

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION - LOS ANGELES)

LA ALLIANCE FOR HUMAN RIGHTS,)	CASE NO: 2:20-CV-02291-DOC-KES
ET AL.,)	
	CIVIL
Plaintiffs,)	
	Los Angeles, California
vs.)	
	Thursday, March 7, 2024
CITY OF LOS ANGELES, ET AL.,)	(1:36 p.m. to 1:45 p.m.)
	(2:01 p.m. to 2:11 p.m.)
Defendants.)	

HEARING RE:

MOTION TO ENFORCE THE SETTLEMENT AGREEMENT
AND FOR SANCTIONS

BEFORE THE HONORABLE DAVID O. CARTER,
UNITED STATES DISTRICT JUDGE

APPEARANCES: SEE PAGE 2

Court Reporter: Recorded; CourtSmart

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WITNESS TESTIMONY

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MATT SZABO

COURT INQUIRY

5

1 Los Angeles, California; Thursday, March 7, 2024; 1:36 p.m.

2 (Call to Order)

3 THE COURT: Please be seated. All parties are
4 present.

5 I want to disclose to you that I received a call from
6 Mayor Bass over the lunch hour. She's in Paris right now
7 pursuant to the 2028 Olympic games, along with Paul Kerkorian,
8 who's the president (phonetic) counsel, and a number of other
9 people for the City.

10 We both have each other's cellphone number. I want
11 you to know that.

12 She's represented to the Court the following -- and
13 I'll have her staff check this with her so that there's no
14 misstatement on my part -- that the mayor is agreeable to
15 transparency and accountability concerning the invoices and the
16 underlying work documents for services on first and last
17 matter, Inside Safe, and future agreements concerning
18 homelessness.

19 Also, she's returning -- and I've said that I will
20 continue a portion of this matter next week out of courtesy to
21 her so she's able to participate, speaking to Marcus and the
22 other parties if you choose to talk further. And I think
23 that's a courtesy that the Court could readily extend to the
24 mayor.

25 Second, the controller, Sergio, the assistant, will

1 be here tomorrow at 9:00 o'clock. And as such, they will be
2 testifying concerning a number of questions.

3 But I'm going to ask Matt Szabo to step forward for
4 just a moment. I'd like to put you under oath now, and if
5 you'd come here for just a minute, please.

6 If you'd administer your oath to the executive.

7 **THE CLERK:** Please raise your right hand.

8 **MATT SZABO, SWORN**

9 **THE COURT:** Thank you, sir. If you'll please take
10 the witness stand, it's just to my right. Thank you.

11 And would you be kind enough to state your name for
12 the record after you're comfortably seated?

13 **MR. SPEAKER:** You want me to grab that?

14 Did we take the chair away? There was a purpose
15 (inaudible). Thank you. (Inaudible) Mr. Szabo's been --

16 **MR. SPEAKER:** Comfortable chair.

17 **THE COURT:** -- kind enough to retrieve a chair.

18 Okay. State your name for the record, please.

19 **THE WITNESS:** My name is Matt Szabo.

20 **THE COURT:** Would you spell your last name, please?

21 **THE WITNESS:** It's S-Z-A-B-O.

22 **THE COURT:** Sergio and the controller will be present
23 tomorrow to testify in this matter. There's been a lot of
24 conversation you've heard sitting in the audience about the
25 audit.

1 And I know that you emailed the special master your
2 thoughts about this. But I want this under oath, and that is
3 if a program or programs are centralized in the mayor's office,
4 does the controller have the authority and power to audit those
5 programs?

6 **MR. MARCUS:** Your Honor, Scott Marcus on behalf of
7 the City. I don't know that Mr. Szabo is the appropriate
8 witness for that. That's a legal determination that the Court
9 can make based on the charter --

10 **THE COURT:** Thank you, overruled. You can answer
11 that question, please.

12 **THE WITNESS:** So in normal circumstances, if issues
13 like this are raised, I would consult with the City attorney to
14 (inaudible) --

15 **THE COURT:** Sure.

16 **THE WITNESS:** -- determination on the charter. But
17 typically -- so I am not in a position to opine on --

18 **THE COURT:** I understand that.

19 **THE WITNESS:** -- this case. Typically programmatic
20 audits are not conducted by the controller's office on elected
21 officials.

22 **THE COURT:** All right. And that would mean that the
23 audits of these different programs, whether it's LA Alliance or
24 Inside Safe, at least subject to disagreement and advice of
25 your counsel of course who may disagree, but aren't subject to

1 an audit; is that correct, by the controller's office?

2 **THE WITNESS:** Again, under this circumstance, the
3 typical determination would be that the programs under the
4 purview of the mayor, in this case Inside Safe and its
5 associated programs, would not be.

6 Other programs that serve to comply with the
7 requirements of the alliance would be.

8 **THE COURT:** Matt, if you can't audit these programs,
9 how would there be public accountability unless there's an
10 outside audit? In other words, by you -- by I mean the
11 controller?

12 **THE WITNESS:** Well, there are a number of ways that
13 the City conducts audits. My office, for example, does have
14 the authority to conduct programmatic audits, and from time to
15 time we are asked to do so by the City counsel.

16 **THE COURT:** Let's assume, though, that the Court
17 might be uncomfortable with the very entity being audited
18 conducting the audit. Let's assume that's a concern.

19 **THE WITNESS:** So I would say that the office of the
20 CAO and the office of the City controller are the two primary
21 entities that would conduct or contract for outside audits.

22 **THE COURT:** Okay. If the controller is unable to
23 audit any programs run by the mayor's office, then the concern
24 might be that the mayor's office shifting from addressing
25 homelessness on a district by district basis to a citywide

1 approach centralized in the mayor's office would shield -- and
2 shield's a bad word, but shield the City from accountability
3 and oversight, wouldn't it?

4 **MR. MARCUS:** Your Honor, again, I need to object.
5 This is not anything that was part of the motion for sanctions.
6 An audit was not part of the relief requested. It is not part
7 of the briefing. I do not think Mr. Szabo is an appropriate
8 witness to answer these questions at this time.

9 **THE COURT:** Well who would be? Because Mr. Szabo
10 contacted with the special master, who I'll bring out in a
11 moment. And I'm going to show you both the email in just a
12 moment.

13 So the controller cannot audit a program under the
14 control of the mayor. He can't audit other elected officials.
15 You disagree with that.

16 **MR. MARCUS:** I do not disagree with that. That is --

17 **THE COURT:** All right, thank you.

18 **MR. MARCUS:** -- what is stated in our charter.

19 **THE COURT:** All right.

20 **MR. MARCUS:** But, again, --

21 **THE COURT:** Thank you.

22 Is that still your opinion? That doesn't mean it's
23 legally binding. Is that still your opinion?

24 **THE WITNESS:** That's my opinion, yes.

25 **THE COURT:** Okay. Now, the controller's going to be

1 here tomorrow. Would you be present? Because there may be the
2 controller's trying to search out this answer also.

3 And apparently (inaudible) the special master I'm
4 learning that this has been a debate for well over a year
5 within the controller's office. So their position is equivocal
6 and they're not certain what your position is on this, although
7 there may be a conflict.

8 And you can work that with your counsel. They'll --
9 they can bring their counsel tomorrow also.

10 And I don't mean to embarrass you in any way. First
11 of all, humbly thank you, okay. And I appreciate the
12 candidness of this.

13 And, counsel, I'm not going to allow any questions at
14 this time. There'll be questions later on, upon receipt of
15 that email.

16 Of course I'm concerned how an audit would be
17 conducted if not through an outside source.

18 So, Matthew, you may step down. I'm going to ask you
19 to be here tomorrow at 9:00 o'clock.

20 (Witness steps down.)

21 All right. We'll take testimony from the controller
22 tomorrow. Are you prepared to either reach a stipulation or
23 present evidence concerning the conversation that you've had
24 with Mercedes Marquez?

25 **MS. MITCHELL:** Two things, Your Honor. So, one, we

1 did reach a stipulation. I emailed chambers with a copy of
2 that stipulation right before we began back at 1:30, so that's
3 already done.

4 **THE COURT:** Okay. I'll get off the bench. If you
5 can reach a stipulation, I'm going to accept that.

6 **MS. MITCHELL:** Yes.

7 **THE COURT:** If you can't reach a stipulation, then
8 the testimony will (inaudible) you can call Paul Webster today.

9 If Daniel Conway isn't available, try tomorrow
10 because we'll be in session tomorrow at 9:00 o'clock with the
11 controller.

12 And I can take Conway's testimony or I can delay
13 that. But now I want to pay the courtesy of the mayor
14 returning next Thursday so she's involved.

15 **MS. MITCHELL:** Your Honor, so a couple things. So we
16 did reach a stipulation. The Court has a copy of it in
17 chambers email.

18 **THE COURT:** I do?

19 **MS. MITCHELL:** So that's done. The stipulation was
20 sent to DOC chambers 20 minutes ago.

21 **THE COURT:** It was.

22 **MS. MITCHELL:** Yes.

23 **THE COURT:** Well let me get that stipulation then.

24 **MS. MITCHELL:** Okay.

25 **THE COURT:** I apologize. I'm going to get off --

1 **MS. MITCHELL:** No problem.

2 **THE COURT:** -- the bench so -- we've been back in the
3 back talking about all of you folks, --

4 **MS. MITCHELL:** Briefly, Your --

5 **THE COURT:** -- so we'll be right back.

6 **MS. MITCHELL:** -- Honor, before the Court goes, can I
7 make a suggestion that if we're coming back next week for the
8 mayor, that we also have the controller come back next week as
9 well and we handle both -- all pieces --

10 **THE COURT:** Oh, no.

11 **MS. MITCHELL:** -- at the same time?

12 **THE COURT:** No, no. I want this tied down in close
13 proximity to Mr. Szabo.

14 **MS. MITCHELL:** Okay.

15 **THE COURT:** And then we can take additional
16 testimony.

17 **MS. MITCHELL:** Okay.

18 **THE COURT:** But right now I don't want to go in over
19 to third session because we haven't reached resolutions or
20 accommodation I'll be writing as of Thursday night next week,
21 okay.

22 **MS. MITCHELL:** Thank you, Your Honor.

23 **THE COURT:** So we're in recess. I'll go get the
24 stipulation.

25 //

1 **(Recess taken from 1:45 p.m. to 2:01 p.m.)**

2 **(In progress)**

3 **THE COURT:** -- to CourtSmart. And CourtSmart isn't
4 performing up to capability. So the MIS people are here with
5 the Court's great appreciation. And if we have any trouble
6 with distortion, let me know because we're coming back tomorrow
7 at 9:00 o'clock anyway, okay?

8 **THE CLERK:** I'm sorry, can you get appearances one
9 more time for the reporter?

10 **THE COURT:** For the reporter, you'll need the
11 appearances one more time because we've switched to CourtSmart.
12 So just remain seated.

13 Ms. Mitchell, would you start with your appearance
14 again?

15 **MS. MITCHELL:** Yes, Your Honor. Elizabeth Mitchell
16 from Umhofer, Mitchell, and King on behalf of Plaintiff LA
17 Alliance.

18 Matthew Umhofer has had to leave. He's going out of
19 town. I have next to me Paul Webster, Executive Director of LA
20 Alliance.

21 **THE COURT:** Okay. And proposed Intervenors.

22 **MR. YAGMAN:** Good morning, Your Honor.

23 Stephen Yagman on behalf of the proposed intervenors.
24 I have a conflict tomorrow morning that I can't be here.

25 **THE COURT:** Then you won't be here.

1 Mr. Marcus on behalf of the City.

2 **MR. MARCUS:** Thank you. Scott Marcus on behalf of
3 the City of Los Angeles.

4 **THE COURT:** Okay. And on behalf of the County.

5 **MS. HASHMALL:** Good afternoon, Your Honor, Mira
6 Hashmall for the County.

7 **THE COURT:** And then Ms. Sobel and Ms. Myer.

8 **MS. SOBEL:** Carol Sobel on behalf of Intervenors.

9 **MS. MYERS:** Shayla Myers on behalf of Los Angeles
10 Community Action Network and LA Catholic Worker.

11 **THE COURT:** Okay. The Court's received over the
12 lunch hour stipulated facts re: RFQ agreements, March 15th,
13 2023.

14 Do we have the capability of putting this up on the
15 ELMO, Una (phonetic), Karlen? Do we have an additional copy we
16 can put up?

17 **(Clerk/Judge confer.)**

18 **THE COURT:** Counsel, when I'm done reading this, I'm
19 going to ask you in light of the stipulation if either the City
20 or LA Alliance or anyone else would like to add additional
21 information to the stipulation; and, if so, then you can call a
22 witness. If you're satisfied, then so be it.

23 But in reading this, it would seem to the Court that
24 I would then, in writing an opinion, find that you were misled
25 from March 15th minimally through October 16th, Ms. Mitchell,

1 by the representations of Mercedes is it Lewis?

2 **MS. MITCHELL:** Marquez.

3 **THE COURT:** Marquez, Mercedes Marquez, in terms of
4 the representations made to you. And I'm putting all parties
5 on fair notice that you can -- if I go with this stipulation,
6 then maybe neither one of you are calling additional witnesses.

7 But otherwise you're both welcome to call those
8 witnesses. But that would be the Court's belief and probably
9 my written opinion concerning this. Now, what I do with it is
10 subject to argument.

11 But, all right, stipulated facts re: RFQ agreement,
12 March 15th, 2023.

13 First, LA Alliance, represented by Elizabeth Mitchell
14 and Daniel Conway, met with the City represented by Scott
15 Marcus, David Michaelson, and Mercedes Marquez on March 8th and
16 again March 15th, 2023 to discuss the City's noncompliance with
17 the agreement.

18 On March 15th, 2023 the City through then-Chief
19 Housing and Homelessness Officer Mercedes Marquez claimed that
20 the City had significant plans intended to come into compliance
21 with Section 5.2 subsection two and subsection four.

22 Specifically, Marquez stated that the City had
23 already put out an RFQ, request for quote or request for
24 qualification, for service outreach providers, would be fully
25 staffed with an assigned service outreach provider for each

1 district by July 1st, 2023, and would have each district fully
2 assessed, which was described as identifying the numbers of
3 unsheltered PEH, plus a description of the needs of various
4 groups, including an estimate of the number of individuals with
5 serious mental illness and substance use disorder in each
6 district by September 30th, 2023.

7 Ms. Marquez promised that once the effort was
8 complete, the City would then provide the Alliance its proposed
9 encampment milestones and deadlines by October 1st, 2023.

10 Second, Elizabeth Mitchell summarized the meeting in
11 an email thereafter directed to Scott Marcus, Mercedes Marquez,
12 and David Michaelson.

13 In our last meeting, we talked about the RFQ that the
14 City has put out for a list of qualified service outreach
15 providers, and that the City expects to be fully staffed with
16 the district's chosen providers by July 1st.

17 We also discussed that the City could commit to
18 having each district fully assessed and could get us a list of
19 proposed milestones and deadlines within three months
20 thereafter, October 1st.

21 Third, relying upon the promises of the new mayor's
22 representative and extending a good faith opportunity to a new
23 administration, LA Alliance agreed to the extension.

24 Mr. Marquez, on behalf of the City, confirmed the
25 request for extension and agreed the City would provide

1 district-specific encampment milestones by October 1st, 2023.

2 Fourth, the City did not complete the RFQ process as
3 represented to LA Alliance. It did not have each district
4 fully assessed to help establish appropriate milestones as the
5 City had committed to on March 15, 2023.

6 Two days after October 1st, the City emailed its
7 encampment engagement cleaning and resolution proposal that
8 contained no proposed district by district deadlines or
9 milestones at all.

10 First of all, Ms. Mitchell, your signature's on that.

11 And, Mr. Marquez, I understand that you were going to
12 sign this but there was a trouble with the --

13 **MR. MARCUS:** Scott Marcus on behalf of the City, Your
14 Honor. I did sign a copy that was brought out by the judicial
15 assistant.

16 **THE COURT:** I don't have that so --

17 **MS. MITCHELL:** That -- this one right here's signed.

18 **THE COURT:** Oh, do you have it right here?

19 **MS. MITCHELL:** Yes.

20 **MR. MARCUS:** I believe --

21 **THE COURT:** Are both of your signatures on that?

22 **MR. MARCUS:** I believe the one on the ELMO has both
23 of our signatures, yes.

24 **THE COURT:** Una?

25 **MS. SPEAKER:** Yes.

1 **THE COURT:** Okay. Thank you. Then I'll order that
2 be filed with the Court.

3 In light of that, do you wish to present any
4 additional witnesses, with a forewarning that here I would find
5 quite frankly whether it was a confession or admission based
6 upon this stipulation that you were misled?

7 **MS. MITCHELL:** I would agree, Your Honor. And, no,
8 we do not intend --

9 **THE COURT:** Well, you have an opportunity to
10 embellish that or cross examination if the other party wants to
11 call either Mr. Conway or the gentleman here in court, Paul
12 Webster, or Mercedes Marquez. I've given you all that
13 opportunity for both sides.

14 **MS. MITCHELL:** And I --

15 **THE COURT:** Otherwise, I'm not going to be quibbling
16 about this in the future.

17 And I'm warning each of you, I would find that you
18 were misled in this matter.

19 **MS. MITCHELL:** I appreciate that, Your Honor. On
20 behalf of the Alliance, we do not intend to present additional
21 witnesses.

22 **THE COURT:** Do you wish to cause any further
23 witnesses, Mr. Marquez or Mr. Marcus?

24 **MR. MARCUS:** Thank you, Your Honor. The City does
25 not need to call any additional witnesses. We do agree with

1 the facts as stated in the stipulation, with one caveat.

2 I believe the Court misspoke in reciting paragraph
3 three --

4 **THE COURT:** I'm sorry.

5 **MR. MARCUS:** -- that Ms. Marquez sent the email, not
6 me, Mr. Marcus. I --

7 **THE COURT:** Let me read that again then.

8 **MR. MARCUS:** -- just wanted to make that clear.

9 **THE COURT:** My apologies. Relying --

10 **MR. MARCUS:** And then if I could --

11 **THE COURT:** -- upon the promises of the new mayor's
12 representative and extending a good faith opportunity to a new
13 administration, LA Alliance agreed to the extension.

14 Mr. Marcus on behalf of the City confirmed the
15 request for extension and agreed the City would provide
16 district specific encampment milestones by October 1st, 2023.
17 Have I read that correctly?

18 **MR. MARCUS:** Yes.

19 **THE COURT:** I apologize for any mistake in the first
20 reading.

21 **MR. MARCUS:** I just wanted to make sure the record
22 was clear.

23 And again, Your Honor, the City is stipulating to
24 those facts but not to the legal effect of those facts and
25 whether those facts should result in any sanction to the City.

1 The City would like an opportunity to continue to argue that if
2 any additional argument is needed from the Court.

3 **THE COURT:** As you know with transparency, you know
4 my concerns going in. You have a chance on either side to call
5 witnesses to bolster your record, to cross examine. Otherwise
6 I've given you a fairly tentative feeling about this matter,
7 and that is that you were misled by the City.

8 All right. Now, my suggestion's this. We're going
9 to reconvene at 9:00 o'clock. We would be in consecutive
10 session each day, but the mayor's in Paris. I want to afford
11 every courtesy so she can return, consult with her staff out of
12 courtesy.

13 But the controller will be here tomorrow to make
14 whatever representations concerning this audit.

15 You're ordered back to this Court at 9:00 o'clock,
16 okay. I think you should get on the road right now, and so
17 should we. We'll see you at 9:00 o'clock tomorrow. Thank you.

18 **MS. MITCHELL:** Thank you, Your Honor.

19 **MS. SPEAKER:** Thank you, Your Honor.

20 **(This proceeding was adjourned at 2:11 p.m.)**

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25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



March 8, 2024

Signed

Dated

TONI HUDSON, TRANSCRIBER