

FILED
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SAN FRANCISCO
ETHICS COMMISSION

1 LeeAnn Pelham
2 Executive Director
3 San Francisco Ethics Commission
4 25 Van Ness Avenue, Suite 220
5 San Francisco, CA 94102
6 (415) 252-3100 Telephone
7 (415) 252-3112 Facsimile

BY _____

BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

8 In the Matter of) Complaint No. 14-141202
9)
10 CRISTINE SOTO DEBERRY,)
11)
12 Respondent.) **STIPULATION, DECISION**
13) **AND ORDER**
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THE PARTIES STIPULATE AS FOLLOWS:

17 1. This Stipulation, Decision and Order ("Stipulation") is made and entered into by and
18 between Cristine Soto DeBerry, ("Respondent"), and the San Francisco Ethics Commission ("the
19 Commission").

20 2. Respondent and the Commission agree to settle and resolve all factual and legal issues
21 in this matter and to reach a final disposition without an administrative hearing. Upon approval of this
22 Stipulation and full performance by Respondent on the terms outlined in this Stipulation, the
23 Commission will take no future action against Respondent and this Stipulation shall constitute the
24 complete resolution of all claims by the Commission against Respondent related to the violations
25 described in Exhibit A. Respondent understands and knowingly and voluntarily waives all rights to
26 judicial review of this Stipulation and any action taken by the Commission or its staff on this matter.
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1 3. The attached Exhibit A is a true and accurate summary of the facts in this matter.
2 Respondent acknowledges responsibility for having violated the San Francisco Campaign &
3 Governmental Conduct Code (“SF C&GCC”) as described in Exhibit A.

4 4. Respondent acknowledges and agrees to pay a settlement in the amount of One
5 Thousand Five Hundred Dollars (\$1,500) for the following violation: one violation of SF C&GCC, section
6 3.230(a), as set forth in Exhibit A.

7 5. Within ten (10) business days after the Commission approves this Stipulation,
8 Respondent shall deliver the \$1,500 settlement amount to the Commission. The settlement amount
9 shall be paid by check or money order made payable to the “City and County of San Francisco.”
10 Respondent agrees to deliver the check or money order to the following address:
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12 San Francisco Ethics Commission
13 Attn: Enforcement Division
14 25 Van Ness Avenue, Suite 220
15 San Francisco, CA 94102

16 6. If Respondent does not pay the \$1,500 settlement amount as set forth in Paragraphs 4
17 and 5, or if Respondent’s payments do not clear the bank or cannot be negotiated in full by the Ethics
18 Commission for any reason, or if Respondent otherwise fails to comply with the terms of this
19 Stipulation, then the Commission reserves the right to reopen the matter and prosecute Respondent
20 under Section C3.699-13 of the San Francisco Charter for any or all the violations set forth in Exhibit A.

21 7. Respondent understands, and hereby knowingly and voluntarily waives, any and all
22 procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission’s
23 Regulations for Investigations and Enforcement Proceedings with respect to this matter. These include,
24 but are not limited to, the right to appear personally at any administrative hearing held in this matter, to
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1 be represented by an attorney at Respondent's expense, to confront and cross-examine all witnesses
2 testifying at the hearing and to subpoena witnesses to testify at the hearing.

3 8. Respondent understands and acknowledges that this Stipulation is not binding on any
4 other government agency with the authority to enforce San Francisco Campaign & Governmental
5 Conduct Code, section 3.200 *et seq.*, and does not preclude the Commission or its staff from cooperating
6 with or assisting any other government agency with regard to the complaint, or any other matter
7 related to it.

8 9. This Stipulation is subject to the Commission's approval. In the event the Commission
9 declines to approve this Stipulation, the Stipulation shall become null and void, except Paragraph 10,
10 which shall survive.

11 10. In the event the Commission rejects the Stipulation and further administrative
12 proceedings before the Commission are necessary, Respondent agrees that the Stipulation and all
13 references to it are inadmissible, and that Respondent agrees not to challenge, dispute, or object to the
14 participation of any member of the Commission or its staff because of his or her prior consideration of
15 this Stipulation.

16 11. This Stipulation, along with the attached Exhibit A, reflects the entire agreement
17 between the parties hereto and supersedes any and all prior negotiations, understandings, and
18 agreements with respect to the transactions contemplated herein. This Stipulation may not be
19 amended orally. Any amendment or modification to this Stipulation must be in writing duly executed by
20 all parties and approved by the Commission at a regular or special meeting.

21 12. This Stipulation shall be construed under, and interpreted in accordance with, the laws
22 of the State of California. If any provision of the Stipulation is found to be unenforceable, the remaining
23 provisions shall remain valid and enforceable.
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13. For the reasons set forth in Exhibit A, the parties agree that One Thousand Five Hundred Dollars (\$1,500) is an appropriate settlement for Respondent's violation of the provisions listed in Paragraph 4 of this Stipulation.

14. The parties hereto may sign different copies of this Stipulation, which will be deemed to have the same effect as though all parties had signed the same document.

Dated: 5/23/2016



LEEANN PELHAM, EXECUTIVE DIRECTOR
SAN FRANCISCO ETHICS COMMISSION
COMPLAINANT

Dated: 5.13.16



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RESPONDENT

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DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Cristine Soto DeBerry; San Francisco Ethics Commission Complaint Number 14-141202," including the attached exhibit, is hereby accepted as the final Decision and Order of the San Francisco Ethics Commission, effective upon execution below by the Chairperson.

IT IS SO ORDERED.

Dated: May 23, 2016



PAUL A. RENNE, CHAIRPERSON
SAN FRANCISCO ETHICS COMMISSION

EXHIBIT A

INTRODUCTION

Cristine Soto DeBerry is Chief of Staff for the San Francisco Office of the District Attorney and has been in that role since 2011.

In late September or early October of 2014, Ms. Soto DeBerry approached Assistant District Attorney ("ADA") Michael Swart and proposed the idea of hosting a fundraising event. The event was to be attended by employees of the District Attorney's Office who may want to contribute money to District Attorney Gascón's re-election campaign. Ms. Soto DeBerry had the idea to hold an office fundraiser because she had heard several District Attorney employees express a desire to contribute the District Attorney's re-election.

Ms. Soto DeBerry asked Mr. Swart and ADA Rani Singh to organize the fundraising event for the District Attorney and later discussed the date of the event and the venue with Mr. Swart. Mr. Swart understood from his conversations with Ms. Soto DeBerry that the invitees to the fundraising event were to be employees of the District Attorney's Office. She asked Mr. Swart and Ms. Singh to organize the fundraiser because she did not think that she, as the Chief of Staff, should organize the fundraiser out of a concern that District Attorney's Office employees would feel compelled to make a contribution. Ms. Soto DeBerry took no further action to organize or promote the employee fundraiser.

The fundraising event was held at Ted's Sports Bar & Grill on November 13, 2014. Approximately 50-75 people attended the fundraising event. Although Ted's remained open to the public, the attendees were primarily employees of the District Attorneys' Office.

Ms. Soto DeBerry attended the fundraising event for approximately one hour. During the event, ADA Michael Swart introduced Mr. Gascón in comments in which Mr. Swart made a direct solicitation to the attendees for campaign support of Mr. Gascón's re-election, including a solicitation for campaign contributions. The District Attorney then spoke to the attendees, His comments thanked attendees for their service and for welcoming him into the office. Ms. Soto DeBerry did not address the assembled group.

Ms. Soto DeBerry stated in interviews that she was unaware of the prohibition against soliciting contributions from other City officers and employees and did not think the practice was impermissible because she had been asked to make political contributions by City employees on numerous occasions in the past.

Approximately 56 employees of the District Attorney's Office ultimately contributed roughly \$8,800 to Mr. Gascón's re-election committee in connection with this event.

Ms. Soto DeBerry admits to having knowingly asked another City employee to raise funds from other City employees in a manner that constitutes an indirect solicitation of campaign contributions from those employees, and agrees to pay a penalty for the following violation:

COUNT 1: The knowing, indirect solicitation of political contributions from other City employees in violation of SF C&GCC, section 3.230(a).

SUMMARY OF APPLICABLE LAW

SAN FRANCISCO CAMPAIGN & GOVERNMENTAL CONDUCT CODE

SF C&GCC, section 3.230(a), states: "No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City. Nothing in this Section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees."

SF C&GCC, section 3.202, requires that the conflict of interest laws contained in SF C&GCC, section 3.200 et seq. shall be liberally construed.

VIOLATIONS OF LAW

COUNT 1

SOLICITATION OF POLITICAL CONTRIBUTIONS FROM OTHER CITY EMPLOYEES

SF C&GCC, section 3.230(a), prohibits any City officer or employee from knowingly soliciting political contributions from any other City officer or employee, either directly or indirectly, unless the solicitation occurs as a result of a communication targeted to a significant segment of the public which may include City officers or employees.

Ms. Soto DeBerry initiated the idea to hold a fundraising event for the re-election of District Attorney Gascón for the purpose of soliciting campaign contributions from other City employees. She then asked Mr. Swart and Ms. Singh to organize and promote the event and to invite employees of the District Attorney's Office. Mr. Swart organized the fundraising event held on November 13, 2014, for District Attorney Gascón's campaign committee. The invitation was targeted at employees of the District Attorney's Office and the fundraising event was attended primarily by employees of the District Attorney's Office. Mr. Swart and Ms. Singh each contributed \$150 to the event for food. In comments to that assembled group, Mr. Swart made a direct solicitation to attendees for political contributions to support Mr. Gascón's re-election campaign.

As a city employee, Ms. Soto DeBerry is prohibited from knowingly, directly or indirectly, soliciting contributions from other City officers and employees. Ms. Soto DeBerry admits to knowingly asking other District Attorney's Office employees to organize an employee fundraising event in a manner that constitutes an indirect solicitation of campaign contributions from other City employees. Because the knowing, direct or indirect solicitation of campaign contributions from other city employees is not permitted under City law, Ms. Soto DeBerry is responsible for having committed one violation of SF C&GCC, section 3.230(a).

PENALTY DISCUSSION

This matter consists of one count carrying a maximum administrative penalty of \$5,000. (See SF City Charter, § C3.699-13(c).) The Commission has no history with regard to levying penalties for violations of SF C&GCC, section 3.230(a).

Framing appropriate penalties requires all relevant circumstances surrounding the case to be

considered, including but not limited to: (a) the severity of the violation; (b) the presence or absence of any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was an isolated incident or part of a pattern; (e) whether the respondent has a prior record of violations of law; and (f) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations. (SFEC Enforcement Regs. § XII.C.2.)

In proposing the penalty in this case, the Commission notes the following factors.

A violation of section 3.230 is severe. That law is based on a fundamental public service principle that governmental actions and decisions should be based only on the performance of public duties and not based on political performance. It is designed to advance the integrity of governmental actions and decisions by protecting City employees from being or feeling pressured into making political contributions to City candidates or officials, or from pressure to seek contributions from their colleagues. By eliminating these pressures, the law helps ensure that employment and advancement in government service, are, and are perceived to be, based only on performance of public duties and not on political fundraising acumen or on one's participation or non-participation in political campaigns.

Ms. Soto DeBerry has served as Chief of Staff in the District Attorney's Office for approximately four years, and has responsibilities related to employee training and hiring. She formerly served for roughly three years as Deputy Chief of Staff in the Mayor's Office. She stated during interviews that she was unaware of the prohibition contained in section 3.230 and did not think the practice of soliciting contributions from other City officers or employees was impermissible because she had been asked to make political contributions by City employees on numerous occasions in the past. Although she was unaware of the prohibition at the time, she stated she asked Mr. Swart to organize the fundraiser because she felt it would not be appropriate for the Chief of Staff to do so.

In mitigation, Commission investigators found no evidence of any intention to conceal, deceive, or mislead. Ms. Soto DeBerry has no enforcement history of prior violations of any laws within the Commission's jurisdiction, took responsibility for her actions, and cooperated fully and willingly with Commission Investigators. She readily admitted to having asked Mr. Swart and Ms. Singh to organize the employee fundraising event and expressed remorse at having done so.

CONCLUSION

After considering the facts of this case, the seriousness of the violation, and the factors described above, the Executive Director of the Ethics Commission recommends the imposition of the agreed upon penalty of \$1,500.