

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA

v.

GORDON D. FOX

Defendant

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:

Cr. No.

15

014

ATTACHMENT A

STATEMENT OF FACTS

The parties agree and stipulate as follows:

INTRODUCTION

Gordon Fox was first elected to the State of Rhode Island, House of Representatives in 1992, to represent District 4, encompassing the Summit and Mount Hope neighborhoods in Providence. In 2002, Fox was elected by his legislative counterparts to the position of House Majority Leader. In February 2010, Fox was elected Speaker of the House. He was again elected Speaker in 2011. Most recently, Fox was reelected to his House seat in January 2013 to a two-year term. Fox resigned as Speaker on March 24, 2014, three days after search warrants were executed at his home and State House Office and announced he would not seek re-election that year. Throughout the relevant period of time, Fox was self-employed as an attorney.

In addition to Fox's position as an elected public-office holder, from approximately January 2006 to approximately December 2009, Fox held the position of Vice-Chairman of the City of Providence, Board of Licenses and thus, was an agent of the City of Providence, Rhode Island. The City of Providence, Board of Licenses was a five-member board appointed by the Mayor with the approval of the City Council that was responsible for processing a range of license applications and license violations for the City of Providence, including, among other items, liquor

licenses. As such, Fox's duties included, but were not limited to, hearing testimony relating to liquor license applications and violations and voting on whether to approve liquor license applications.

COUNT ONE OFFENSE CONDUCT - BRIBERY

In approximately April 2007, Persons B and C were partners in the Shark Sushi Bar and Grill, Inc., a new restaurant establishment the two were opening on Thayer Street in Providence. On behalf of Shark, in approximately May 2008, Persons B and C applied for a Class B liquor license from the City of Providence.

At some time prior to August 2008, Person B informed Person C that in order to obtain the Shark liquor license, they needed to pay \$35,000 to Fox. Person B informed Person C that in exchange for \$35,000, Fox would assist them obtain a liquor license for Shark. Also at some point prior to August 2008, Persons B and C met with Fox at his law office. As a result of that meeting, prior to August 2008, defendant GORDON D. FOX agreed to accept money from Persons B and C in exchange for taking official action in his capacity as Vice-Chairman of the Board of Licenses by supporting, advocating, and ultimately voting in favor of the Board granting Shark's liquor license application.

There were numerous business owners and residents that expressed opposition to Shark's liquor license application. These views were expressed at, among other times, an August 13, 2008, Board of Licenses hearing. Fox, as Vice-Chairman, attended the August 13th hearing. Both Persons B and C appeared before Fox and testified at the hearing on behalf of Shark. At the conclusion of the August 13, 2008, licensing hearing, the Board took the matter of Shark's liquor license application under advisement and noted that it would issue its decision within ten days.

Thereafter, at an August 29, 2008, Board of Licenses hearing, Fox articulated in detail the reasons justifying the Licensing Board's award of a liquor license to Shark and moved that the Board approve the application. The motion passed and Shark was awarded a Class B liquor license.

Subsequently, six days later, on or about September 5, 2008, in exchange for his official action in ensuring the granting of Shark's liquor license application, Persons B and C met with Fox at his law office. At the September 5th meeting, Person B gave Fox \$17,500 in cash and Person C gave Fox two checks, one in the amount of \$8,000 and one in the amount of \$9,500, totaling \$17,500.

In addition, unbeknownst to Person C, at the September 5, 2008, meeting in Fox's office, Person B provided Fox with two additional checks, one in the amount of \$9,000 and one in the amount of \$8,500, totaling \$17,500. The additional two checks were from Person D, at the time a silent partner in Shark.

A review of Fox's bank records revealed that he deposited the four checks totaling \$35,000 on four different days, and in two different bank accounts. Fox deposited the two checks he received from Person C into his joint savings account on or about September 9th and September 12th, 2008. Fox deposited the two checks he received from Person D into his law office account on or about September 8th and September 15th, 2008. Fox never deposited the \$17,500 in cash into any of his bank accounts. Of the \$52,500 he received in connection with his official action on behalf of the Shark Bar, Fox only reported the \$17,500 from Person D as income from his law practice on his 2008 tax return. Fox did not report the remaining \$35,000 he received from Persons C and B on his 2008 tax return. Furthermore, Fox concealed his corrupt receipt of the \$52,500 from the public and from the other members of the Board of Licenses.

At the time of Fox's actions, the City of Providence received federal assistance in excess of \$10,000 during the one-year period beginning May 1, 2008, and ending July 30, 2009. The actions taken by Fox relating to the Shark Bar were undertaken by him knowingly and corruptly and intending to be influenced and rewarded in connection with a transaction and series of transactions of the City of Providence involving \$5,000 or more, i.e. approving the award of a liquor license application.

COUNT TWO OFFENSE CONDUCT – WIRE FRAUD

Throughout the relevant time frame, Fox maintained and had signatory authority over the following bank accounts at Santander, formerly known as Sovereign bank: (A) a joint personal checking account he shared with his partner, account number XXXXXXXX7422 (hereafter referred to as the "joint checking account"); (B) a joint personal savings account he also shared with his partner, account number XXXXXXXX7724 (hereafter referred to as the "joint savings account"); (C) the business account for his law practice, account number XXXXXXXX4105 (hereafter referred to as the "law office account"); and (D) an account for Imagine Hair Salon, account number XXXXXXXX8271 (hereafter referred to as the "hair salon account"). Together, these accounts will hereafter be referred to as the "personal accounts."

At the outset of Fox's political career, he formed and maintained a campaign organization titled Friends of Gordon Fox (hereafter referred to as "Friends of Fox") in order to solicit and raise campaign funds from individuals and political actions committees. Fox solicited campaign funds on the representations and premise that the funds would be used to facilitate his reelection and maintain his leadership positions within the Rhode Island General Assembly. Fox maintained and had exclusive signatory authority over the Friends of Fox campaign account at Santander Bank, account number XXXXXXXX0401 (hereafter referred to as the "Friends of Fox account").

The Campaign Finance Law of the State of Rhode Island prohibits the use of campaign funds by any elected public office holder or any candidate for public office to pay for personal expenses, such as mortgage, rent and utility payments, and clothing, other than clothing items of de minimis value that are used in a campaign. R.I.G.L. § 17-25-7.2. The Campaign Finance Law explicitly provides that the State of Rhode Island is committed to facilitating public access to reports of campaign contributions and expenditures by candidates for public office. R.I.G.L. § 17-25-7.5.

To that end, the Campaign Finance Law requires elected public office holders like Fox and candidates for public office to file electronically with the Rhode Island Board of Elections detailed quarterly reports of all campaign contributions received and all expenditures made from a campaign account, by or on behalf of such public office holder or candidate. The Campaign Finance Law requires that these reports be filed more frequently in an election year. R.I.G.L. §§ 17-25-7, 17-2-11. The campaign finance reports, once filed, are available to be viewed by the public online at <http://www.elections.ri.gov/finance/publicinfo>.

At all relevant times, acting at Fox's direction and on his behalf, Person A prepared the Friends of Fox campaign finance reports for their filing with the Rhode Island Board of Elections. After their completion, Fox reviewed the Friends of Fox campaign finance reports and filed them.

Beginning in or about February 2008, and continuing until in or about February 2014, Fox transferred approximately \$108,000 from the Friends of Fox account to his personal bank accounts for the purpose of using the transferred campaign funds to pay for personal expenses, despite the fact that such use was prohibited by Rhode Island's Campaign Finance Law. Each of the approximately 28 intrabank transfers Fox made were completed online, using Santander's online

banking platform. Over the years, Fox made the following transfers from the Friends of Fox campaign account to his personal accounts:

| | | |
|----|----------|------------|
| a. | 02/07/08 | \$5,000.00 |
| a. | 03/24/08 | \$1,000.00 |
| b. | 05/14/09 | \$3,000.00 |
| c. | 06/16/09 | \$6,000.00 |
| d. | 07/16/09 | \$1,000.00 |
| e. | 08/17/09 | \$4,000.00 |
| f. | 10/14/09 | \$2,500.00 |
| g. | 01/19/10 | \$4,000.00 |
| h. | 01/26/10 | \$2,500.00 |
| i. | 02/17/10 | \$5,000.00 |
| j. | 04/14/10 | \$5,000.00 |
| k. | 04/19/10 | \$2,000.00 |
| l. | 06/15/10 | \$6,000.00 |
| m. | 06/23/10 | \$1,000.00 |
| n. | 06/25/10 | \$2,500.00 |
| o. | 07/22/10 | \$5,000.00 |
| p. | 10/18/10 | \$3,000.00 |
| q. | 12/17/10 | \$7,500.00 |
| r. | 02/16/11 | \$3,500.00 |
| s. | 03/17/11 | \$5,000.00 |
| t. | 06/15/11 | \$2,500.00 |

| | | |
|-----|-----------|-------------------|
| u. | 08/15/11 | \$5,000.00 |
| v. | 09/13/11 | \$3,500.00 |
| w. | 4/10/2012 | \$5,000.00 |
| x. | 5/14/2012 | \$5,000.00 |
| y. | 6/17/2013 | \$3,000.00 |
| z. | 7/17/2013 | \$5,000.00 |
| aa. | 2/11/2014 | <u>\$4,500.00</u> |
| | | \$108,000 |

Fox's August 17, 2009, \$4,000 transfer from the Friends of Fox account to the hair salon account was to fund construction work being done on the salon. In 2010, of the \$43,500 Fox took from the Friends of Fox account that year, Fox transferred \$1,000 to his law office account in order to pay his law office rent. Fox transferred the remainder of the diverted campaign funds to his joint checking account. On average, the campaign funds Fox fraudulently diverted represented approximately 15% of the campaign funds he received.

Notably, Fox's theft of campaign funds was not limited to Friends of Fox. In addition to the sums already described, on January 3, 2013, Fox transferred \$1,000 from the Rhode Island House Leadership Political Action Committee ("PAC"), another campaign finance account he maintained at Santander and over which he had signatory authority, to his joint checking account.

Each of the online electronic transfers made by Fox from the Friends of Fox and PAC accounts to his personal accounts required interstate wire authentication of the user name and password through servers located in Pennsylvania, and effectuating a transfer between accounts

required transmission of interstate wire communications to points outside the State of Rhode Island, including but not limited to Ohio, and at times, outside of the United States.

A review of Fox's bank records reveals that the purpose of the transfers out of the Friends of Fox account was to provide Fox with sufficient money to pay his and his partner's personal expenses. Often, the balances in Fox's personal accounts, including his law office account, were insufficient to cover his and his partner's monthly expenses. The amounts that Fox transferred were typically utilized within one week, often days, to pay various bills.

Those personal expenses included, among other items, Fox's personal mortgage payments to Litton Loan Servicing, his personal car loan payments to Bank of America, and to pay for American Express account expenditures on personal items, including but not limited to, purchases at Tiffany's, TJ Maxx, Target, Walmart, Urban Outfitters, and Warwick Animal Hospital.

Throughout the relevant time frame, approximately in or about February 2008, and continuing until in or about February 2014, as stated, Fox solicited and caused to be solicited individuals and political action committees to contribute monies to Friends of Fox for the purposes of supporting his reelection and maintaining his leadership positions in the Rhode Island General Assembly. Fox never disclosed to potential contributors that he had already used a substantial portion of funds contributed to Friends of Fox for his personal benefit, nor did he disclose that he intended to use a portion of any new Friends of Fox contributions to pay for personal expenses.

From 2008 through 2014, in order to hide the fact that he had been converting his campaign funds to prohibited personal use, Fox submitted numerous Rhode Island Board of Elections filings, which required him to list all contributions and expenses associated with Friends of Fox, that were false. An examination of Fox's campaign finance filings revealed that none of the transfers out of the Friends of Fox account into Fox's personal accounts were listed on the

filings. As a result, at the conclusion of 2013, Fox's campaign finance filing listed a balance in the Friends of Fox account of \$212,060.66, when in truth the balance in the account at the end of 2013 was approximately \$52,403.02, as indicated on the bank statement. Fox's overstatement of the account balance for the Friends of Fox account on his campaign finance filings enabled him to continue the diversion of his campaign funds to pay for prohibited personal expenses without detection for a lengthy period of time and without questions from the Rhode Island Board of Elections or the general public.

In addition to deceiving his contributors, the Board of Elections and the general public, Fox also deceived Person A. Person A who assisted Fox in preparing the campaign finance filings for Friends of Fox, also assisted Fox with the preparation of the Board of Election filings for the House Leadership PAC and another PAC over which Fox maintained control, the Fund for Democratic Priorities. For the House Leadership PAC and Fund for Democratic Priorities, Fox provided Person A with the bank statements for those accounts and had her reconcile the account balances she maintained with the bank statements. Fox did not, however, have Person A reconcile the Friends of Fox account and never allowed her to see the bank statements, in order to hide the fact that the actual balance in the Friends of Fox account was much lower than what he was reporting to the Rhode Island Board of Elections on his campaign finance filings and that he had been stealing money from the account.

The actions taken by Fox were undertaken by him knowingly and with the intent to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

COUNT THREE OFFENSE CONDUCT – FALSE TAX RETURN

For the tax years 2008 through 2012, Fox filed false tax returns in that his statement of total income for each of those calendar years was false because he knowingly failed to include the personal income he received in each year as a result of his receipt of a bribe in 2008 and his fraudulent transfers from the Friends of Fox account and the Rhode Island House Leadership PAC.


For example, on or about April 15, 2009, Fox made, subscribed, and filed his 2008 U.S. Individual Tax Return, Form 1040, which Fox knew was not true and correct as to every material matter. Fox stated that his total income for the calendar year 2008 was the sum \$64,453, when he knew that the Return did not include the approximately \$6,000 in income he had received as a result of his fraudulent transfers from the Friends of Fox account and approximately \$35,000 in income he received in connection with his official action on the City of Providence Licensing Board relating to the Shark Bar.

In addition, on or about April 1, 2011, Fox made, subscribed, and filed his delinquent 2009 U.S. Individual Tax Return, Form 1040, which Fox knew was not true and correct as to every material matter. Fox stated that his total income for the calendar year 2009 was the sum \$62,530, when he knew that the Return did not include the approximately \$16,500 in income he had received as a result of his fraudulent transfers from the Friends of Fox account.

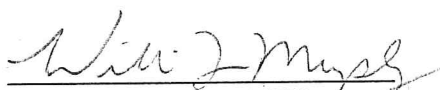
Further, on or about April 20, 2012, Fox made, subscribed, and filed his delinquent 2010 U.S. Individual Tax Return, Form 1040, which Fox knew was not true and correct as to every material matter. Fox stated that his total income for the calendar year 2010 was the sum \$62,087, when he knew that the Return did not include the approximately \$43,500 in income he had received as a result of his fraudulent transfers from the Friends of Fox account.

On or about December 2, 2013, Fox made, subscribed, and filed his delinquent 2011 U.S. Individual Tax Return, Form 1040, which Fox knew was not true and correct as to every material matter. Fox stated that his total income for the calendar year 2011 was the sum \$93,609, when he knew that the Return did not include the approximately \$19,500 in income he had received as a result of his fraudulent transfers from the Friends of Fox account and approximately \$13,638.21 in income he received as a result of his law practice.

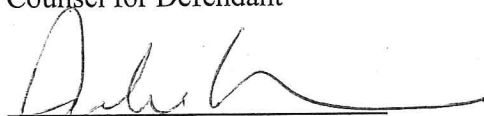
On or about December 2, 2013, Fox made, subscribed, and filed his delinquent 2012 U.S. Individual Tax Return, Form 1040, which Fox knew was not true and correct as to every material matter. Fox stated that his total income for the calendar year 2012 was the sum \$87,365, when he knew that the Return did not include the approximately \$10,000 in income Fox received as a result of his fraudulent transfers from the Friends of Fox account and approximately \$5,920 in income he received as a result of his law practice.


GORDON D. FOX
Defendant

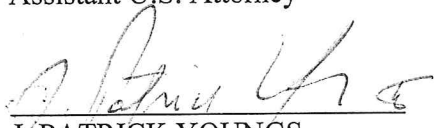
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Date


WILLIAM J. MURPHY
Counsel for Defendant

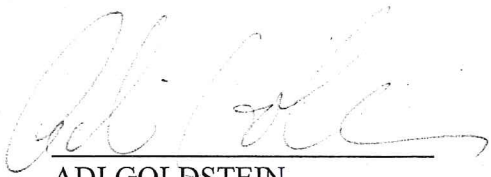
27 FEB 15
Date


DULCE DONOVAN
Assistant U.S. Attorney

3/2/15
Date


J. PATRICK YOUNGS
Special Assistant U.S. Attorney

3/2/15
Date



ADI GOLDSTEIN
Assistant U.S. Attorney
Chief, Criminal Division

3/2/2015
Date