



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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VICE-CHAIR

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: February 8, 2021

To: Members of the Ethics Commission

From: Jeff Pierce, Director of Enforcement

Subject: **AGENDA ITEM 5: Proposed Stipulation, Decision and Order**

- ***In the Matter of Dante King (SFEC Complaint No. 1819-078).***

Summary This memorandum provides information regarding the Proposed Stipulation appearing in this agenda item and what the Commission may do next regarding this Proposed Stipulation.

Action Requested The Commission may approve the Proposed Stipulation by majority vote, or it may provide guidance to Commission Staff regarding the Proposed Stipulation.

Pursuant to the Commission's Enforcement Regulations, the Executive Director may enter negotiations with a respondent at any time to resolve the factual and legal allegations in a complaint by way of a stipulated order (i.e. a negotiated settlement). Enf. Reg. § 12(A). The Regulations require that the stipulated order set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority pursuant to Charter section C3.699-13. *Id.*

Immediately after the Executive Director enters a stipulated order with a respondent, the Executive Director must inform the Commission of the proposed stipulation. Enf. Reg. § 12(E). Thereafter, any member of the Commission may request that the stipulated order be reviewed in public session by the full panel of the Commission during its next meeting. *Id.*

As of today, no Commissioner had requested review of the attached stipulated order in public session by the full panel of the Commission. It therefore appears on the Consent Calendar. The Commission may approve the stipulation by majority vote, or it may provide guidance to Commission Staff regarding the Proposed Stipulation. Enf. Reg. § 12(F).

Members of the public may comment on the Proposed Stipulation.

LeeAnn Pelham
Executive Director
Eric Willett
Senior Investigative Analyst

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
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BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of)	SFEC Complaint No. 1819-078
)	
DANTE KING,)	
)	STIPULATION, DECISION
)	AND ORDER
Respondent.)	
)	
)	

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision, and Order (Stipulation) is made and entered into by and between Dante King (Respondent) and the San Francisco Ethics Commission (the Commission).

2. Respondent and the Commission agree to settle and resolve all factual and legal issues in this matter and to reach a final disposition without an administrative hearing. Upon approval of this Stipulation and full performance of the terms outlined in this Stipulation, the Commission will take no future action against Respondent, and this Stipulation shall constitute the complete resolution of all claims by the Commission against Respondent related to the violations of law described in Exhibit A. Respondent understands and knowingly and voluntarily waives all rights to judicial review of this Stipulation and any action taken by the Commission or its staff on this matter.

3. Respondent acknowledges responsibility for and agrees to pay an administrative penalty in the amount of \$2,500 for one violation of San Francisco Campaign & Governmental Conduct Code (SF

1 C&GCC) section 3.218 as set forth in Exhibit A. Respondent agrees that \$2,500 is a reasonable
2 administrative penalty.

3 4. Within ten business days of the Commission's approval of this Stipulation, Respondent
4 shall either pay the penalty through the City's online payment portal or otherwise deliver to the
5 following address the sum of \$2,500 in the form of a check or money order made payable to the "City
6 and County of San Francisco":
7

8 San Francisco Ethics Commission
9 Attn: Enforcement & Legal Affairs Division
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

10 5. If Respondent fails to comply with the terms of this Stipulation, then the Commission
11 may reopen this matter and prosecute Respondent under Section C3.699-13 of the San Francisco
12 Charter for any available relief.

13 6. Respondent understands, and hereby knowingly and voluntarily waives, any and all
14 procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's
15 Enforcement Regulations with respect to this matter. These include, but are not limited to, the right to
16 appear personally at any administrative hearing held in this matter, to be represented by an attorney at
17 Respondent's expense, to confront and cross-examine all witnesses testifying at the hearing and to
18 subpoena witnesses to testify at the hearing.
19

20 7. Respondent understands and acknowledges that this Stipulation is not binding on any
21 other government agency with the authority to enforce the San Francisco Campaign & Governmental
22 Conduct Code section 1.100 *et seq.*, and does not preclude the Commission or its staff from cooperating
23 with or assisting any other government agency in its prosecution of Respondent for any allegations set
24 forth in Exhibit A, or any other matters related to those violations of law set forth in Exhibit A.
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1 8. This Stipulation is subject to the Commission's approval. In the event the Commission
2 declines to approve this Stipulation, the Stipulation shall become null and void, except Paragraph 9,
3 which shall survive.

4 9. In the event the Commission rejects this Stipulation, and further administrative
5 proceedings before the Commission are necessary, Respondent agrees that the Stipulation and all
6 references to it are inadmissible. Respondent moreover agrees not to challenge, dispute, or object to
7 the participation of any member of the Commission or its staff in any necessary administrative
8 proceeding for reasons stemming from his or her prior consideration of this Stipulation.

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

14 11. This Stipulation shall be construed under, and interpreted in accordance with, the laws
15 of the State of California. If any provision of the Stipulation is found to be unenforceable, the remaining
16 provisions shall remain valid and enforceable.

17 12. The parties hereto may sign different copies of this Stipulation, which will be deemed to
18 have the same effect as though all parties had signed the same document.
19

20
21 DocuSigned by:
22 01-13-2021 | 15:44:50 PST LeeAnn Pelham
23 2AC67A331EF7459...

24 LEEANN PELHAM, EXECUTIVE DIRECTOR
25 SAN FRANCISCO ETHICS COMMISSION

26 Dated: January 2, 2021

27 DANTE KING

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Dante King, SFEC Complaint No. 1819-078," including the attached Exhibit A, 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: _____

NOREEN AMBROSE, CHAIRPERSON
SAN FRANCISCO ETHICS COMMISSION

Exhibit A

I. Introduction

Respondent Dante King (King) is a former San Francisco Department of Human Resources (DHR) employee and current San Francisco Municipal Transportation Agency (SFMTA) employee. At all times relevant to this Stipulation, King owned and operated a personal consulting business through which he received compensation to provide clients with training on diversity, inclusion, and anti-racism. At the same time, he performed similar work as a DHR employee providing training on creating diverse and inclusive work environments for the City and County of San Francisco (the City).

City employees who participate in DHR trainings submit course evaluations at the conclusion of DHR trainings. Participants also add their signatures to sign-in sheets to confirm their attendance. While an employee at DHR, King uploaded to his personal consulting business website sign-in sheets that included unredacted City employee signatures and anonymous course evaluation forms for trainings that he conducted for City employees in his capacity as a DHR employee. To promote his personal business King also made use of a DHR video hosted on YouTube that he developed and appeared in as a City employee. King stated that he did not receive any income as a result of the City work-product that he posted to his personal business website.

As detailed below, by using City work-product for his personal business interest, King did not comply with provisions of City law that prohibit City employees from engaging in incompatible activities.

II. Applicable Law

Departmental Statements of Incompatible Activities (SIAs) guide officers and employees about the kinds of activities that the City and County of San Francisco has determined are incompatible with their public duties and that therefore are prohibited. San Francisco Campaign and Governmental Conduct Code (SF C&GCC) section 3.218 incorporates the Statement of Incompatible Activities of the Department of Human Resources (DHR SIA). Like all departments, DHR is required to distribute its SIA to its employees on annual basis.

DHR SIA section IV(B) prohibits DHR employees from using City work-product for private gain and states, "No officer or employee may, in exchange for anything of value and without appropriate authorization, sell, publish or otherwise use any non-public materials that were prepared on City time or while using City facilities, property (including without limitation, intellectual property), equipment and/or materials."

III. Summary of Material Facts

In December 2014, in the month before he began his employment with the City and County of San Francisco, King signed an Employee Handbook Acknowledgment in which he acknowledged that he understood, accepted, and agreed to comply with the information contained in the Employee Handbook. Among other provisions, the City's Employee Handbook summarizes the prohibition on incompatible activities and directs employees to review their department's Statement of Incompatible

Activities. King likewise signed a Statement of Incompatible Activities Declaration in which he declared that he had received and read the Statement of Incompatible Activities for the Department of Human Resources.

King began his City employment in January 2015 with the Department of Human Resources (DHR). King's duties with DHR included managing a learning and development team, conducting training workshops, and creating training modules.

During King's tenure at DHR, no later than April 1 of each year DHR distributed the notice of its SIA annually, as required.

On March 26, 2016, King was promoted to a temporary exempt Manager I (job classification 0922) with DHR. That position was made permanent on July 1, 2017.

In late 2016, King founded and began to operate a personal consulting business, Dante King Consulting, for which he received financial compensation for performing work that was similar to the work that he performed at DHR for the City and County of San Francisco.

In and around June or July 2018, King developed a website for his personal business.

In or around March 2019, and while an employee with DHR, King uploaded to his personal consulting business website DHR sign-in sheets to which City employees who participated in his DHR trainings had added their signatures to confirm their attendance. He did not redact employee signatures before doing so. He also uploaded to his personal consulting business website anonymous course evaluations that City employees had completed at the conclusion of training seminars that King conducted in his role as an employee of DHR. Finally, King also made use on his personal consulting business website a DHR promotional video that was hosted on YouTube.

On April 4, 2019, King transferred from DHR to SFMTA to accept a promotion to the role of temporary exempt Manager VI (job classification 9180) at SFMTA.

In June 2019, DHR instructed King to remove the DHR related materials from his personal business website. King did so that same week. During his interview with Commission Staff, King indicated his willingness to make other changes to his website, if necessary, to comply with the law.

King states that he did not receive any income as a result of the City work-product that he posted to his personal business website.

IV. Conclusions of Law

Count 1

Engaging in activities established under City law as incompatible with City duties in violation of SF C&GCC section 3.218.

Count 1. By using City work-product on the website of his personal consulting business, King used City work-product to promote his personal business in violation of SF C&GCC Sec. 3.218.

V. Penalty Assessment

This matter consists of one count for conduct in violation of SF C&GCC section 3.218. The San Francisco Charter authorizes the Commission to assess a monetary penalty to the general fund of the City of up to five thousand dollars for each violation. SF Charter § C3.699-13(c). The maximum penalty in this instance is \$5,000.

Pursuant to its Enforcement Regulations, when determining penalties the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (1) the severity of the violation; (2) the presence or absence of any intention to conceal, deceive, or mislead; (3) whether the violation was willful; (4) whether the violation was an isolated incident or part of a pattern; (5) whether the respondent has a prior record of violations of law; (6) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations; and (7) the respondent's ability to pay. SF Ethics Commission Enforcement Regulations § 9(D).

By prohibiting the use of City work-product for personal gain, the City's incompatible activities restrictions are designed to ensure that actions of public officials and employees are undertaken fairly and with regard only to the public interest and not to any private gain or advantage. Departmental Statements of Incompatible Activities identify activities that are incompatible with the public duties of departmental officers and employees and that are therefore prohibited under the law. When he initially took employment with the City, King received and signed a copy of DHR's SIA, which was also distributed by DHR annually during each of the four years that King worked for DHR. King therefore was aware of the incompatible activities prohibitions that apply to City officers and employees.

In mitigation, King cooperated with the Ethics Commission, stated that his violations were unintentional, and has no history of prior enforcement with the Commission. Staff found no evidence of an intent by King to conceal, deceive, or mislead.

In balancing the above factors and considering the penalty factors and prior analogous enforcement cases resolved by the Ethics Commission and to promote a deterrent effect, Staff proposes a penalty totaling \$2,500 for one count of violating Section 3.218 as detailed above. The parties agree that the administrative penalty appropriately reflects the seriousness of the violation as detailed in this Exhibit.