

1 JOHN ST. CROIX
2 Executive Director
3 SAN FRANCISCO ETHICS COMMISSION
4 30 Van Ness Avenue, Suite 3900
5 San Francisco, CA 94102
6 415-581-2300

7 Complainant

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BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of)

Ethics Complaint No. 21-050907

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DALY 2002 (ID NUMBER 1244756) and
CHRIS DALY

**STIPULATION, DECISION
AND ORDER**

Respondents.

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision and Order (“Stipulation”) is made and entered into by and between Daly 2002 and Supervisor Chris Daly (“Respondents”) and the San Francisco Ethics Commission (“the Ethics Commission”).

2. Respondents and the Ethics Commission deem it in their best mutual interest and advantage to settle and resolve all factual and legal issues in this matter and to reach a final disposition without the necessity of holding an administrative hearing to determine Respondents’ liability.

3. Respondents agree to pay a settlement in the amount of two thousand eight hundred dollars (\$2,800.00) as an administrative penalty for violations of the San Francisco Campaign Finance Reform Ordinance and California Political Reform Act as set forth below in Counts 1 through 3.

1 4. Within ten (10) business days after the Ethics Commission approves this Stipulation,
2 Respondents shall deliver two thousand eight hundred dollars (\$2,800.00) made payable as set forth
3 below in paragraph 5, to the Ethics Commission.

4 5. The settlement amount set forth in paragraph 3 above, shall be paid by check or money
5 order made payable to “the City and County of San Francisco.” The check or money order shall be
6 deposited in the General Fund of the City and County of San Francisco and delivered to the
7 following address:

8 San Francisco Ethics Commission
9 30 Van Ness Avenue, Suite 3900
10 San Francisco, CA 94102

11 6. Respondents understand, and hereby knowingly and voluntarily waive, any and all
12 procedural rights under Section C3.699-13 of the San Francisco Charter and the Ethics
13 Commission’s Regulations for Investigations and Enforcement Proceedings with respect to this
14 matter. This includes, but is not limited to, the right to appear personally at any administrative
15 hearing held in this matter, to be represented by an attorney at Respondents’ expense, to confront
16 and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the
17 hearing.

18 7. Respondents understand and acknowledge that this Stipulation is not binding on any other
19 law enforcement agency, and does not preclude the Ethics Commission or its staff from cooperating
20 with or assisting any other government agency with regard to the complaint, or any other matter
21 related to it.

22 8. This Stipulation is subject to approval by the Ethics Commission. Respondents agree that in
23 the event the Ethics Commission refuses to approve this Stipulation, it shall become null and void.

24 9. In the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing
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1 before the Ethics Commission becomes necessary, no member of the Ethics Commission shall be
2 disqualified because of his or her prior consideration of this Stipulation.

3 10. This Stipulation reflects the entire agreement between the parties hereto and supersedes any
4 and all prior negotiations, understandings, and agreements with respect to the transactions
5 contemplated herein. This Stipulation may not be amended orally. Any amendment or
6 modification to this Stipulation must be in writing duly executed by all parties.

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

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11 **Summary of Relevant Law**

12 12. San Francisco Campaign & Governmental Code Section 1.106 incorporates into the San
13 Francisco Campaign Finance Reform Ordinance all provisions of the Government Code of the State
14 of California (commencing at Section 81000) relating to local elections.

15 13. It is the duty of each candidate and elected officer to maintain such detailed accounts,
16 records, bills and receipts that are necessary to prepare campaign statements and to comply with
17 campaign finance laws. S.F. C&GCC § 1.106; Cal. Gov. Code § 84104.

18 14. For each mass mailing, a candidate's records shall contain the date of the mailing, the
19 number of pieces mailed, the method of postage and an original sample of the mailing. S.F.
20 C&GCC § 1.161; 2 Cal. Code Regs. § 18401(a)(7).

21 15. A "mass mailing" is a mailing of over 200 substantially similar pieces of mail, not including
22 a form letter or other form which is sent in response to an unsolicited request, letter or other inquiry.
23 S.F. C&GCC § 1.106; Cal. Gov. Code § 82041.5.

24 16. San Francisco Campaign & Governmental Conduct Code Section 1.161(b) requires that
25 each candidate who pays for a mass mailing shall, within five working days after the date of the

1 mailing, file an original or copy of the mailing and an itemized disclosure statement describing the
2 costs of the mailing with the San Francisco Ethics Commission.

3 17. California Government Code Section 84305 requires that all mass mailings sent by
4 candidates or committees must show the name and address of the committee in no less than 6-point
5 type.

6 18. San Francisco Campaign & Governmental Conduct Code Section 1.161(a) requires that
7 each mass mailing paid for by a candidate include the following statement in not less than 14-point
8 type: “paid for by [candidate’s name and street address].”

9 **Summary of Facts**

10 19. On October 16, 2002, Respondents mailed 19,291 pieces of mail directed to seniors and
11 renters. The Committee paid \$12,063.21 to produce and mail these pieces. The version directed at
12 renters included text at the top of the page which read “paid for Daly 2002 FPPC #1244756,” and
13 the address for the committee appeared at the top of the page. The version directed at seniors did
14 not include a “paid for” disclosure. However, the candidate, Supervisor Chris Daly, told staff that
15 Respondents may have lasered the “paid for” disclosure on to the mailing before it was posted.

16 20. Respondents did not file originals or copies of the October 16th mailing or disclosure
17 statements with the Ethics Commission within five business days of the mailing.

18 21. On October 25, 2002, Respondents mailed 5,280 pieces directed to Spanish speaking and
19 Tagalog speaking voters. Respondents paid \$3,128.90 to produce and mail these pieces. The
20 Spanish and Tagalog versions both included 14-point text which read “paid for by: Daly 2002” with
21 the committee’s address and identification number.

22 22. Respondents did not file originals or copies of the October 25th mailing or disclosure
23 statements with the Ethics Commission within five business days of the mailing.

24 23. On November 1, 2002, Respondents sent a mass mailing of 28,000 pieces. Respondents
25 paid for \$11,672.86 for this mailing.

1 24. Respondents did not file an original or copy of the November 1, 2002 mailing with the
2 Ethics Commission, nor did they file a disclosure statement within five business days of the
3 mailing. Respondents have been unable to locate a copy of this mailing to file with the Ethics
4 Commission, and they believe that the printer did not provide them with a copy. It is unknown
5 whether this mailing included a “paid for” disclosure.

6 25. On June 27, 2003, the Ethics Commission completed and published an Audit Report of
7 Respondents and called attention to a material finding that Respondents failed to file Itemized
8 Disclosure Statements for and to retain and file samples of the mass mailings described above, in
9 violation of SF C&GCC Sections 1.106 and 1.161 and Cal. Gov. Code Sections 84104 and 84305
10 (see 2 California Code of Regulations Section 18401(a)).

11 26. On September 7, 2005, the Ethics Commission commenced an enforcement action against
12 Respondents related to the audit findings, including Respondents’ failure to file the mass mailing
13 disclosures described in paragraph 25 above.

14 27. On November 23, 2005, the candidate met with Ethics Commission staff to discuss all audit
15 findings, including the material finding related to the mass mailing and how Respondents could
16 resolve the matter.

17 28. On the following business day, November 28, 2005, Respondents filed three Itemized
18 Disclosure Statements for the mass mailings described in paragraphs 19 through 24 above. Along
19 with the Itemized Disclosure Statements, Respondents provided originals or copies of the October
20 16, 2002 and October 25, 2002 mailings. Respondents were not able to provide an original or copy
21 of the November 1, 2002 mailing.

22 **Count I**

23 29. Respondents failed to file Itemized Disclosure Statements for and samples of mass mailings
24 sent on October 16, 2002, in violation of SF C&GCC Sections 1.106 and 1.161 and Cal. Gov. Code
25 Section 84104 (see 2 California Code of Regulations Section 18401(a)).

1 **Count II**

2 30. Respondents failed to file Itemized Disclosure Statements for and samples of mass mailings
3 sent on October 25, 2002, in violation of SF C&GCC Sections 1.106 and 1.161 and Cal. Gov. Code
4 Section 84104 (see 2 California Code of Regulations Section 18401(a)).

5 **Count III**

6 31. Respondents failed to file Itemized Disclosure Statements for and to retain and file samples
7 of a mass mailing sent on November 1, 2002, in violation of SF C&GCC Sections 1.106 and 1.161
8 and Cal. Gov. Code Section 84104 (see 2 California Code of Regulations Section 18401(a)).

9 **Factors in Mitigation**

10 32. These violations do not appear to be willful. Supervisor Daly told staff that the mass
11 mailings described above were produced with tight turn-around time after the spending limits were
12 lifted in the supervisorial campaign and Respondents failure to retain and disclose the mass
13 mailings described above resulted from the confusion. Furthermore, Respondents relied on
14 volunteers rather than paid campaign staff, and their inexperience was a factor in Respondents'
15 mistakes during the campaign.

16 **Factors in Aggravation**

17 33. Respondents' failure to disclose and retain and file samples of these mass mailings in
18 violation of SF C&GCC Section 1.161 deprived the public of its right to access important campaign
19 information.

20 **Conclusion**

21 34. For the reasons set forth above, the parties agree that two thousand eight hundred dollars
22 (\$2,800.00) is an appropriate settlement amount for Respondents' violations of SF C&GCC
23 Sections 1.106 and 1.161 and Cal. Gov. Code Section 84104.

24 35. This stipulation resolves all matters related to the June 27, 2003 San Francisco Ethics
25 Commission Audit Report on Daly 2002.

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

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4 Dated: _____
5 JOHN ST. CROIX, Executive Director
6 San Francisco Ethics Commission
7 Complainant

8 Dated: _____
9 CHRIS DALY, Candidate
10 Daly 2002 (ID Number 1244756)
11 Respondents
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DECISION AND ORDER

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The foregoing Stipulation of the parties "In the Matter of Daly 2002 (ID Number 1244756) and Chris Daly," Complaint Number 21-050907, including all attached exhibits, 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: _____

EMI GUSUKUMA
Chairperson
San Francisco Ethics Commission