

VIRGINIA E. VIDA
Executive Director
SAN FRANCISCO ETHICS COMMISSION
30 Van Ness Avenue, Suite 3900
San Francisco, CA 94102
415-581-2300

Complainant

BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of
the Kamala Harris for District Attorney
Committee and Kamala Harris
Respondents.

Ethics Complaint No. 23-030926

**STIPULATION, DECISION
AND ORDER**

This Stipulation, Decision and Order ("Stipulation") is made and entered into by and between the Kamala Harris for District Attorney Committee and Kamala Harris ("Respondents") and the San Francisco Ethics Commission.

The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this matter and to reach a final disposition regarding the alleged violations described in Exhibit 1, attached hereto and incorporated herein by reference, without the necessity of holding an administrative hearing to determine the liability of Respondents. Exhibit 1 is a true and accurate summary of the facts in this matter.

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

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

11
12 This Stipulation reflects the entire agreement between the parties hereto and supersedes any
13 and all prior negotiations, understandings, and agreements with respect to the transactions
14 contemplated herein. This Stipulation may not be amended orally. Any amendment or
15 modification to this Stipulation must be in writing duly executed by all parties.

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

19 Respondents agree to the issuance of the attached Decision and Order. The Ethics
20 Commission finds that there is probable cause to believe that Respondents have violated provisions
21 of the San Francisco Campaign Finance Reform Ordinance. Respondents agree to pay a total of
22 ~~sixty-five thousand dollars (\$65,000)~~ ^{thirty-four thousand dollars (\$34,000)} to settle all liabilities arising out of the conduct of the
23 Respondents with respect to the voluntary spending limit in the November 2003 District Attorney's
24 race, to cover both an administrative penalty and the cost of corrective measures to counteract the
25 public harm caused by the notation appearing in the Voter Information Pamphlet that Kamala

1 Harris had adopted the voluntary spending limit when she had not. Possible corrective measures
2 include placing advertisements in local newspapers, sending a postcard to a selected universe of
3 voters, and/or posting a notice on the Kamala Harris for District Attorney campaign website, in
4 which Harris takes full responsibility and publicly apologizes for the errors of her campaign, and
5 informs voters that she has not in fact accepted the spending limit. The Committee and
6 Commission staff will work on draft language regarding the text of any corrective measures; such
7 draft language will be subject to the approval of the Chair of the Commission.

8 Respondents give full discretion to the Commission to determine the amount of the
9 administrative penalty and the amount which the Committee must spend on corrective measures, as
10 long as the sum for the administrative penalty and the cost of the corrective measures totals
11 approximately ~~\$65,000~~ ^{\$34,000} and does not exceed ~~\$65,000~~ ^{\$34,000}. The language, timing and other details of the
12 corrective measures will be mutually agreed upon by the Ethics Commission staff and Respondents
13 and will be approved by the Chair of the Commission.


14 Respondents agree to deliver the amount of the administrative penalty to the Ethics
15 Commission by June 30, 2004, pursuant to a payment schedule to be agreed upon by the Ethics
16 Commission staff and Respondents. The administrative penalty shall be paid by check or money
17 order made payable to "the Treasurer of the City and County of San Francisco." The check or
18 money order shall be deposited into the General Fund of the City and County of San Francisco.

19 ~~The parties agree that as of September 26, 2003, the voluntary spending limit in the District~~
20 ~~Attorney's race is lifted and no longer binding on any candidate.~~


21 Respondents agree that in the event the Ethics Commission refuses to approve this
22 Stipulation, it shall become null and void. Respondents further stipulate and agree that in the event
23 the Commission rejects the Stipulation and a full evidentiary hearing before the Commission
24 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
25 disqualified because of prior consideration of this Stipulation.

1 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.


3 Dated: 10-03-03

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Virginia Vida
Executive Director, San Francisco Ethics Commission

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6 Dated: 10.03.03

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Kamala Harris
Respondent

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9 Dated: 10/3/03

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James R. Sutton, Esq., for the Kamala Harris for
District Attorney Committee

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3 **DECISION AND ORDER**

4 The foregoing Stipulation of the parties "In the Matter of Kamala Harris for District Attorney
5 Committee and Kamala Harris," Ethics Complaint No. 23-030926, including all attached exhibits, is
6 hereby accepted as the final decision and order of the San Francisco Ethics Commission, effective
7 upon execution below by the Chairperson.

8 IT IS SO ORDERED.

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10 Dated: 4 October 2023


11 Chairperson
12 San Francisco Ethics Commission
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2 **EXHIBIT 1**

3 INTRODUCTION

4 Ethics Commission staff initiated a complaint against the Kamala Harris for District
5 Attorney Committee and Kamala Harris ("Respondents") on September 26, 2003. The complaint
6 alleges that Respondents violated San Francisco Campaign Finance Reform Ordinance, San
7 Francisco Campaign and Governmental Conduct Code ("C&GCC") sections 1.128 and 1.134.

8 SUMMARY OF THE LAW

9 C&GCC section 1.128(a) requires all candidates for City elective office to file a statement
10 with the Ethics Commission to indicate whether they accept or decline to accept the applicable
11 expenditure ceiling.¹ This statement must be filed no later than the deadline for filing nomination
12 papers with the Department of Elections, and once filed may not be withdrawn.²

13 Section 1.128(a) requires the Director of Elections to include in the Voter Information
14 Pamphlet, on the same page as the candidate's statement of qualifications, a notice informing voters
15 whether the candidate has adopted the voluntary expenditure ceiling.

16 For the November 4, 2003 general election, the voluntary expenditure ceiling for the District
17 attorney race is \$211,000. C&GCC section 1.130(c); Ethics Commission Regulation 1.130(f)-1.

18 Any candidate who files a statement accepting the expenditure ceiling and makes campaign
19 expenditures in excess of the expenditure ceiling, at a time when the ceiling has not been lifted, is
20 liable for an amount up to \$5,000 for each violation or three times the amount expended in excess
21 of the amount allowable. C&GCC section 1.128(b).

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23
24 ¹ Section 1.128(a) was amended effective July 27, 2003. The earlier version of section 1.128(a) required only those
25 candidates who agreed to adopt the campaign expenditure ceilings to file statements with the Department of Elections
to indicate their acceptance. Candidates who rejected the spending limits were not required to file any statement to
indicate their rejection of the limit.

² The deadline for filing nomination papers for the November 2003 general election was August 8, 2003.

1 C&GCC section 1.134(b) provides that any candidate who declines to adopt the voluntary
2 expenditure ceiling and who receives contributions, makes expenditures, incurs expenses or has
3 funds in his or her campaign trust account that exceed 100 percent of the applicable expenditure
4 ceiling shall file a statement with the Ethics Commission within 24 hours of exceeding 100 percent
5 of the applicable expenditure ceiling. This section applies only if at least one candidate for the City
6 elective office has filed a statement with the Ethics Commission pursuant to section 1.128
7 indicating acceptance of the applicable expenditure limits.

8 Violations of section 1.134 may result in monetary penalties up to \$5,000 for each violation,
9 or three times the amount not reported or the amount received in excess of the applicable
10 expenditure ceiling or three times the amount expended in excess of the expenditure ceiling.

11 SUMMARY OF FACTS

12 Respondent Harris is a candidate for the office of District Attorney in the November 2003
13 election. On January 6, 2003, Respondent filed a statement with the Department of Elections
14 indicating that she had voluntarily adopted the campaign expenditure ceiling for that office.
15 Respondent states that sometime in July 2003, the Committee treasurer received a phone call from
16 an Ethics Commission staff member informing him that the provisions of the City's campaign
17 finance law regarding how candidates accept or reject spending limits had changed, and telling him
18 that candidates were now required to file the form accepting or rejecting the spending limits with
19 the Ethics Commission. Respondents claim that, as a result of staff's phone call, the Committee
20 mistakenly believed that the form that Respondent filed with the Department of Elections was no
21 longer valid. Respondents also claim to have believed that inasmuch as under the earlier law, a
22 candidate who rejected the spending limit was not required to file a form, Respondent was not
23 required to file the form with the Ethics Commission to reject the spending limit.

24 On September 25, 2003, Respondents filed a campaign statement (Form 460) covering the
25 period July 1 through September 20, 2003, indicating that it had spent \$302,446, or \$91,446 above

1 the spending limit of \$211,000. Subsequently, on the same day, Respondents filed with the Ethics
2 Commission: 1) a form indicating that the candidate did not accept the campaign expenditure
3 ceiling, and 2) a form indicating that the Committee received contributions, made expenditures, and
4 had funds in the campaign trust account that exceed 100 percent of the applicable spending limit.

5 COUNT I

6 Respondents violated C&GCC section 1.128(a) by failing to file a statement with the Ethics
7 Commission indicating whether she accepted or rejected the voluntary expenditure ceiling by the
8 August 8, 2003 deadline.

9 COUNT II

10 Respondents violated C&GCC section 1.134(b) by failing to file a form with the Ethics
11 Commission within 24 hours of receiving contributions that exceed 100 percent of the expenditure
12 limit.

13 COUNT III

14 Respondents violated C&GCC section 1.134(b) by failing to file a form with the Ethics
15 Commission within 24 hours of making expenditures that exceed 100 percent of the spending limit.

16 COUNT IV

17 Respondents violated C&GCC section 1.134(b) by failing to file a form with the Ethics
18 Commission within 24 hours of having funds in her campaign trust account that exceed 100 percent
19 of the spending limit.

20 FACTORS IN MITIGATION

21 The violations appear to be unintentional. Respondent's campaign manager told
22 Commission staff that he and the campaign treasurer believed, at the time when the campaign spent
23 over the limit, that Harris had properly rejected the limits and that her campaign was no longer
24 bound by them. He also indicated that this belief was based on a courtesy telephone call from
25 Commission staff to the campaign treasurer informing him that the provision of the City's

1 campaign finance law regarding how candidates accept or reject spending limits had changed, and
2 telling him that Harris needed to file a new form accepting or rejecting the limits with the Ethics
3 Commission. The campaign manager has subsequently acknowledged that this belief was
4 mistaken.

5 Respondents voluntarily brought this matter to the attention of the Ethics Commission, and
6 have fully cooperated with the Commission staff in resolving the issue. Harris has taken full
7 responsibility and has publicly apologized for the errors of her campaign, and has agreed to take
8 corrective measures to counteract any public harm.

9 10 FACTORS IN AGGRAVATION

11 Respondents failed to file a form with the Ethics Commission to state whether she accepted
12 or declined to accept the expenditure limit until well after the August 8, 2003 deadline, even though
13 the Committee received both verbal notice and a written memorandum from Ethics Commission
14 staff that Harris must file the form.

15 Respondents failed to file notices with the Ethics Commission within 24 hours of reaching
16 the limits, that Harris had funds in her campaign trust account in excess of the spending limit, that
17 she had received contributions in excess of the spending limit, and that she had made expenditures
18 in excess of the spending limit.

19 Respondents failed to notify either the Ethics Commission or the Department of Elections
20 that Harris no longer intended to abide by the spending limit, thereby allowing a notation to appear
21 on the Voter Information Pamphlet that Harris adopted the spending limit when she did not.
22

23 CONCLUSION

24 For the foregoing reasons, the Ethics Commission and Respondents agreed that Respondents
25 will pay a total amount of ^{\$34,000}~~\$65,000~~ to resolve the allegations of the complaint. This settlement

wp
\$34,000

1 amount of ~~\$65,000~~ will cover both an administrative penalty and the cost of corrective measures to
2 counteract the public harm caused by the notation appearing in the Voter Information Pamphlet that
3 Harris had adopted the voluntary spending limit when she had not. Respondents give full discretion
4 to the Commission to determine the amount of the administrative penalty and the amount which the
5 Committee must spend on corrective measures, as long as the sum for the administrative penalty
6 and the cost of the corrective measures totals approximately ~~\$65,000~~ and does not exceed ~~\$65,000~~.
wp \$34,000 *wp* \$34,000