

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

4 Complainant

5
6 BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

8 In the Matter of)

Ethics Complaint No. 11-050627

9 LEE ANN PRIFTI)

STIPULATION, DECISION
AND ORDER

10 Respondent)
11)
12)

13 Complainant John St. Croix, Executive Director of the San Francisco Ethics Commission,
14 (“the Commission”) and Respondent Lee Ann Prifti hereby agree that this Stipulation will be
15 submitted for consideration by the Commission at its next meeting. The parties agree to enter into
16 this Stipulation to resolve all factual and legal issues raised in the matter of Commission Complaint
17 Number 11-050627.

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

24 It is hereby stipulated and agreed that the Respondent violated Section 3.230(c) of the San
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1 Francisco Campaign and Governmental Conduct Code (“S.F. C&GCC”), as described below in the
2 summary of facts, which is a true and accurate summary of the facts in this matter.

3 **SUMMARY OF LAW**

4 Section 3.230(c) of the S.F. C&GCC prohibits City officers or employees from engaging in
5 political activity during working hours or on City premises. “Political activities” are “activities that
6 have as a purpose to influence voters or support or oppose a ballot measure, or to vote for or against
7 a candidate, but shall not include any activities of a City officer or employee that are protected from
8 regulation by the Federal or State Constitution.” Ethics Commission Regulation § 3.230-1(b).
9 “Working hours” are “any time during which a City officer or employee is engaged in official
10 activities whether compensated or not, but shall not include any time during which an officer or
11 employee is on authorized break from official duties.” *Id.* § 3.230-1(c).

12 Under Section XIII.1 of the Commission’s Regulations for Investigations and Enforcement
13 Proceedings, at any time after the Commission takes jurisdiction of a complaint, the Executive
14 Director may enter into negotiation with a Respondent to resolve the factual and legal allegations
15 by way of a Stipulation, Decision and Order.

16 **SUMMARY OF FACTS**

17 Lee Ann Prifti is employed as an executive secretary for the San Francisco Public Utilities
18 Commission, an agency of the City and County of San Francisco.

19 Her assigned e-mail address, owned by the City and County of San Francisco, is
20 lprifti@sfgov.org.

21 In a private volunteer capacity, Respondent serves as Assembly District Chair for the 12th
22 District of the California Democratic Party.

23 According to staff at the California Democratic Party, the role of the Assembly District
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1 Chair is to serve as a grassroots organizer for the Party in his or her district. The California
2 Democratic Party's website defines the Assembly District Committee as "the basic organizational
3 unit of the California Democratic Party. Assembly District Committees are sanctioned committees
4 representing Assembly Districts serving as nominators to the Democratic State Central Committee."

5 On June 9, 2005, the Commission received a complaint alleging that Respondent, in her
6 capacity as Assembly District Chair of District 12 of the California Democratic Party, used her City
7 computer and e-mail address to receive and forward political communications from the Democratic
8 Party.

9 Attached to the complaint was a copy of an Action Alert from the California Democratic
10 Party, sent to an unnamed individual by lprifti@sflower.org on May 31, 2005. The Action Alert
11 referred to a visit by the Governor to San Francisco City Hall on Wednesday, June 1, 2005:

12 Tell the Governor his anti-worker policies will not fly in San Francisco!
13 Corporate interests are not our interest. Join fellow workers & the
14 San Francisco Labor Council to tell the Governor what we really think!

15 Enforcement staff discovered that, until March 23, 2006, the California Democratic Party's
16 website identified Respondent as the Assembly District Chair for the 12th District and listed her e-
17 mail address as lprifti@sflower.org.

18 Enforcement staff also discovered that, until April 21, 2006, the San Francisco Democratic
19 Party website identified Respondent as Assembly District Chair for the 12th District and listed her e-
20 mail address as lprifti@sflower.org.

21 On March 23, 2006, Respondent acknowledged to enforcement staff that she provided her
22 City e-mail address to the California Democratic Party to use as her contact information. She does
23 not believe she gave the City e-mail address to the San Francisco Democratic Party.

24 On April 26, 2006, Respondent forwarded, via facsimile, an April 25, 2006 letter from
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1 August J.P. Longo, Regional Director of the California Democratic Party, stating that the California
2 Democratic Party checked its records and “found no record of your listing your e-mail address with
3 us.” The letter continued, “We sometimes get lists from other sources and your work e-mail may
4 have come from one of those.”

5 Respondent does not own a personal computer and, prior to contact by staff, did not use any
6 e-mail address other than her City e-mail address.

7 Respondent used her City e-mail address for all electronic communications sent or received
8 by her on behalf of the Democratic Party during her tenure as District Assembly Chair for the 12th
9 District until she was contacted by enforcement staff on March 23, 2006.

10 **COUNT I**

11 Respondent, a City employee, engaged in political activity during working hours or on City
12 premises in violation of Section 3.230(c) of the S.F. C&GCC.

13 **APPLICATION OF LAW**

14 By using her City-owned computer and e-mail address, lprifti@sfgov.org, for all
15 electronic communications in her capacity as District Assembly Chair for the 12th District of the
16 California Democratic Party until March 23, 2006, Respondent engaged in political activity during
17 working hours or on City premises in violation of Section 3.240(c) of the S.F. C&GCC.

18 **MITIGATING INFORMATION**

19 The Action Alert sent by Respondent using her City e-mail address and City computer on
20 May 31, 2005 was sent at 6:14 p.m., arguably outside regular work hours.

21 Although Respondent initially acknowledged to enforcement staff that she provided her City
22 e-mail address to the California Democratic Party, she later claimed that she did not know how the
23 Party obtained her City e-mail address. On April 26, 2006, Respondent forwarded, via facsimile, an
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1 April 25, 2006 letter from August J.P. Longo, Regional Director of the California Democratic
2 Party, indicating that the California Democratic Party has no record that Respondent provided the
3 Party with her City e-mail address.

4 Respondent claims that she is not skilled at the use of computers or e-mail, does not own a
5 personal computer, rarely uses e-mail and did not know how to obtain a non-City e-mail address for
6 her personal use. Respondent told enforcement staff that she did not like getting e-mails from the
7 Democratic Party at work, and she regularly deleted them.

8 In a letter to the Commission, dated March 30, 2006, Respondent stated,

9 I wish to convey that I am not very computer literate, and that no business took place
10 from my workplace. I never corresponded with political groups. I do not have the
11 skills nor need to perform computer related business. I am primarily a speaker in my
12 leadership roles.

13 Once contacted by enforcement staff, Respondent acted quickly to get her City e-mail
14 address removed from the California Democratic Party and San Francisco Democratic Party
15 websites. She immediately contacted both entities, and, according to her March 30, 2006 letter, the
16 state party removed her City e-mail address from its website “instantly during the phone call.” The
17 local party removed her City e-mail address from its website after a follow up call from Respondent
18 on April 21, 2006.

19 On March 30, 2006, Respondent wrote, “I will continue to endeavor to eliminate any
20 possibility of my work email address falling into an inappropriate venue.”

21 Respondent has arranged to use a home computer for all future personal and party business,
22 and she obtained a personal e-mail address for that purpose.

23 On April 26, 2006, Respondent indicated in a faxed letter to the Commission that she was
24 no longer receiving or sending Democratic Party messages from lprifti@sflower.org. She stated,
25 “No emails are arriving from the State or local party and no business is being conducted from my

1 work email.”

2 Respondent’s non-City, personal e-mail address is now the contact information listed on the
3 San Francisco Democratic Party’s website.

4 **AGGRAVATING INFORMATION**

5 Because Respondent’s role as District Assembly Chair for the California Democratic Party
6 is an expressly political one, it is reasonable to believe that some of the communications which she
7 sent and received using her City e-mail address were political.

8 Respondent acknowledged that, until she was contacted by enforcement staff on March 23,
9 2006, she used her office computer at the Public Utilities Commission and her City e-mail address
10 for all electronic communications connected with her role as Assembly District Chair for the
11 California Democratic Party.

12 **AGREEMENT**

13 Respondent agrees to the issuance of the attached Decision and Order. This Decision and
14 Order is part of a settlement by which Respondent agrees to cease and desist, and has ceased and
15 desisted, all political activity using her City-owned computer and e-mail address,
16 lprifti@sfgwater.org, and engaging in any other prohibited political activity during working hours or
17 on City premises.

18 Respondent understands and acknowledges that this Stipulation is not binding on any other law
19 enforcement agency, and does not preclude the Commission or its staff from referring the matter to,
20 cooperating with, or assisting any other government agency with regard to the matter, or any other
21 matter related to it.

22 The parties agree that in the event the Commission refuses to approve this Stipulation, it
23 shall become null and void. In that event, nothing in this Stipulation may be used for any purpose,
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1 including in any court or other proceeding relating to this matter, and the parties are free to take
2 positions contrary to those stated herein. Respondent further stipulates and agrees that in the event
3 the Commission rejects this Stipulation and a full evidentiary hearing before the Commission
4 becomes necessary, neither any member of the Commission, nor its staff, shall be disqualified
5 because of prior consideration of this Stipulation.

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

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

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

JOHN ST. CROIX, Executive Director
San Francisco Ethics Commission

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21 Dated: _____

LEE ANN PRIFTI

DECISION AND ORDER

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The foregoing Stipulation of the parties "In the Matter of Lee Ann Prifti," Ethics Complaint Number 11-050627, 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