution 87485, which codified City Charter Amendment Measure AA, was passed by  
8 Defendant members of the Oakland City Council on December 14, 2018 and supported by Defendant  
9 Rob Bonta, then assembly member for the 18th District and an Advisory Committee member of Oakland  
10 Promise. The resolution codified Oakland Promise, a nongovernmental, private business interest, in  
11 section 1607 of the Oakland City Charter (see #13 above). These actions were in violation of rules of  
12 the FPPC (see paragraph # 16, above).

13           37.     The Charter of the City of Oakland was ratified by the Secretary of State of California  
14 and took effect on January 28, 1969, as amended through and including March 2020. **(Exhibit 2.)**

15           38.     The National League of Cities describes a Municipal Charter as  
16                   the basic document that defines the organization power functions and essential  
17                   procedures of the city government. It is comparable to the Constitution of the  
18                   United States or a state's constitution. The Charter is therefore the most  
19                   important legal document of any City. **(Exhibit 1.)**

20           39.     While Resolution 88208 and attached Resolution 87761 **(Exhibit 23)**, passed by  
21 Defendant members of the Oakland City Council on March 5, 2020, awarded \$1,500,000.00 to East Bay  
22 College Fund, the actual grantee is Defendant Mialisa Bonta, Chief Executive Officer for Oakland  
23 Promise **(Exhibit 24)**. Resolution 88208, however, substantiates that Oakland Promise is a  
24 nongovernmental, private business interest because the resolve on page 3 of the Resolution states:  
25 "(t)hat all grant agreements distributing funds to Oakland Promise shall include provisions to ensure  
26 that, a) the City of Oakland Is not liable for any losses over the duration of the investment account ...."  
27

28  
COMPLAINT (with List of Exhibits)

1 This disclaimer clearly identifies Oakland Promise as a nongovernmental, private business interest and  
2 must be removed from section 1600 of the Oakland City Charter.

3 40. The Attorney General is charged with safeguarding the public against fraudulent and  
4 deceptive and charitable appeals. (Exhibit 32; also see No. 18 above.)

5 ///

6 ///

7 ///

8 ///

9 ///

## 10 V. CAUSES OF ACTION

### 11 A. First Cause of Action—Defendants Have Failed to Comply with the Disclosure of the 12 Regulatory Requirement, Falsely Claiming that Oakland Promise is a 501(c)(3).

13 [28 U.S.C. §§ 6033 and 501 (against Defendants Schaaf and Mialisa Banta).]

14 41. Plaintiff incorporates by reference and realleges all of the allegations contained in the  
15 preceding paragraphs of this complaint as though fully set forth herein.

16 42. Defendants Schaaf and Mialisa Bonta failed to file the required application pursuant to 26  
17 U.S.C. §§ 6033 and 501 in order for the organization known as Oakland Promise to be approved to be  
18 issued a Determination Letter from the IRS establishing Oakland Promise's legal status as a 501(c)(3).

19 43. Defendants Schaaf and Mialisa Banta are subject to the Internal Revenue Manual  
20 ("IRM") 9.4.1.2, Investigation Initiation. Treasury Order 150-10 delegates authority to administer and  
21 enforce the IRS laws to the Commissioner of the IRS.

22 44. Only the information necessary for the enforcement and administration of the tax laws  
23 which the IRS is authorized and directed to enforce will be sought.

24 45. Defendants Schaaf and Mialisa Bonta are subject to the provisions of IRM § 9.4.1.4.2  
25 (9/26/2018), initiating a general investigation, because said Defendants failed to comply with the  
26

27 COMPLAINT (with List of Exhibits)  
28



1 required legal IRS application process pursuant to 26 U.S.C. §§ 6033 and 501 and must provide  
2 verification documents affirming Oakland Promise's legal status as a 501(c)(3).

3 **B. Second Cause of Action—Defendants Have Made Materially False and Fictitious**  
4 **Representations of Oakland Promise's Legal Status as a 501(c)(3).**  
5 **[18 U.S.C. § 1001 (against Defendants Schaaf and Mialisa Banta).]**

6 46. Plaintiff incorporates by reference and realleges all of the allegations contained in the  
7 preceding paragraphs of this complaint as though fully set forth herein.

8 47. Defendants Schaaf and Mialisa Bonta knowingly and willfully falsified documents to  
9 federal, state, and local agencies claiming that the organization known as Oakland Promise has a legal  
10 status as a 501(c)(3) without supporting documents affirming this claim, which is a clear violation of the  
11 law. (Exhibit 5.)

12 **C. Third Cause of Action—Defendants Have Filed Fraudulent Returns with the IRS**  
13 **[26 U.S.C. §§ 7206, 7207 (against Defendants Mialisa Bonta and Andy Fremder).]**

14 48. Plaintiff incorporates by reference and realleges all of the allegations contained in the  
15 preceding paragraphs of this complaint as though fully set forth herein.

16 49. Defendant Mialisa Bonta knowingly and willfully filed fraudulent Form 990 for the tax  
17 calendar year 2017 under the same EIN (54-2103707) as a similar filing of Form 990 by Susan  
18 Stutzman. (Exhibits 18, 27.) Stutzman's filing was on November 15, 2018, while Defendant Mialisa  
19 Bonta's Form 990 was filed on October 18, 2019. Each of these filings were done with the knowledge  
20 of Defendant Andy Fremder.

21 50. Additionally, Defendant Mialisa Bonta knowingly and willfully filed Form 990 for  
22 Calendar year 2019 (filing date July 15, 2020) under the same EIN (Exhibit 19), with the full  
23 knowledge of Defendant Fremder.

1           51. Defendant Mialisa Bonta is the CEO for Oakland Promise, yet falsely filed a Form 990  
2 filing under a different organization, the East Bay College Fund. Ms. Bonta's action is both deceptive  
3 and confusing, and is a clear violation of 26 U.S.C. § 7206 (see Paragraph # 33, above).

4           52. 26 U.S.C. § 7207, states:

5                   Any person who willfully delivers or discloses to the Secretary any list, return  
6                   account, statement or other document known by him to be fraudulent or to be  
7                   false as to any material fact shall be fined not more than \$10,000 or  
8                   imprisoned not more than one year or both.

9           **D. Fourth Cause of Action—Defendants Have Made False Claims In Order to Receive Funds**  
10           **under Resolution 88208.**

11           **[California Government Code 12650 (against Defendant Mialisa Bonta).]**

12           53. Plaintiff incorporates by reference and realleges all of the allegations contained in the  
13 preceding paragraphs of this complaint as though fully set forth herein.

14           54. Defendant Mialisa Bonta filed fraudulent documents with the California Secretary of  
15 State for the purpose of securing a false business registration affidavit C2504888 (Exhibit 9). As a  
16 result, Plaintiff filed a complaint with the California Secretary of State on February 11, 2020, requesting  
17 that the Secretary revoke Defendant's Registration because it does not belong to Oakland Promise.

18           55. The corporate number is used by limited liability companies ("LLC"), which Oakland  
19 Promise is not. The number is issued upon approval of a corporation and LLC and articles of  
20 incorporation, which Oakland Promise does not possess. (Exhibit 28.) The ruling year associated with  
21 C2504888 is 2003.

22           **E. Fifth Cause of Action—Defendants Have Failed to Provide the Application which was**  
23           **Submitted to the IRS for Consideration for a Determination Letter.**

24           **[26 U.S.C. § 6104 (against Defendants Schaaf, Mialisa Bonta, Members of the Oakland City**  
25           **Council, Barbara Parker, and Ed Reiskin).]**

26  
27  
28                                   COMPLAINT (with List of Exhibits)

56. Plaintiff incorporates by reference and realleges all of the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

57. Plaintiff has made innumerable written requests to Defendants listed above to provide documents as required by law which affirmed the legal status of Oakland Promise as a 501(c)(3). Defendants have ignored Plaintiff's requests made pursuant to 26 U.S.C. § 6104 (**Exhibit 29**), which states:

**Inspection of application for tax-exemption or notice of status 1) Publication**  
**Inspection (a) Organization described in section 501 or 527, If an organization**  
**described in section 501(c)(3) or (d) is exempt from taxation under 501(a) for**  
**any taxable ... the application filed by the organization with respect to which**  
**the Secretary made his determination that such organization was entitled to**  
**exemption under 501(a) or notice of status filed by the organization under**  
**527(i), together with any such application or notice, shall be provided to the**  
**public.**

58. Defendants have rebuffed all requests to provide required legal documents required by law; additionally, the failure of the jurisdictional authorities to demand that Defendants provide the legal documents has also been problematic. (Exhibits 7, 8, 26, 30.)

**F. Sixth Cause of Action—California Constitution Article XI, Section 3 (against Defendants Schaaf, Mialisa Bonta, Rob Bonta, Parker, David Silver, Members of the Oakland City Council, Sabrina Landreth, Fremder, and Courtney Ruby).**

59. Plaintiff incorporates by reference and realleges all of the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

60. On December 14, 2018, Defendant Members of the Oakland City Council passed Resolution 87485 (**Exhibit 4**), codifying the November 6, 2018 Ballot Measure AA, a \$198 parcel tax and a Charter Amendment (**Exhibit 3**). Resolution 87485 received the endorsement of former 18th District Assembly Member and a advisory committee member of Oakland Promise Rob Bonta; Mr. Bonta's wife Mialisa Bonta, who became the Chief Executive Officer of Oakland Promise; and David Silver, the Educational Director in Defendant Schaaf's office (the result of a special grant while Silver

**COMPLAINT (with List of Exhibits)**

1 was still an employee of the Oakland Public Education Fund and who administered the operation of  
2 Oakland Promise).

3 61. The fundamental aspect of charter cities (**Exhibit 1**) clearly establishes that "Home rule  
4 provision of the California Constitution authorizes a charter city to exercise plenary authority over  
5 municipal affairs." Oakland Promise is a nongovernmental, non-municipal affair and a private business  
6 Interest. (**Exhibit 3.**)

7 62. City Charters are expressly for municipal affairs only. The National League of Cities  
8 states: "A Municipal Charter is the basic document that defines the organization, powers functions and  
9 essential procedures of the city government.... The Charter is therefore the most important legal  
10 document of any city." (**Exhibit 31.**)

11 63. The City of Oakland's Charter was adopted by the people of Oakland on November 5,  
12 1968 and ratified by the Secretary of State on January 28, 1969, as amended through and including  
13 March, 2020.

14 64. On March 5, 2018, Defendant Schaaf sent Defendant Sabrina Landreth to appeal to  
15 Defendant Members of the Oakland City Council to adopt a Resolution "on City Council's own motion  
16 submitting to the November 6, 2018 statewide election A proposed ordinance to adopt a Special Parcel  
17 Tax..." (**Exhibit 33**), which was rejected by Defendant Members of the Oakland City Council.

18 65. Defendant Schaaf was one of six mayors across the country invited to attend By All  
19 Means—Redesigning Education to Restore Opportunities, at the Graduate School of Education at  
20 Harvard in February of 2016. (**See Exhibits 34-35.**)

21 66. Defendant Schaaf pitched her parcel tax and Charter Amendment idea for Oakland  
22 Promise for a sustained funding source two years before the November 6, 2018 general election in the  
23 City of Oakland. The Charter Amendment ballot measure was known as AA. (**Exhibit 3.**)

24 67. The video/transcript of Defendant Schaaf's comments reveal:

25 The Oakland Promise [43:36] is our kind of cradle to career initiative where  
26 again, we want to have certain innovations.... [48:25] Now, as we go for our  
sustainability model we are doing two things and again we've spent money on

---

27 COMPLAINT (with List of Exhibits)  
28

an expert to figure this out. We believe that we can raise in the next couple of years a quasi-endowment of 50 million dollars. We think that that wealth exists within the Bay Area, and that as the Mayor, I have committed myself to raise 50 million dollars quasi-endowment. Quasi means it will earn interest and the way we've designed the spend on it is the spend is weighted towards the late years but it is designed to be spent entirely down within 30 years, but that buys 30 years, oh my gosh. Then the second piece is to get our residents to pass a tax, yes Oaklanders, they're smart. They get why investing in kids is a worthwhile investment and so we are gonna be asking them next November to potentially put, again this is still in development it's a little secretive, I know we're live streaming. Well we call that a fee, okay? Like around \$190 per parcel and that would produce \$30 million a year, with that money in partnership with a coordinated sales tax increase that our county government is looking at, we can then fund affordable access to quality pre-school for every four-year-old in our city and possibly three-year-olds. It all depends how it all works out. As well as have a dedicated funding source for the Oakland Promise cradle to career supports so that combination, quasi-endowment.

68. The elephant in the room, Oakland Promise, is a nongovernmental, non-municipal affair (see Exhibit 31, California Government Code, Article XI, § 3, Local Government). It is a violation to codify a private business interest in 1607 of Oakland's City Charter.

///

///

///

**G. Seventh Cause of Action—There Is a Clear Conflict of Interest among Former CEO Mialisa Bonta and former 18<sup>th</sup> Assembly District Representative Rob Bonta, who is the husband of Mialisa and who is a member of the Oakland Promise Advisory Committee and Used his Influence on the City Council when It Approved Resolution 87485.**  
**[California Government Code 1090 (against Defendants Rob Bonta, Mialisa Bonta, Fremder, Reiskin, Parker, Schaaf, and Members of the Oakland City Council).]**

69. Plaintiff incorporates by reference and realleges all of the allegations contained in the preceding paragraphs of this complaint as though fully set forth herein.

70. Defendant Rob Bonta lent his support and influence (as a result of both his legislative position and being a member of the Oakland Promise advisory committee) to Defendant City Council's

---

COMPLAINT (with List of Exhibits)

1 approval of Resolution 87485 on December 14, 2018, which codified Ballot Measure AA (**Exhibits 3-**  
2 **4**), a \$198 parcel tax and Charter Amendment Section 1607 appearing on the November 6, 2018 general  
3 election ballot. Additionally, both Defendants Parker and Reiskin had to authorize this proposed  
4 Resolution 87485 appearing on the agenda at a special City Council meeting on December 14, 2018 for  
5 the council's consideration for approval.

6 71. This egregious conduct by the Defendants (**see Exhibit 35, Video/Transcript 48:25,**  
7 **49:10, 49:32, and 49:44**) illegally provided a sustained funding source for 30 years, where the wife of  
8 Defendant Rob Banta, Mialisa Bonta, the Chief Executive Officer for Oakland Promise, would  
9 personally benefit. (**See Exhibit 3.**)

10 72. Defendant Members of the Oakland City Council's approval of Resolution 88208 (which  
11 included Resolution 88761 within it) on March 5, 2020 (**Exhibits 23-24**) is another example of what  
12 appears to be malfeasance by awarding a non-competitive grant of \$1,150,000.00 to Oakland Promise.

13 73. Resolution 88208/88761 clearly identifies East Bay College Fund (EIN 54-2103707) as  
14 the stated grantee being the recipient of the \$1,150,000.00 from the resolution, but the Contract Grant  
15 Agreement/Schedule T/Item #6 identifies Mia Banta as the Consultant/Contractor. Although an  
16 organization known as Oakland Promise is referenced as a California non-profit public-benefit  
17 corporation, Defendants have yet to provide evidence (as required by C.C.P. § 452) to prove Oakland  
18 Promise's legal status as a California non-profit public-benefit corporation. Former California Attorney  
19 General Xavier Becerra has stated (**Exhibit 7**) that Oakland Promise has never filed an application (as  
20 required by 26 U.S.C. §§ 501-26, 6033) of being a non-profit. Similarly, Defendant Parker, in her legal  
21 opinion of March 3, 2020, expressed the same material fact. (**Exhibit 8.**)

22 74. The aggregate amount of the \$1,150,000.00 from the city's general-fund account  
23 appeared in each successive fiscal year budget cycle for 2016-2017, 2017-2018, and 2018-2019 (for  
24 \$500,000 each year), although the money was never awarded as stated in the Resolution. Plaintiff  
25 suggests that the reason the funds were never allocated is because Oakland Promise was under a fiscal  
26

27  
28  
COMPLAINT (with List of Exhibits)

1 sponsor, Oakland Public Education Fund, and the expenditure of those funds would have had to go  
2 directly to Oakland Public Education Fund (EIN 43-2014630), who would be legally responsible. It was  
3 only in the Exit Project Transfer Agreement (Exhibit 17 at p. 15) that Oakland Promise began to  
4 promulgate that it was a non-profit and that it had merged with East Bay College Fund clearly out of  
5 compliance with the provisions of 26 U.S.C. § 501 and California Corporations Code 6010(a). Code  
6 6010(a) establishes an organizations merger and once approved by the Attorney General the issuance of  
7 a certificate of merger, and states: "A public benefit corporation may merge with any domestic  
8 corporation. However, without the prior consent of the Attorney General, a public benefit corporation  
9 may only merge with another public benefit corporation...."

10 75. Finally, Resolution 88208/88761 clearly establishes that Oakland Promise is  
11 nongovernmental and is not a municipal affair, but rather a private business interest as noted in the  
12 "whereas" on page 2 of the Resolution: "WHEREAS, the City Council wishes to require that all grant  
13 agreements distributing funds to Oakland Promise include provisions ensuring that the City of Oakland  
14 is not liable for any losses over the duration of the investment account." This disclaimer is proof  
15 positive that Oakland Promise is a nongovernmental, non-municipal affair and a private business  
16 interest, and as such cannot be codified in 1607 in Oakland's City Charter, pursuant to California  
17 Government Code, Article XI, section 3, local government. (Exhibit 31.)

18 **H. Eighth Cause of Action—Defendants Have Consistently and Egregiously Obfuscated by**  
19 **not Providing Documentation Required by 26 U.S.C. § 501 which would Support their**  
20 **Claim that Oakland Promise is a 501(c)(3), nor have they Provided any Documentation**  
21 **Pursuant to Corporations Code 6010(a) which would Support their Claim that Oakland**  
22 **Promise Merged with East Bay College Fund by Providing Evidence of the Certificate of**  
23 **Merger.**

24 [C.C.P. §§ 526(a) and 1085 (against Defendants Schaaf, Mialisa Bonta, Parker, Reiskin,  
25 Ruby, Fremder, and Members of the Oakland City Council).]

1           76. Plaintiff incorporates by reference and realleges all of the allegations contained in the  
2 preceding paragraphs of this complaint as though fully set forth herein.

3           77. Plaintiff has provided uncontroverted compelling material facts regarding Defendants'  
4 failure to provide both evidence (C.C.P. § 452) pursuant to 26 U.S.C. §§ 501, 526 and 6033 and  
5 California Corporations Code 6010(a).

6           78. Because the authorized legal agencies have failed to compel the Defendants to provide  
7 the legal documentation required attesting to the legal status of Oakland Promise's claims of being a tax-  
8 exempt entity pursuant to 26 U.S.C. § 6104, the Court is therefore obligated to intervene.

9           79. Defendant Mialisa Bonta has filed false and fraudulent Form 990's for fiscal calendar  
10 years 2017 and 2019 (**Exhibits 18-19**) using EIN 54-2103707. This EIN belongs to East Bay College  
11 Fund, a nonprofit LLC incorporated in 2003.

12           80. Defendant Members of the Oakland City Council illegally approved Resolution 87485 on  
13 December 14, 2018. This item was authorized to appear on the city council agenda by Defendants  
14 Parker and Landreth. Defendant Landreth also authorized the illegal use of City Hall services for more  
15 than two years, totaling more than \$4,000,000.00 from the City's general fund account with no  
16 consequences or demand that these funds be restored to the City's general fund account. (**Exhibit 13.**)

17           81. Oakland Promise is a key component of Ballot Measure AA, which was voted on in the  
18 November 6, 2018 election, requiring a \$198 parcel tax and a Charter Amendment. Oakland Promise is  
19 a nongovernmental, non-municipal affair (see **Exhibit 31, California Government Code, Article XI, §**  
20 **3**) and a private business interest, and must be removed from the charter.

21           82. Defendant Schaaf participated in By All Means—Redesigning Education to Restore  
22 Opportunities, at the Graduate School of Education at Harvard, along with five other city mayors across  
23 the country in February of 2016. This initiative meeting reveals Defendant Schaaf's intent to introduce a  
24 measure for the November 6, 2018 ballot in order to secure a sustained source of funding for Oakland  
25 Promise for 30 years:

26  
27  
28  

---

COMPLAINT (with List of Exhibits)



To prioritize long-term sustainable funding, the Oakland Promise has to remain viable for decades in order to pay off for all students... After raising more than \$50 million at the start, Mayor Schaaf is exploring the possibility of sustained public funding that would create a stream of revenue for the next 30 years.... (See Exhibits 34-35.)

## VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. That the Court enjoin Defendants to provide full disclosure of the legal non-profit status of Oakland Promise pursuant to 26 U.S.C. §§ 501 and 6104.
2. That the Court direct Defendant Schaaf to refund the city's general fund account the \$4,000,000.00 that of City Hall resources that Oakland Promise illegally used that are identified in Defendant Ruby's Investigation Report of November 19, 2019. (Exhibit 13.)
3. That the Court direct Defendants Schaaf and Mialisa Bonta to restore the \$1,150,000.00 plus that was granted to Oakland Promise illegally as a result of Defendant Members of the Oakland City Council approving Resolution 88208/88761. (Exhibits 23-24.)
4. That the Court direct Defendant Members of the Oakland City Council to remove Section 1600 of the Oakland City Charter and particularly Section 1607 (the Oakland Promise fund) that was illegally codified in the City Charter as a result of the Defendant Members of the Oakland City Council approving Resolution 87485 on December 14, 2018.
5. That the Court direct the California Secretary of State to revoke the false business registration (C2504888) that is assigned to Oakland Promise.
6. That Defendant Mialisa Bonta be punished to the full extent of the law for filing false Form 990's. (Exhibits 18-19.)
7. That the Court impose all civil and criminal penalties against Defendant Schaaf and Defendant Mialisa Bonta pursuant to 18 U.S.C. § 1028.
8. For such other relief as the Court finds just and proper.

DATED: 5/16/22, 2022      Respectfully submitted,

COMPLAINT (with List of Exhibits)

Filed 5/16/22

Gene Hazzard  
Plaintiff, *In Pro Per*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

COMPLAINT (with List of Exhibits)

**List of Exhibits**

1. "Cities 101 – Charters," from the National League of Cities.
2. The Charter of the City of Oakland (established January 28, 1969).
3. City of Oakland Measure AA, on the ballot on November 6, 2018.
4. Oakland City Council Resolution 87485 C.M.S., approved on December 14, 2018.
5. 26 U.S.C. § 6033 (Returns by exempt organizations).
6. Certificate of Merger filing form from the California Secretary of State.
7. Letter of September 7, 2019 from Attorney General Xavier Becerra to Plaintiff re:  
Oakland Promise "never filed any documentation indicating the organization is a 501(c)(3)."
8. Legal opinion of March 3, 2020 from Oakland City Attorney Barbara Parker re: Oakland  
Promise legal status as a non-profit [see page 9, exhibit A, last bullet point]: "Prior to 2019, Oakland  
Promise was not incorporated as a non-profit corporation."
9. Letter of February 11, 2020 from Plaintiff to the California Secretary of State re:  
revocation of Oakland Promise business registration [# C2504888].
10. Agenda report (MOU) of August 11, 2015 from Mayor Libby Schaaf to City  
Administrator Sabrina Landreth.
11. IRS exemption requirements for 501(c)(3) organizations.
12. Article re: fiscal sponsorship additional resources, from the National Council of  
Nonprofits.
13. Investigation report of November 19, 2019 by City Auditor Courtney Ruby re: Oakland  
Promise.
14. Article of May 29, 2019 from eastbaytimes.com: "Oakland Promise College Scholarship  
Program Moves to Nonprofit."

---

COMPLAINT (with List of Exhibits)

- 1           15.     Oakland City Council Finance & Management Committee meeting of September 27,  
2 2016: Agenda Item 5, granting funds to Mayor Libby Schaaf for an educational director for Oakland  
3 Promise.
- 4           16.     Oakland Promise, a statement of partnership.
- 5           17.     Hood & Strong LLP Independent Audit Report of June 30, 2018 on the Oakland Public  
6 Education Fund re: exit project transfer agreement with Oakland Promise of July 1, 2019 [see page 15,  
7 note 11 of report].
- 8           18.     IRS Form 990 from 2017 showing Employer Identification Number #54-2103707 for  
9 East Bay College Fund, filed by Mialisa Bonta on August 18, 2019.
- 10          19.     IRS Form 990 from 2019 showing Employer Identification Number #54-2103707 for  
11 East Bay College Fund, filed by Mialisa Bonta on July 15, 2020.
- 12          20.     Article re: fiscal sponsorship and management, from oaklandpubliceducationfund.org.
- 13          21.     Plaintiff's whistleblower complaint filed on April 30, 2020 with the IRS against Oakland  
14 Promise.
- 15          22.     A guide to the federal False Claims Act, 31 U.S.C. § 3729, from the Whistleblower Law  
16 Collaborative.
- 17          23.     Oakland City Council Resolution 88208 C.M.S., passed on March 5, 2020: grant  
18 agreement for \$1,150,000 to East Bay College Fund, doing business as Oakland Promise.
- 19          24.     Contract summary transmittal excerpt from Resolutions 87761 and 88208, passed by the  
20 Oakland City Council on March 5, 2020, re: contractor Mialisa Bonta.
- 21          25.     Article of June 1, 2016 from the East Bay Today re: The Oakland Promise.
- 22          26.     Letter of March 9, 2020 from Plaintiff to California Attorney General Xavier Becerra re:  
23 Oakland Promise "cease and desist."
- 24          27.     IRS Form 990 from 2017 showing Employer Identification Number #54-2103707 for  
25 East Bay College Fund, filed by Susan Stutzman on November 15, 2018.
- 26
- 27
- 28

---

COMPLAINT (with List of Exhibits)

- 1           28.     Article of September 4, 2020 by Simone Johnson of Business News Daily: "What's the  
2 difference between a tax [ID] number and a corporate number?"
- 3           29.     26 U.S.C. § 6104: publicity of information required from certain exempt organizations  
4 and certain trusts.
- 5           30.     Letters of December 18, 2019 and January 17, 2020 from Plaintiff to the Alameda  
6 County District Attorney re: legal status of Oakland Promise.
- 7           31.     California Government Code, Article XI, §§ 2(a), 5(a), 3, local government.
- 8           32.     California Government Code, Article IX, §§ 12650(a), 12651(a)(1), false claims actions.
- 9           33.     Agenda report of April 5, 2018 from Mayor Libby Schaaf to Sabrina Landreth, City  
10 Administrator re: Oakland Children's Initiative 2018.
- 11          34.     Usable knowledge "A City Aims for College for All," by Leah Shafer, posted May 11,  
12 2018.
- 13          35.     Video/transcript from "By All Means—Redesigning Education to Restore Opportunities"  
14 in February of 2016 at the Harvard Graduate School of Education [**excerpt of Defendant Mayor**  
15 **Schaaf's participation and comments regarding Oakland Promise**].
- 16          36.     Excerpt from "Public Officials and Employees Rules" for The California Fair Political  
17 Practices Commission.
- 18          37.     California Corporations Code § 6010(a).
- 19          38.     California Government Code § 12584.
- 20
- 21
- 22
- 23
- 24
- 25
- 26

27  
28  

---

COMPLAINT (with List of Exhibits)

## VIL COVER SHEET

### I. (a) PLAINTIFFS

Gene Hazzard

(b) County of Residence of First Listed Plaintiff Alameda  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

### DEFENDANTS

Mayor Libby Schaaf

County of Residence of First Listed Defendant Alameda  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Selia Warren

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                                   | DEF                                   |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5            | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

- |  |  |   |  |  |   |
|--|--|---|--|--|---|
| <input type="checkbox"/> 110 Insurance   | <input type="checkbox"/> 310 Airplane                              | <input type="checkbox"/> 365 Personal Injury - Product Liability                          | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 | <input type="checkbox"/> 422 Appeal 28 USC § 158                   | <input type="checkbox"/> 775 False Claims Act   |
| <input type="checkbox"/> 120 Marine  | <input type="checkbox"/> 315 Airplane Product Liability            | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 690 Other   | <input type="checkbox"/> 423 Withdrawal 28 USC § 157               | <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a))                                       |
| <input type="checkbox"/> 130 Miller Act  | <input type="checkbox"/> 320 Assault, Libel & Slander              | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability                   | <input type="checkbox"/> 710 Fair Labor Standards Act                      | <input type="checkbox"/> 400 State Reapportionment                 | <input type="checkbox"/> 410 Antitrust  |
| <input type="checkbox"/> 140 Negotiable Instrument                                   | <input type="checkbox"/> 330 Federal Employers' Liability          | <input type="checkbox"/> 370 Other Fraud  | <input type="checkbox"/> 720 Labor/Management Relations                    | <input type="checkbox"/> 450 Banks and Banking                     | <input type="checkbox"/> 450 Commerce   |
| <input type="checkbox"/> 150 Recovery of Overpayment Of, Veteran's Benefits          | <input type="checkbox"/> 340 Marine                                | <input type="checkbox"/> 371 Truth in Lending   | <input type="checkbox"/> 740 Railway Labor Act                             | <input type="checkbox"/> 460 Deportation                           | <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations                     |
| <input type="checkbox"/> 151 Medicare Act  | <input type="checkbox"/> 345 Marine Product Liability              | <input type="checkbox"/> 380 Other Personal Property Damage                               | <input type="checkbox"/> 751 Family and Medical Leave Act                  | <input type="checkbox"/> 480 Consumer Credit                       | <input type="checkbox"/> 485 Telephone Consumer Protection Act                                |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 350 Motor Vehicle                         | <input type="checkbox"/> 385 Property Damage Product Liability                            | <input type="checkbox"/> 790 Other Labor Litigation                        | <input type="checkbox"/> 490 Cable/Sat. TV                         | <input type="checkbox"/> 490 Securities/Commodities/Exchange                                  |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits           | <input type="checkbox"/> 355 Motor Vehicle Product Liability       |   | <input type="checkbox"/> 791 Employee Retirement Income Security Act       | <input type="checkbox"/> 490 Other Statutory Actions               | <input type="checkbox"/> 491 Agricultural Acts  |
| <input type="checkbox"/> 160 Stockholders' Suits                                     | <input type="checkbox"/> 360 Other Personal Injury                 |   | <input type="checkbox"/> 462 Naturalization Application                    | <input type="checkbox"/> 493 Environmental Matters                 | <input type="checkbox"/> 495 Freedom of Information Act                                       |
| <input type="checkbox"/> 190 Other Contract  | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice |   | <input type="checkbox"/> 465 Other Immigration Actions                     | <input type="checkbox"/> 496 Arbitration                           | <input type="checkbox"/> 499 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 195 Contract Product Liability                              | <input type="checkbox"/> 440 Other Civil Rights                    | <input type="checkbox"/> 463 Alien Detainees  |  | <input type="checkbox"/> 499 Constitutionalality of State Statutes |   |
| <input type="checkbox"/> 196 Franchise   | <input type="checkbox"/> 441 Voting                                | <input type="checkbox"/> 510 Motions to Vacate Sentence                                   |  |  |   |
| <input type="checkbox"/> 210 Land Condemnation                                       | <input type="checkbox"/> 442 Employment                            | <input type="checkbox"/> 530 General  |  |  |   |
| <input type="checkbox"/> 220 Foreclosure   | <input type="checkbox"/> 443 Housing/Accommodations                | <input type="checkbox"/> 535 Death Penalty  |  |  |   |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                                  | <input type="checkbox"/> 445 Amer. w/Disabilities-Employment       | <input type="checkbox"/> 540 Mandamus & Other   |  |  |   |
| <input type="checkbox"/> 240 Torts to Land   | <input type="checkbox"/> 446 Amer. w/Disabilities-Other            | <input type="checkbox"/> 550 Civil Rights   |  |  |   |
| <input type="checkbox"/> 245 Tort Product Liability                                  | <input type="checkbox"/> 448 Education                             | <input type="checkbox"/> 555 Prison Condition   |  |  |   |
| <input type="checkbox"/> 290 All Other Real Property                                 |  | <input type="checkbox"/> 560 Civil Detainees-Conditions of Confinement                    |  |  |   |

### V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation-Direct File

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

### VIII. RELATED CASE(S), IF ANY (See Instructions):

JUDGE

DOCKET NUMBER

### IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

Place an "X" in One Box Only

☒ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

☐ EUREKA-MCKINLEYVILLE

SIGNATURE OF ATTORNEY OF RECORD

ADRMOP,ProSe

**U.S. District Court  
California Northern District (Oakland)  
CIVIL DOCKET FOR CASE #: 4:22-cv-02921-JSW**

Hazzard v. Schaaf et al  
Assigned to: Judge Jeffrey S. White  
Cause: 28:1331 Fed. Question

Date Filed: 05/17/2022  
Jury Demand: None  
Nature of Suit: 890 Other Statutory Actions  
Jurisdiction: Federal Question

**Plaintiff****Gene Hazzard**

represented by **Gene Hazzard**  
282 Adams Street, #6  
Oakland, CA 94610-4147  
510-418-0501  
PRO SE

V.

**Defendant****Mayor Libby Schaaf**

represented by **Selia Monique Warren**  
Office of the City Attorney City of  
Oakland  
1 Frank H. Ogawa Plaza 6th Floor  
Oakland, CA 94612  
510-238-6524  
Fax: 510-238-6500  
Email: SWarren@oaklandcityattorney.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**City Of Oakland**  
*a municipal corporation*

represented by **Selia Monique Warren**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Mialisa Bonta**  
*former CEO of Oakland Promise*

**Defendant****David Silver**

represented by **Selia Monique Warren**

*Educational Director in Mayor Schaaf's  
Office*

(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Barbara Parker**  
*City Attorney*

represented by **Selia Monique Warren**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Courtney Ruby**  
*City Auditor*

represented by **Selia Monique Warren**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Ed Reiskin**  
*City Administrator*

represented by **Selia Monique Warren**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Andy Fremder**  
*co-founder of East Bay College Fund*

**Defendant**

**Rob Bonta**  
*former 18th Assembly District  
Representative*

**Defendant**

**Sabrina Landreth**  
*former City Administrator*

Date Filed	#	Docket Text
05/17/2022	<u>1</u>	COMPLAINT against Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver (Filing fee \$ 402, 44611017483). Filed by Gene Hazzard. Consent/Declination due by 5/31/2022. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Receipt)(kkp, COURT STAFF) (Filed on 5/17/2022) (Entered: 05/18/2022)
05/17/2022	<u>2</u>	Summons Issued as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 5/17/2022) (Entered: 05/18/2022)



05/17/2022	<u>3</u>	<p><b>Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 8/10/2022. Initial Case Management Conference set for 8/17/2022 01:30 PM in Oakland, Courtroom 4, 3rd Floor. (kkp, COURT STAFF) (Filed on 5/17/2022)</b></p> <hr/> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p><b>(Entered: 05/18/2022)</b></p>
06/02/2022	<u>4</u>	<p>CLERK'S NOTICE TO PLAINTIFF Re: Consent or Declination: Plaintiff shall file a consent or declination to proceed before a magistrate judge. Note that any party is free to withhold consent to proceed before a magistrate judge without adverse substantive consequences. The forms are available at: <a href="http://cand.uscourts.gov/civilforms">http://cand.uscourts.gov/civilforms</a>. Consent/Declination due by 6/16/2022. (ig, COURT STAFF) (Filed on 6/2/2022)</p> <hr/> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p><b>(Entered: 06/02/2022)</b></p>
06/02/2022	<u>5</u>	<p>Summons Returned Unexecuted by Gene Hazzard as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 6/2/2022) (Entered: 06/02/2022)</p>
06/02/2022	<u>6</u>	<p>Summons Issued as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 6/2/2022) (Entered: 06/02/2022)</p>
06/07/2022	<u>7</u>	<p>CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Gene Hazzard. (kkp, COURT STAFF) (Filed on 6/7/2022) (Entered: 06/09/2022)</p>
06/23/2022	<u>8</u>	<p>MOTION to Dismiss filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. Motion Hearing set for 8/11/2022 01:00 PM in Oakland, Courtroom 4, 3rd Floor before Magistrate Judge Donna M. Ryu. Responses due by 7/7/2022. Replies due by 7/14/2022. (Attachments: # <u>1</u> Request for Judicial Notice, # <u>2</u> Proposed Order)(Warren, Selia) (Filed on 6/23/2022) (Entered: 06/23/2022)</p>
06/23/2022	<u>9</u>	<p>CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver.. (Warren, Selia) (Filed on 6/23/2022) (Entered: 06/23/2022)</p>
07/07/2022	<u>10</u>	<p><b>ORDER re: <u>8</u> Motion to Dismiss. Response due by 7/14/2022. Signed by Magistrate Judge Donna M. Ryu on 7/7/2022. (dmrlc2, COURT STAFF) (Filed on 7/7/2022)</b></p> <hr/> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p><b>(Entered: 07/07/2022)</b></p>
07/07/2022	<u>11</u>	<p>OPPOSITION/RESPONSE (re <u>8</u> MOTION to Dismiss ) filed by Gene Hazzard. (jml, COURT STAFF) (Filed on 7/7/2022) (Entered: 07/07/2022)</p>
07/08/2022	<u>12</u>	<p>MOTION for Reconsideration re <u>10</u> Order, filed by Gene Hazzard. (jml, COURT</p>

		STAFF) (Filed on 7/8/2022) (Entered: 07/08/2022)
07/14/2022	<u>13</u>	REPLY (re <u>8</u> MOTION to Dismiss ) <i>Reply In Support of Motion to Dismiss by City Defendants City of Oakland, Libby Schaaf, David Silver, Barbara J. Parker, Courtney Ruby and Ed Reiskin</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Warren, Selia) (Filed on 7/14/2022) (Entered: 07/14/2022)
07/14/2022	<u>14</u>	Declaration of Selia M. Warren in Support of <u>10</u> Order, <i>Declaration of Selia M. Warren Re Order Re Motion to Dismiss (D.N. 10 July 7, 2022)</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Related document(s) <u>10</u> ) (Warren, Selia) (Filed on 7/14/2022) (Entered: 07/14/2022)
07/15/2022	<u>15</u>	<p><b>ORDER REASSIGNING CASE and denying <u>12</u> Motion for Reconsideration as moot. Signed by Magistrate Judge Donna M. Ryu on 7/15/2022. (dmrlc2, COURT STAFF) (Filed on 7/15/2022)</b></p> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p><b>(Entered: 07/15/2022)</b></p>
07/15/2022	<u>16</u>	<p><b>ORDER REASSIGNING CASE. Case reassigned using a proportionate, random, and blind system pursuant to General Order No. 44 to Judge Jeffrey S. White for all further proceedings. Magistrate Judge Donna M. Ryu no longer assigned to case. Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and <a href="http://cand.uscourts.gov/cameras">http://cand.uscourts.gov/cameras</a>. Signed by The Clerk on 07/15/2022. (Attachments: # <u>1</u> Notice of Eligibility for Video Recording)(jrs, COURT STAFF) (Filed on 7/15/2022)</b></p> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p><b>(Entered: 07/15/2022)</b></p>
07/15/2022	<u>17</u>	<p><b>ORDER SETTING CASE MANAGEMENT CONFERENCE AND REQUIRING JOINT CASE MANAGEMENT CONFERENCE STATEMENT. Signed by Judge Jeffrey S. White on July 15, 2022. Joint Case Management Statement due by 9/2/2022. Initial Case Management Conference set for 9/9/2022 11:00 AM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar.</b></p> <p><b>Webinar Access: All counsel, members of the public, and media may access the webinar information at <a href="https://www.cand.uscourts.gov/jsw">https://www.cand.uscourts.gov/jsw</a></b></p> <p><b>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at <a href="mailto:jswcrd@cand.uscourts.gov">jswcrd@cand.uscourts.gov</a> no later than September 8, 2022 at 5:00 PM PST.</b></p> <p><b>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and</b></p>

		<p>rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p><b>Zoom Guidance and Setup:</b> <a href="https://www.cand.uscourts.gov/zoom/">https://www.cand.uscourts.gov/zoom/</a>.</p> <p>(dts, COURT STAFF) (Filed on 7/15/2022)</p> <hr/> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p>(Entered: 07/15/2022)</p>
07/18/2022	<u>18</u>	Renotice motion hearing re <u>8</u> MOTION to Dismiss <i>First Amended Notice - New Hearing Date and Time September 9, 2022 9:00 am Courtroom 5-2nd Floor</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Related document(s) <u>8</u> ) (Warren, Selia) (Filed on 7/18/2022) (Entered: 07/18/2022)
07/19/2022		Set Hearing as to <u>8</u> MOTION to Dismiss . Motion Hearing set for 9/9/2022 09:00 AM in Oakland, Courtroom 5, 2nd Floor before Judge Jeffrey S. White. (dts, COURT STAFF) (Filed on 7/19/2022) (Entered: 07/19/2022)
07/20/2022	<u>19</u>	OPPOSITION to Defendant's <u>13</u> Reply in Support of Motion to Dismiss. (re <u>8</u> MOTION to Dismiss) filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/20/2022) (Entered: 07/20/2022)
07/22/2022	<u>20</u>	CERTIFICATE OF SERVICE (re <u>19</u> Opposition/Response to Motion, <u>17</u> Order) by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/22/2022) (Entered: 07/25/2022)
07/28/2022	<u>21</u>	OPPOSITION/RESPONSE (re <u>8</u> MOTION to Dismiss) filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/28/2022) (Entered: 07/28/2022)
08/01/2022	<u>22</u>	CERTIFICATE OF SERVICE (re <u>21</u> Opposition/Response to Motion) filed by Gene Hazzard. (jlm, COURT STAFF) (Filed on 8/1/2022) Modified on 8/2/2022 (kkp, COURT STAFF). (Entered: 08/01/2022)
08/25/2022	<u>23</u>	Plaintiff's Case Management Statement & Proposed Order filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 8/25/2022) (Entered: 08/25/2022)
08/26/2022	<u>24</u>	Separate Case Management Statement of Defendants City of Oakland, Libby Schaaf, David Silver, Barbara J. Parker, Courtney Ruby and Ed Reiskin filed by City Of Oakland. (Warren, Selia) (Filed on 8/26/2022) Modified on 8/29/2022 (kkp, COURT STAFF). (Entered: 08/26/2022)
08/30/2022	<u>25</u>	CERTIFICATE OF SERVICE by Gene Hazzard. (kkp, COURT STAFF) (Filed on 8/30/2022) (Entered: 08/30/2022)
09/06/2022	<u>26</u>	<p>CLERK'S NOTICE VACATING MOTION HEARING AND CASE MANAGEMENT CONFERENCE. (dts, COURT STAFF) (Filed on 9/6/2022)</p> <hr/> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p>(Entered: 09/06/2022)</p>

10/04/2022	<u>27</u>	<b>ORDER by Judge Jeffrey S. White GRANTING 8 MOTION TO DISMISS. Amended Pleadings due by 11/1/2022. (dts, COURT STAFF) (Filed on 10/4/2022)</b>  Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)  (Entered: 10/04/2022)
------------	-----------	--

PACER Service Center			
Transaction Receipt			
10/07/2022 17:22:06			
PACER Login:	letterofthelaw	Client Code:	GH
Description:	Docket Report	Search Criteria:	4:22-cv-02921-JSW
Billable Pages:	4	Cost:	0.40

EXHIBIT C

ORIGINAL

ORIGINAL FILED

JUL 20 2022

CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
OAKLAND OFFICE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

GENE HAZZARD,  
Plaintiff,  
v.

Case No.: 22-cv-02921-JSW

**PLAINTIFF GENE HAZZARD'S  
OPPOSITION TO DEFENDANTS' REPLY  
IN SUPPORT OF MOTION TO DISMISS**

MAYOR LIBBY SCHAAF; CITY OF  
OAKLAND, a municipal corporation;  
MIALISA BONTA, former CEO of Oakland  
Promise; DAVID SILVER, Educational  
Director in Mayor Schaaf's Office;  
BARBARA PARKER, City Attorney;  
COURTNEY RUBY, City Auditor; ED  
REISKIN, City Administrator; ANDY  
FREMDER, co-founder of East Bay College  
Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
District Representative; SABRINA  
LANDRETH, former City Administrator, and  
DOES 1-100, inclusive.

Defendants.

Hearing Date: September 9, 2022  
Time: 9:00 a.m.  
Location: Oakland Courthouse  
1301 Clay Street  
Courtroom 5, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022  
Trial Date: N/A

**I. INTRODUCTION**

In the instant matter, two judicial officers of the court, former California Attorney General Xavier Becerra and current Oakland City Attorney Barbara Parker, have each rendered a legal opinion with

1 respect to the legal status of the organization known as Oakland Promise as a 501(c)(3) non-profit, tax-  
2 exempt, public-benefit corporation ("501(c)(3)"). (See Complaint, Exhibits 7, 8). According to both  
3 Becerra and Parker, neither Defendant Mayor Libby Schaaf (who launched the Oakland Promise  
4 Initiative in 2015), nor Defendant David Silver (the Educational Director in Mayor Schaaf's office)  
5 (Complaint, Exhibit 15), nor Mialisa Bonta, the former Chief Executive Officer of Oakland Promise,  
6 **have ever filed** a legal application (Form 1023) with the only federally authorized agency that establishes  
7 a 501(c)(3) designation, the Internal Revenue Service ("IRS"). If a Form 1023 had been filed, the IRS  
8 would have issued a Determination Letter, and Defendants have never provided such a Determination  
9 Letter proving Oakland Promise's status as a 501(c)(3), despite their claims that Oakland Promise had  
10 been designated as such. (See Complaint, Exhibit 14.)

## 11 II. LEGAL ARGUMENT

12 Plaintiff has provided uncontroverted, undisputed, compelling and overwhelming material facts;  
13 while Defendant's argument are based on unsubstantiated claims, obfuscation, hyperbole, falsification,  
14 and irrelevant diversion designed to avoid providing the legally required documentation to support  
15 Defendants' claim that Oakland Promise has been legally designated as a 501(c)(3). Additionally,  
16 Defendant Andy Fremder, co-founder of the East Bay College Fund ("EBCF"), has not provided a  
17 Certificate of Merger supporting the claim that EBCF and Oakland Promise have merged. (See Plaintiff's  
18 Memorandum of Points and Authorities in Opposition to Motion to Dismiss ("MPA"), Exhibit D.)

19 Section 6010(a) of the California Corporations Code states, in pertinent part, "A public benefit  
20 corporation may merge with a domestic corporation...**However, with prior written consent of the**  
21 **Attorney General, a public benefit corporation may only merge with another public benefit**  
22 **corporation.**" (Emphasis added.)

23 In addition, section 6010(b) of the Corporations Code states, "At least 20 days prior to  
24 consummation of any merger allowed by subdivision (a), the Attorney General **must be provided with a**  
25 **copy of the proposed agreement of the merger.**" (Emphasis added.)

26 Defendants have failed and ignored **all** of the regulatory legal requirements necessary to establish  
27 Oakland Promise as a 501(c)(3); further, Defendants have not complied with California Corporation  
28

1 Code 6010(b) regarding a merger between the EBCF and Oakland Promise.

### 2 **III. Exigent Issues**

3 There are also other exigent issues relevant to Plaintiff's Complaint regarding the legal ownership  
4 of the name "Oakland Promise" and Defendants' illegal use of said name in the City Charter, requiring an  
5 immediate resolution:

6 (1) As discussed more thoroughly in the MPA, Plaintiff has uncontroverted, undisputed,  
7 materially factual documentation establishing that Plaintiff has legal ownership of the name "Oakland  
8 Promise." Plaintiff filed a Fictitious Name "Oakland Promise" with the Alameda County Clerk-Recorder  
9 (Registration # 560578, appearing in the Inter City Express on July 3, 2019, July 10, 2019, July 17, 2019  
10 and July 24, 2019). This name was uncontested. Thus, Plaintiff has had sole rights to the name  
11 "Oakland Promise" for the past five years.

12 (2) **California Constitution, Article XI, Section 5 and Charter Amendments.** Defendants  
13 have addressed the provisions of the California Constitution, Article XI, Section 3, stating that authority  
14 "given to a city to amend its charter which is wholly consistent with and not in violation of Article XI,  
15 Section 3." However, Defendants have failed to illuminate the provisions of that section which address  
16 the content of a Charter Amendment (which is also consistent with the National League of Cities and its  
17 content). Article XI, Section ~~5~~, states (in pertinent part) that a city: "shall be competent in any City  
18 Charter to provide that the city govern thereunder may make and enforce all ordinances and regulations  
19 in respect to **municipal affairs**." (Emphasis added.) Oakland Promise is NOT a "Municipal Affair,"  
20 and thus this section is wholly irrelevant to Defendants' case.

21 (3) **Defendant Members of the Oakland City Council, a municipal corporation,**  
22 **adopting Resolution 87485, a City Charter Amendment, in Section 1607.** When Defendant members  
23 of the Oakland City Council approved a Charter Amendment on December 14, 2018 as a result of a  
24 November ballot measure, they authorized an illegal action by codifying the Oakland Promise Fund in  
25 section 1607 of the Charter which is out of compliance with the provisions set forth in the California  
26 Constitution, Article XI, Section 5, and therefore must be rescinded and removed from section 1607 of  
27 the City's Charter because, as stated above, Oakland Promise is not a Municipal Affair.  
28

1 (4) Defendant Mialisa Bonta, the former Chief Executive Officer of Oakland Promise, has  
2 filed false 990 Forms with the IRS. These forms are required by all organizations which have been  
3 designated by the IRS as a 501(c)(3). Defendant Mialisa Bonta has used false Employer Identification  
4 Number 54-2103707 on these forms. (See Complaint, Exhibits 18, 19.)

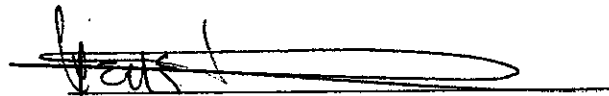
5 Defendants have demonstrated that they believe the federal and state statutes and regulations are  
6 not applicable to them or to Oakland Promise. Defendants' actions have been repugnant to the legal  
7 principles governing how organizations are to conduct themselves. Plaintiff has provided uncontroverted  
8 factual material which has been buttressed by two officers of the court in support of his claims. As stated  
9 in the opening paragraph of this brief, former Attorney General Xavier Becerra and City Attorney  
10 Barbara Parker each issued a legal opinion that Defendants **have never filed an application** (i.e., Form  
11 1023) for a 501(c)(3) for Oakland Promise.

#### 12 IV. CONCLUSION

13 For the aforementioned undisputed, uncontroverted, compelling and overwhelming reasons, and  
14 the failure of Defendants to provide legal documentation to impeach Plaintiff's claims, Defendants'  
15 Motion to Dismiss Plaintiff's Complaint must be denied.

16  
17 DATED: July 20, 2022

Respectfully submitted,

18  
19 

20 Gene Hazzard  
21 Plaintiff, *In Pro Per*  
22  
23  
24  
25  
26  
27  
28



**ORIGINAL**

1 GENE HAZZARD, *In Pro Per*  
2 282 Adams Street, #6  
3 Oakland, CA 94610-4147  
4 (510) 418-0501  
5 Email: genehazzard@gmail.com  
6 Plaintiff, *In Pro Per*  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION  
11

12 GENE HAZZARD,  
13 Plaintiff,

14 v.

15 MAYOR LIBBY SCHAAF; CITY OF  
16 OAKLAND, a municipal corporation;  
17 MIALISA BONTA, former CEO of Oakland  
18 Promise; DAVID SILVER, Educational  
19 Director in Mayor Schaaf's Office;  
20 BARBARA PARKER, City Attorney;  
21 COURTNEY RUBY, City Auditor; ED  
22 REISKIN, City Administrator; ANDY  
23 FREMDER, co-founder of East Bay College  
24 Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
25 District Representative; SABRINA  
26 LANDRETH, former City Administrator, and  
27 DOES 1-100, inclusive.  
28

Defendants.

Case No.: 22-cv-02921-JSW

**CERTIFICATE OF SERVICE**

Hearing Date: September 9, 2022  
Time: 9:00 a.m.  
Location: Oakland Courthouse  
1301 Clay Street  
Courtroom 5, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022  
Trial Date: N/A

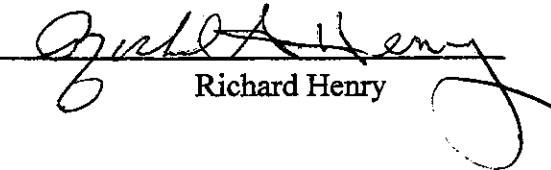
I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 2550 Frances St., Oakland, CA 94601.

On July 19, 2022, I served the following documents on the parties listed below by the methods indicated below:

**PLAINTIFF GENE HAZZARD'S OPPOSITION TO DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: July 20, 2022

  
Richard Henry

**Served Via Hand Delivery:**

Selia Warren, Esq.  
Office of City Attorney  
One Frank Ogawa Plaza  
Oakland, CA 94612  
(Attorney for Defendants Mayor Libby Schaaf, David Silver, Barbara Parker, Ed Reiskin, and Courtney Ruby)

**Served Via U.S. Mail:**

Mialisa Bonta  
18<sup>th</sup> Assembly District  
Elihu Harris State Building  
1515 Clay St., Suite 2204  
Oakland, CA 94612

Sabrina Landreth, General Manager  
East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland, CA 94605

Andy Fremder  
East Bay College Fund  
300 Frank Ogawa Plaza, # 430  
Oakland, CA 94612

Sean Clinton Woods, Esq.  
Dept. of Justice  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
(Attorney for Defendant Rob Bonta)

John T. Kennedy, Esq.  
Nossaman LLP  
621 Capitol Mall, Suite 2500  
Sacramento, CA 95814  
(Attorney for Defendant Rob Bonta)

U.S. Postal Service  
CERTIFIED MAIL® RECEIPT  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage Station 019610  
Here  
OAKLAND, CA 94612  
07/20/2022

Certified Mail Fee	\$4.00
Extra Services & Fees (check box, add fee if applicable)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.84
Total Postage and Fees	\$4.84

Sent to  
Selia Warren  
C/O OAKLAND CITY ATTORNEY  
ONE FRANK OGAWA PLAZA 6TH FLOOR  
OAKLAND CA 94612

PS Form 3800, April 2015 PSN 7530-02-000-9017 See Reverse for Instructions

1212 6286 0000 0710 2202

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GENE HAZZARD,

Plaintiffs,

v.

LIBBY SCHAAF, et al.,

Defendants.

Case No. 22-cv-02921-JSW

**ORDER SETTING CASE  
MANAGEMENT CONFERENCE AND  
REQUIRING JOINT CASE  
MANAGEMENT CONFERENCE  
STATEMENT**

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter having been reassigned to the Honorable Jeffrey S. White, it is hereby ordered that, pursuant to Fed. R. Civ. P. 16(b) and Civil L. R. 16-10, a Case Management Conference shall be held in this case on September 9, 2022, at 11:00 A.M., via Zoom Webinar (webinar instructions may be found at: <https://www.cand.uscourts.gov/jsw>) or, if permitted, in Courtroom 5, 2nd Floor, Federal Courthouse, 1301 Clay Street, Oakland, California.

Plaintiff(s) shall serve copies of this Order immediately on all parties to this action, and on any parties subsequently joined, in accordance with Fed. R. Civ. P. 4 and 5. Following service, plaintiff(s) shall file with the Clerk of the Court a certificate reflecting such service, in accordance with Civil L. R. 5-5(a).

The parties shall file a joint case management statement no later than **five (5) court days** prior to the conference. The joint case management statement shall address all of the topics set forth in the Standing Order for All Judges of the Northern District of California - Contents of Joint Case Management Statement, which can be found on the Court's website located at <http://www.cand.uscourts.gov>. See N.D. Civ L.R. 16-9. In cases involving pro se litigants, the parties may file separate case management statements. Separate statements may also address all

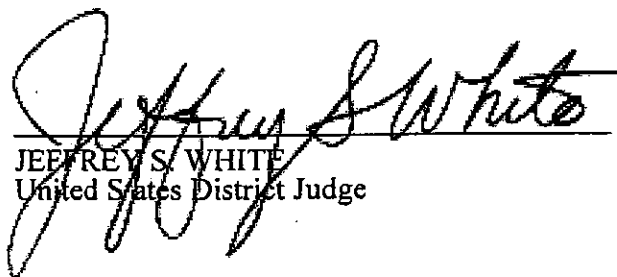
1 of the topics set forth in the Standing Order referenced above.

2 The parties shall appear in person through counsel with full and complete authority: (1) to  
3 address all issues presented in their joint case management conference statement; and (2) to enter  
4 stipulations, make admissions, and agree to further scheduling dates. The parties shall identify the  
5 person who shall appear at the case management conference in the case management conference  
6 statement.

7 Any request to reschedule the date of the conference shall be made in writing, and by  
8 stipulation if possible, at least **ten (10) calendar days** before the date of the conference and must  
9 be based upon good cause. In order to assist the Court in evaluating any need for disqualification  
10 or recusal, the parties shall disclose to the Court the identities of any person, associations, firms,  
11 partnerships, corporations or other entities known by the parties to have either (1) financial interest  
12 in the subject matter at issue or in a party to the proceeding; or (2) any other kind of interest that  
13 could be substantially affected by the outcome of the proceeding. If disclosure of non-party  
14 interested entities or persons has already been made as required by Civil L. R. 3-16, the parties  
15 may simply reference the pleading or document in which the disclosure was made. In this regard,  
16 counsel are referred to the Court's Recusal Order posted on the Court website at the Judges  
17 Information link at <http://www.cand.uscourts.gov>.

18 **IT IS SO ORDERED.**

19 Dated: July 15, 2022

20   
21 JEFFREY S. WHITE  
22 United States District Judge  
23  
24  
25  
26  
27  
28

**ORIGINAL**

1 GENE HAZZARD, *In Pro Per*  
282 Adams Street, #6  
2 Oakland, CA 94610-4147  
3 (510) 418-0501  
4 Email: genehazzard@gmail.com  
5 Plaintiff, *In Pro Per*  
6  
7  
8  
9  
10  
11

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

12 GENE HAZZARD,

13 Plaintiff,

14 v.

15 MAYOR LIBBY SCHAAF; CITY OF  
16 OAKLAND, a municipal corporation;  
17 MIALISA BONTA, former CEO of Oakland  
18 Promise; DAVID SILVER, Educational  
19 Director in Mayor Schaaf's Office;  
20 BARBARA PARKER, City Attorney;  
21 COURTNEY RUBY, City Auditor; ED  
22 REISKIN, City Administrator; ANDY  
FREMDER, co-founder of East Bay College  
Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
District Representative; SABRINA  
LANDRETH, former City Administrator, and  
DOES 1-100, inclusive.

23 Defendants.  
24  
25  
26  
27  
28

Case No.: 22-cv-02921-JSW

**CERTIFICATE OF SERVICE**

Hearing Date: September 9, 2022

Time: 9:00 a.m.

Location: Oakland Courthouse  
1301 Clay Street  
Courtroom 5, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

EXHIBIT D

ORIGINAL  
FILED

JUL 28 2022

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1  
2 GENE HAZZARD, *In Pro Per*  
282 Adams Street, #6  
3 Oakland, CA 94610-4147  
(510) 418-0501  
4 Email: genehazzard@gmail.com  
5 Plaintiff, *In Pro Per*  
6  
7  
8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION  
12

13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF  
OAKLAND, a municipal corporation;  
17 MIALISA BONTA, former CEO of Oakland  
Promise; DAVID SILVER, Educational  
18 Director in Mayor Schaaf's Office;  
19 BARBARA PARKER, City Attorney;  
COURTNEY RUBY, City Auditor; ED  
20 REISKIN, City Administrator; ANDY  
FREMDER, co-founder of East Bay College  
21 Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
District Representative; SABRINA  
22 LANDRETH, former City Administrator, and  
23 DOES 1-100, inclusive.

24 Defendants.  
25  
26  
27  
28

Case No.: 4:22-cv-02921-JSW

**PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' FIRST AMENDED MOTION  
TO DISMISS COMPLAINT**

Federal Rules of Civil Procedure, Rule 8

Hearing Date: September 9, 2022

Time: 9:00 a.m.

Location: Oakland Courthouse  
1301 Clay Street  
Courtroom 5, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

## I. ISSUES TO BE DECIDED

1. Whether the legal opinion of two officers of the court, the former Attorney General Xavier Becerra and current City Attorney Barbara Parker are legally sufficient to establish that the Defendant's organization known as Oakland Promise has no legal documentation from the Internal Revenue Service ("IRS"), the authorized agency establishing that Oakland Promise is a 501(c)(3) nonprofit, tax-exempt, public-benefit corporation ("501(c)(3)").

Former AG Becerra's legal opinion of September 17, 2019 stated, "Oakland Promise never filed any documentation indicating the organization is a 501(c)(3)." (Complaint filed on May 17, 2022 ("Complaint"), Exhibit 7.) And City Attorney Parker's legal opinion of March 3, 2020 stated, "Prior to 2019, Oakland Promise was not incorporated as a nonprofit corporation." Defendants have never provided a Determination Letter issued by the IRS to prove its status as a 501(c)(3).

Both of these legal statement supports Plaintiff's allegations in the instant matter.

2. Whether Defendant Schaaf can provide a Certificate of Merger pursuant to California Corporations Code 6010(a) that supports Defendants' claim that Oakland Promise has legally merged with the East Bay College Fund ("EBCF"). Under California Corporation Codes 6010(a), mergers are only authorized and approved by the Attorney General, no such approval exists for a merger between EBCF and Oakland Promise. (Complaint, Exhibit 37.)

3. Whether Defendant members of the Oakland City Council were allowed to legally amend the Charter of the City of Oakland by approving Resolution 87485 CMS on December 14, 2018 codifying Oakland Promise in section 1607 (Oakland Promise Fund) of the Oakland City Charter. This was a clear violation of the Article XI, Section 5 of the California Constitution, which states, "It shall be competent in any City Charter to provide that the City governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs." The dispute between the parties over the legal status of Oakland Promise as a 501(c)(3) clearly establishes that Oakland Promise is not a municipal affair, and thus must be removed from section 1607 of the Oakland City Charter, as it is a clear violation of the California Constitution, Article XI, Section 5.

1           4.     Whether Plaintiff Gene Hazzard is the legal owner of the name Oakland Promise.  
2 Plaintiff filed the Fictitious Business Name "Oakland Promise" under registration number 560578 with  
3 the Alameda County Clerk-Recorder, appearing in the Inter City Express on July 3, July 10, July 17, and  
4 July 24, 2019, without any challenge or dispute.

5           5.     Whether it was legal for Defendant Mialisa Bonta, the former Chief Executive Officer of  
6 Oakland Promise, to file fraudulent 990 forms with the Internal Revenue Service for Calendar years  
7 2017 and 2019 (calendar year 2018 not being available), using Employer Identification Number 54-  
8 2103707 (Complaint, Exhibits 18, 19), when Oakland Promise is not a legally registered 501(c)(3).

9           6.     Whether, as noted in Defendant City Auditor Courtney Ruby's Independent Report of  
10 November 19, 2019, Defendant Mayor Libby Schaaf illegally used City Hall (at One Frank Ogawa  
11 Plaza in Oakland) to conduct business for Oakland Promise for more than two years, resulting in  
12 unauthorized (i.e., without City Council approval) expenditures from the City's General Fund Account  
13 in excess of \$4,000,000.00, without consequences. (Complaint, Exhibit 13.)

14           7.     Whether Defendant City Council's approval of Resolution 88208 (Complaint, Exhibit 23)  
15 is a classic example of a "bait and switch"—in which the EBCF amended and restated its Articles of  
16 Incorporation from 2003 and changed its name to Oakland Promise, resulting in an illegal transaction  
17 from the City's General Fund Account of \$1,150,000.00 (for which it was not EBCF as the Grantee  
18 receiving those funds but Defendant Mialisa Bonta, Chief Executive Officer of Oakland Promise, who  
19 signed as the Grantee—an illegal transaction for which there has been no consequences). It has been  
20 clearly shown by both former California Attorney General Xavier Becerra and current Defendant City  
21 Attorney Barbara Parker that Oakland Promise has no legal status as a 501(c)(3), and Defendants have  
22 not proven otherwise; therefore, it is patently evident that Oakland Promise was not legally entitled to  
23 receive those funds.

## 24                           II. MEMORANDUM OF POINTS AND AUTHORITIES

### 25           A. Statement of Facts.

26  
27  
28



1 Defendant Schaaf launched her Oakland Promise Initiative out of her Mayor's office in 2015.  
2 As such, the perception was that the initiative was a city-operated scholarship program. However, the  
3 project required a funding source. Defendant Schaaf had one of two choices for funding stability:

- 4 1. She could file for 501(c)(3) status. This required Schaaf to file form 1023 with the  
5 IRS and once the IRS approved, it would issue a Determination Letter designating  
6 Oakland Promise as such and would then issue an Employer Identification Number  
7 (Complaint, Exhibit 11); or
- 8 2. Defendant Schaaf could identify a fiscal sponsor who would be legally responsible  
9 for sending donors gift acknowledgements for reporting the income and expenditures  
10 in its own records (such as IRS form 990). (Complaint, Exhibit 12.)

11 In October 2016 Defendant Schaaf entered into a fiscal sponsorship agreement with the Oakland  
12 Public Education Fund ("OPEF") using OPEF Employer Identification Number 43-2014630 so that  
13 Oakland Promise could receive tax-exempt donations. (Complaint, Exhibit 13.)

14 Through a special grant given to OPEF on behalf of Oakland Promise, a Director of Education  
15 was funded in Defendant Mayor Schaaf's office, ostensibly to oversee the program activities of Oakland  
16 Promise. Defendant David Silver, an employee of OPEF, was the individual who became the Director  
17 of Education in Defendant's Schaaf's office.

18 There appeared to be a series of unethical activities in City Hall (Complaint, Exhibit 13) which  
19 may have contributed to the "Exit Project Transfer Agreement" between OPEF and Oakland Promise.  
20 Since this separation occurred, as noted in the Hood Strong LLP Audit Report of June 30, 2018  
21 (Complaint, Exhibit 17), there is no evidence that Defendants secured another Fiscal Sponsor  
22 Agreement, nor is there any evidence that Defendants have filed a 1023 form application with the IRS  
23 for a legal designation as a 501(c)(3).

24 Oakland Promise neither has a legal fiscal sponsor, nor is there proof that Defendant Schaaf has  
25 filed a form 1023 application with the IRS seeking designation as a 501(c)(3). (Complaint, Exhibits 7,  
26 8.)

1 Defendants Schaaf and Mialisa Bonta have been making unsubstantiated claims that Oakland  
2 Promise has become a nonprofit and has merged with EBCF (Complaint, Exhibit 14), which is in  
3 dispute and for which Defendants have provided no legal documentation (such as a Determination Letter  
4 pursuant to 501(c)(3), or a Certificate of Merger pursuant to California Corporations Code 6010(a)).

5 Finally, there is no justification for Defendant Mialisa Bonta, the former Chief Executive Officer  
6 of Oakland Promise, fraudulently filing 990 forms with the IRS for Calendar years 2017 and 2019.  
7 (Complaint, Exhibit 18, 19). To make these filings even more egregious, Susan Stutzman filed a  
8 different 990 form for calendar year 2017 using the same Employer Identification Number (54-  
9 2103707). As stated above, Oakland Promise is **not** a legal nonprofit.

10 **B. Argument.**

11 Plaintiff has provided a plethora of prima facie material facts, in contrast to Defendants'  
12 hyperbole, obfuscation, and avoidance of addressing the substantive issues. Plaintiff is entitled to  
13 judgment as a matter of law and evidentiary proof. In addition, as discussed above, Plaintiff is the legal  
14 owner of the name "Oakland Promise," having filed that name with the Alameda County Clerk-  
15 Recorder. (See Section I, Paragraph 4, above.)

16 Please take Judicial Notice of the various federal, state, and local regulations that Defendants  
17 have violated (as covered more thoroughly in the Complaint), including Defendant members of the  
18 Oakland City Council's approval of Resolution 87485 on December 14, 2018 codifying an amendment  
19 in section 1607 (Oakland Promise Fund) in the City Charter. Amendments to the City Charter are  
20 reserved for municipal affairs pursuant to the California Constitution, Article XI, Section 5:

21 City charters adopted pursuant to the Constitution shall supersede any existing  
22 Charter, and with respect to municipal affairs ... City Charters adopted pursuant  
23 to this Constitution shall supersede any existing charter with respect to municipal  
24 affairs shall supersede all laws inconsistent therewith.

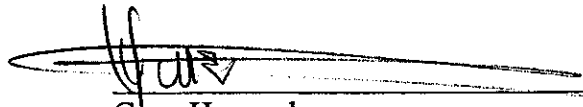
24 **C. Conclusion.**

25 The Court must accept the veracity of all of the allegations contained in the Complaint. Plaintiff  
26 has stated plausible claims for relief that are clearly supported by undisputed material facts, and thus  
27 Plaintiff meets the burden of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). (See also,  
28

1 *Sweinkiewicz v. Sorema N.A.*, 534 U.S. 506 (2002).) Therefore, Plaintiff urges this Court to deny  
2 Defendants' First Amended Motion to Dismiss Plaintiff's Complaint.  
3

4 DATED: July 28, 2022

Respectfully submitted,

5  
6   
7 Gene Hazzard  
8 Plaintiff, *In Pro Per*  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 GENE HAZZARD, *In Pro Per*  
2 282 Adams Street, #6  
3 Oakland, CA 94610-4147  
4 (510) 418-0501  
5 Email: genehazzard@gmail.com  
6 Plaintiff, *In Pro Per*  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION  
11

12 GENE HAZZARD,  
13 Plaintiff,  
14 v.

15 MAYOR LIBBY SCHAAF; CITY OF  
16 OAKLAND, a municipal corporation;  
17 MIALISA BONTA, former CEO of Oakland  
18 Promise; DAVID SILVER, Educational  
19 Director in Mayor Schaaf's Office;  
20 BARBARA PARKER, City Attorney;  
21 COURTNEY RUBY, City Auditor; ED  
22 REISKIN, City Administrator; ANDY  
23 FREMDER, co-founder of East Bay College  
24 Fund; ROB BONTA, former 18<sup>th</sup> Assembly  
25 District Representative; SABRINA  
26 LANDRETH, former City Administrator, and  
27 DOES 1-100, inclusive.

28 Defendants.

Case No.: 4:22-cv-02921-JSW

**CERTIFICATE OF SERVICE**

Hearing Date: September 9, 2022  
Time: 9:00 a.m.  
Location: Oakland Courthouse  
1301 Clay Street  
Courtroom 5, 2<sup>nd</sup> Floor  
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022  
Trial Date: N/A

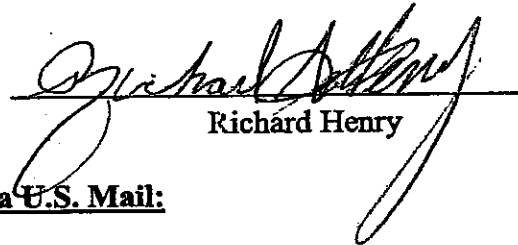
I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 2550 Frances St., Oakland, CA 94601.

On July 28, 2022, I served the following documents on the parties listed below by the methods indicated below:

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' FIRST AMENDED MOTION TO DISMISS COMPLAINT**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: July 28, 2022

  
Richard Henry

Served Via U.S. Mail:

Selia Warren, Esq.  
Office of City Attorney  
One Frank Ogawa Plaza  
Oakland, CA 94612  
(Attorney for Defendants Mayor Libby Schaaf, David Silver, Barbara Parker, Ed Reiskin, and Courtney Ruby)

Andy Fremder  
East Bay College Fund  
300 Frank Ogawa Plaza, # 430  
Oakland, CA 94612

Mialisa Bonta  
18<sup>th</sup> Assembly District  
Elihu Harris State Building  
1515 Clay St., Suite 2204  
Oakland, CA 94612

Sean Clinton Woods, Esq.  
Dept. of Justice  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
(Attorney for Defendant Rob Bonta)

Sabrina Landreth, General Manager  
East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland, CA 94605

John T. Kennedy, Esq.  
Nossaman LLP  
621 Capitol Mall, Suite 2500  
Sacramento, CA 95814  
(Attorney for Defendant Rob Bonta)

U.S. Postal Service<sup>TM</sup>  
**CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

Oakland, CA 94612

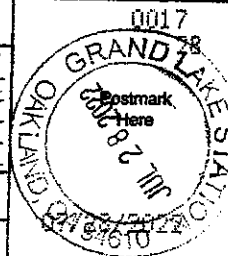
**OFFICIAL USE**

Certified Mail Fee \$4.00  
Extra Services & Fees (check box, add fee to postage)  
☐ Return Receipt (hardcopy) \$0.00  
☐ Return Receipt (electronic) \$0.00  
☐ Certified Mail Restricted Delivery \$0.00  
☐ Adult Signature Required \$0.00  
☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.84

Total Postage and Fees \$4.84

Sent To  
SELIA WARREN - OFFICE CITY ATTORNEY  
Street and Apt. No., or PO Box No.  
ONE FRANK OGAWA PLAZA 6TH FLOOR  
City, State, ZIP+4®  
OAKLAND, CALIF. 94612



First-Class Mail®	1	\$0.84
Letter	Oakland, CA 94612	
	Weight: 0 lb 1.50 oz	
	Estimated Delivery Date	
	Sat 07/30/2022	
First-Class Mail®	1	\$0.84
Letter	Sacramento, CA 95814	
	Weight: 0 lb 1.50 oz	
	Estimated Delivery Date	
	Sat 07/30/2022	
First-Class Mail®	1	\$0.84
Letter	Oakland, CA 94605	
	Weight: 0 lb 1.50 oz	
	Estimated Delivery Date	
	Sat 07/30/2022	
First-Class Mail®	1	\$0.84
Letter	San Francisco, CA 94102	
	Weight: 0 lb 1.50 oz	
	Estimated Delivery Date	
	Sat 07/30/2022	
First-Class Mail®	1	\$0.84
Letter	Oakland, CA 94612	
	Weight: 0 lb 1.50 oz	
	Estimated Delivery Date	
	Sat 07/30/2022	