

File No. 210528

Committee Item No. 6

Board Item No. 50

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: July 15, 2021

Board of Supervisors Meeting:

Date: July 27, 2021

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- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
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#### OTHER

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- \_\_\_\_\_
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Prepared by: John Carroll

Date: July 9, 2021

Prepared by: John Carroll

Date: July 22, 2021

Prepared by: John Carroll

Date: \_\_\_\_\_

1 [Settlement of Unlitigated Claims - Wing Lok (“Walter”) Wong; W. Wong Construction;  
2 Alternate Choice, LLC; Jaidin Consulting Group, LLC; and Jaidin International Ventures, LLC -  
3 City to Receive Settlement Payments and Credits Totaling \$1,772,271.64]

4 **Resolution approving settlement of unlitigated claims against Wing Lok “Walter”**  
5 **Wong; W. Wong Construction; Alternate Choice, LLC; Jaidin Consulting Group, LLC;**  
6 **and Jaidin International Ventures, LLC, (collectively “the Wong Parties”) for payments**  
7 **and credits totaling \$1,772,271.64; the claims involve allegations that the Wong Parties**  
8 **provided gifts to officials of the City and County of San Francisco (“the City”) in**  
9 **exchange for the unlawful award of City contracts to the Wong Parties, failure to report**  
10 **contacts with City officials, and failure to report contributions to political campaigns as**  
11 **required under City law; other material terms of the settlement are that the Wong**  
12 **Parties will not do business with the City, including as permit expeditors, for five years.**

13  
14 WHEREAS, the City Attorney has investigated claims against Wing Lok “Walter” Wong;  
15 W. Wong Construction; Alternate Choice, LLC; Jaidin Consulting Group, LLC; and Jaidin  
16 International Ventures, LLC (collectively “the Wong Parties”) under state and local law; and

17 WHEREAS, The claims of the City and County of San Francisco (“City”) against the  
18 Wong Parties involve allegations that the Wong Parties provided gifts to City officials in  
19 exchange for the unlawful award of City contracts to the Wong Parties, failure to report  
20 contacts with City officials, and failure to report contributions to political campaigns as  
21 required under City law; and

22 WHEREAS, San Francisco Public Works has recommended settlement of the claim by  
23 a combination of payments and credits to the City by the Wong Parties of \$1,454,621.64 as a  
24 result of the allegedly illegal contracts and by the payment of \$317,650.00 in administrative  
25 penalties and late fees for violations of the Campaign and Governmental Conduct Code,

1 which total amount is offset by a credit of \$386,933.94 for goods and services already  
2 received by the City from Alternate Choice, LLC; and barring the Wong Parties from doing  
3 business with the City, including as permit expeditors, for five years; now, therefore, be it

4 RESOLVED, That pursuant to Administrative Code, Section 10.22, the Board of  
5 Supervisors hereby authorizes the City Attorney to settle and compromise the unlitigated  
6 claims by payments and credits from the Wong Parties to the City totaling \$1,772,271.64 and  
7 by barring the Wong Parties from doing business with the City, including as permit expeditors,  
8 for five years.

9  
10 APPROVED AS TO FORM AND  
11 RECOMMENDED:

RECOMMENDED:

12 DENNIS J. HERRERA  
13 City Attorney

SAN FRANCISCO PUBLIC WORKS

14 /s/ Keslie Stewart  
15 KESLIE STEWART  
16 Head of Public Integrity and Investigations


/s/ Alaric Degrafinried  
17 ALARIC DEGRAFINRIED  
18 Acting Director

July 9, 2021,

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2021 JUL -9 PM 2:54

TO THE S.F. BOARD OF SUPERVISORS AND THE MAYOR:

This is an urgent appeal to the Board and the Mayor that you **reject** the City Attorney's Settlement Agreement with the corrupt contractor and expeditor, Walter Wong. 

Contrary to what many people may think, much of this Settlement is not in addition to the U.S. Attorney's Settlement with Wong from June 23 of 2020. That federal agreement included a \$1,000,000 penalty and a jail sentence that depended on how much Wong cooperated with the feds. However, on March 18, 2021, the feds' agreement with Wong was modified to stipulate that the \$1,000,000 would be paid to the City as part of the current City Attorney's Settlement agreement with him.

From the U.S. Attorney's Mar. 18 agreement, pg. 1:

“SETTLEMENT AGREEMENT: RECITALS:

WHEREAS, on or about March 18, 2021, Walter Wong and the United States entered into an amended plea agreement in the Criminal Case providing that \$1,000,000 paid in forfeiture from Walter Wong in the Criminal Case would be paid as restitution to the City upon entry of Judgment and Conviction in the Criminal Case;”

<https://www.scribd.com/document/507802824/Proposed-Settlement-Wong>

Those U.S. charges are for bribery of government officials and money laundering to cover up that bribery. It also looks like this is the final agreement between Wong and the U.S. Attorney.

That said, there are some penalties in the City Attorney's Settlement Agreement that are in addition to the above \$1,000,000 for fraudulently obtained contracts. Another \$450,000 is for additional contracts that he obtained illegally from City Departments. And another \$317,650 is for violations of the Campaign and Governmental Conduct Code. The 1,767,650 total for these penalties accounts for almost the entire dollar amount of the City Attorney's Agreement.

**However**, these violations are still mostly criminal ones that mirror the ones in the FBI charges. (And, one should ask, why is the C.A. involving itself in criminal charges, when its mandate is to investigate civil and ethical violations?) At the same time, there is very little in the C.A.'s Agreement to account for Wong's many years of ethical and other criminal violations, in particular at DBI. Nor is there any mention of these additional violations in the presentation by Dep. C.A., Anne Pearson, to the BOS Government Audit and Oversight Committee mtg., July 2, 2020, (approx., minutes 4:06 to 4:28.)

Please watch the recording of her testimony:

[https://sanfrancisco.granicus.com/MediaPlayer.php?view\\_id=11&clip\\_id=36075](https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=11&clip_id=36075)

This is in spite of the many years during which Wong made a mockery of the rules that govern other DBI applicants. During which he egregiously low-balled his clients' project valuations, with the aid of corrupt DBI managers, plan checkers, and permit clerks who were beholden to him, and which corruption cost DBI and the City probably millions of dollars. That too made it possible for him to charge higher fees to his clients for his illegal, cost-saving services to them. And, meanwhile, other permit applicants had to make up for any shortfall in DBI operating funds with the higher permit fees that they paid, and they had to wait for their permits while Wong's clients' projects were expedited ahead of theirs. In addition, DBI and the

public had to suffer the consequences of corrupt or incompetent and undeserving employees and managers who were hired and promoted, in part, due to Wong's powerful and insidious influence over the hopelessly corrupt stooge and former DBI Director, Tom Hui. (The same Tom Hui who continues to draw a \$192,000 annual pension from the City. As things stand now, it would not surprise anyone if Hui soon returns to DBI as yet another permit expediter!)

This leniency by the C.A. is also in spite of the many reports of gifts made by Wong to Hui and other DBI managers, such as trips to China; properties in China and S.F.; Christmas parties at his home; office parties at DBI; restaurant dinners and lunches at his own and others' restaurants; retirement jobs at Jaidin Consulting for former DBI employees who were complicit in his schemes; and who knows what else.

The only punishment included in the C.A.'s sweetheart Settlement that might apply to these other violations appears to be the prohibition from his having any dealings with DBI or other Departments for the next 5 years – a mere slap on the wrist to a multi-millionaire, who can spend those years on vacation and semi-retirement, enjoying and managing his ill-gotten gains, and then reappear at DBI where he will still have a huge influence. Furthermore, Ms. Pearson states in her 7/2/20 presentation that a criminal conviction is necessary in order to debar a contractor from doing business with the City. Yet, in spite of his guilty pleas to crimes, and his agreement to a Settlement with the FBI, Wong has only been suspended from doing business with the City for 5 years! What, then, is going on here? Why hasn't he been debarred forever?

DBI is now filled with employees who owe their employment, assignments, and promotions to Wong and Hui. A great number of them were unethically hired under Provisional Rules after the layoffs that occurred in the Great Recession, thereby evading the normal Civil Service hiring requirements. Those Provisional Rules are normally meant for hiring at times of urgent need, and not when there are laid off employees available to be rehired. And those illegal hires are still beholden to those who circumvented the normal rules to hire them. Many of them were and still are totally unqualified to do the jobs they were hired to do. Is this what the taxpayers of this city deserve? There is also the matter of employees who were promoted due to Wong's influence (including Tom Hui), and those promotions should be seen as criminal bribes, just as any other gift or favor, and nothing less.

Meanwhile, it may be true that the C.A.'s Office is still investigating Wong and Hui for further ethical violations related to DBI and other departments. If that's the case, though, then the BOS should get this spelled out clearly by the C.A., before signing off on any Settlement. And that should be made clear to the concerned public, as well, which has waited too long for real justice in this case. It is very doubtful that the FBI or the D. A. will ever be looking at these ethical matters again, so they are left entirely to the discretion of the C.A. Nevertheless, for all intents and purposes, this looks to the public like the final agreement between Wong and the C.A.

What is especially galling is that the City Attorney's Office has known about Wong's transgressions for **many** years, even well before 2000, and yet has done little or nothing to stop them. Numerous informants who witnessed his and Hui's violations have talked to Grand Juries, to Special Investigator Rudy Nothenberg, to the D.A.'s office, and to the C.A.'s Investigators. Nevertheless, those investigations have for years ended up in the C.A.'s inactive file. And this Settlement only furthers that indifference. As this observer sees it, the C.A. Office is only interested in the low-hanging fruit of corruption cases or in riding the coattails of the FBI. For whatever reason, they will not make the effort to carry out the more difficult corruption cases on their own. Furthermore, the Mayor is now expecting this office to institute new procedures at DBI to prevent abuses in the future. Anyone who believes this will happen has got to be dreaming.

When is the City Attorney going to be held accountable for this negligence, secrecy, and incompetence? And why has this corruption been allowed to persist for so long? Is it because the C.A.'s Office has a duty to protect the City from lawsuits, in addition to the duty to prosecute unethical City employees and complicit outsiders? Has the prosecution of corrupt City employees taken a backseat to protecting the City from lawsuits that might be related to employee corruption? The only part of this Settlement that might help to explain this travesty is in the C.A.'s Recitals, which state in part – pg 2:

“WHEREAS, the Parties are interested in resolving the City’s claims for restitution, disgorgement, civil penalties and fees, and injunctive relief under State and local law **without litigation**;.....” (emphasis added).

<https://www.scribd.com/document/507802824/Proposed-Settlement-Wong>

Avoiding that litigation might be enough justification for the short-term ambitions of the City Attorney and the Mayor, but it doesn’t serve the long-term interests of the taxpayers. In fact, just for starters, this Settlement is a signal to all the other unethical expeditors at DBI, past, present and future, who will see in it that there is no significant penalty for their manipulations and transgressions.

Moreover, it is absurd for C.A. Herrera to say in a May 13, 2021 statement that:

“This settlement ensures that taxpayers are made whole, maximum penalties are levied, and Mr. Wong loses the privilege of doing business with the City or acting as a permit expeditor. San Francisco will not tolerate bribery and insider dealing.”

<https://www.sfcityattorney.org/2021/05/13/herrera-secures-1-7m-settlement-from-walter-wong-the-permit-expeditor-at-the-center-of-the-public-integrity-investigation/>

Just when are the taxpayers going to be made whole for the rest of Mr. Wong’s transgressions – the ones not mentioned in the Settlement? And when is he going to be penalized for those? San Francisco has ignored bribery and insider dealing for years, so who believes that it will end now, given this sweetheart Settlement.

The C.A. office will argue that they don’t have the resources or the mandate to carry out investigations comparable to those of the FBI. They say that, as civil investigators, they can’t do “search warrants, secret Grand Jury subpoenas for bank records, or wiretaps....” (Dep. City Attorney, Anne Pearson, speaking at BOS Government Audit and Oversight Committee mtg., 7/2/20), all of which may be true. They may only have the ability to interview witnesses, and look at relevant written documents. But in the absence of important and easily accessible, written records, they invariably claim that all they have to go on is “hearsay.”

In addition, the C.A.’s Office acts in almost total secrecy. And consequently, there is little way to hold them accountable, except at the ballot box. They will not discuss any part of their investigations with reporters or the public; therefore, it’s impossible to know whether any investigation is still ongoing or has been dropped. It’s impossible to know what resources are being used in pursuit of those investigations. And it’s impossible to know what information is being passed on to the City Attorney or the Asst. C.A. for Public Integrity by the investigators.

Also, according to Ms. Pearson, the C.A.’s Office **began** their investigation of those charged by the FBI in January, 2020, to see if there were any Civil Actions that they could bring charges on, in addition to the FBI’s criminal charges.

[https://sanfrancisco.granicus.com/MediaPlayer.php?view\\_id=11&clip\\_id=36075](https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=11&clip_id=36075)

Think about that: **Jan. 2020** is when they began their investigation! Not only is that outrageously late in the course of events, but, even if that is true, then why are their charges largely the same ones as the FBI's? And what is the point of entrusting the C.A.'s office to investigate any ethical violations of City employees? Is it simply to put a good face on the City's incompetence and impotence? Or is it because the C.A. is imagined to be an elected official who will enforce the laws and not a politician who will protect his own political career by avoiding prosecution of corrupt community standouts like Wong? The C.A. Office has a great many responsibilities, but what could be more important than protecting the City from criminals like Wong and his collaborators?

In conclusion, and for the sake of all the DBI applicants and all the San Francisco taxpayers who have been harmed, PLEASE do not approve the City Attorney's Settlement with Walter Wong or pass it on to the Mayor for her approval. PLEASE send the Settlement back to the C.A.'s Office and demand that they strengthen the sanctions against Wong's dealings with DBI and other S.F. Dept's. PLEASE don't let them get away with the disingenuous, face-saving, and self-serving argument that they are saving the City from "more litigation." More litigation is what is needed! More litigation will send Walter Wong and Tom Hui to jail, which is where they belong. PLEASE demand that the monetary penalties for Wong's corrupt practices at DBI, etc. be increased substantially, so as to serve as a **real** deterrent to other corrupt expeditors and employees. PLEASE demand that the testimony of the many courageous informants and whistleblowers be taken into account and thoroughly investigated. And PLEASE demand that the C.A. himself come before the BOS and justify all of the leniency in his recommendations.

A concerned City employee

