

RAVI NARAYAN (CABN 331858)
Attorney for the United States

RAVI NARAYAN (CABN 331858)
Acting Chief, Criminal Division

DAVID J. WARD (CABN 239504)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-7200
Facsimile: (415) 436-7234
david.ward@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	NO. 21-CR-0356 WHO
Plaintiff,	)	
v.	)	MOTION FOR LEAVE TO DISMISS
	)	INFORMATION AND [PROPOSED] ORDER
RECOLOGY SAN FRANCISCO; SUNSET	)	
SCAVENGER COMPANY; GOLDEN GATE	)	
DISPOSAL & RECYCLING COMPANY,	)	
Defendants.	)	

I. INTRODUCTION

The United States, by and through undersigned counsel, and for the reasons stated below, hereby seeks leave to dismiss the Information filed against the defendants in the above captioned-matter, *United States v. Recology San Francisco, Sunset Scavenger Co., and Golden Gate Disposal & Recycling Co.* (hereinafter “SF Recology Group”). Federal Rule of Criminal Procedure 48 allows the government, with leave of the Court, to dismiss an indictment, information or complaint. *See Fed R. Crim. P. 48(a)*. The parties can appear before the Court for a hearing on this motion if the Court so orders.

On September 9, 2021, a one-count Information was filed charging the SF Recology Group with Conspiracy to Commit Honest Services Wire Fraud, in violation of 18 U.S.C. § § 1343, 1346, and

1 1349. *Dkt. 1*. On the same day, the defendants and the government entered into a Deferred Prosecution
 2 Agreement. *Dkt. 2*. In the DPA, the defendant companies admitted their participation, through several
 3 high-ranking executives, in a sweeping bribery and corruption scheme involving a high-ranking San
 4 Francisco public official and other conspirators.

5 As part of its agreement in the DPA, the SF Recology Group defendants agreed to pay a \$36
 6 million fine, including \$7 million paid to the City and County of San Francisco as part of a settlement of
 7 a civil suit brought by the City for the same conduct as described in this prosecution. *See Dkt. 2*
 8 (Deferred Prosecution Agreement). The SF Recology Group also agreed to develop and implement new
 9 corporate compliance and training programs, and to take other corrective measures to reform its
 10 corporate culture and practices. *Id.* As part of its compliance requirements, the defendants agreed to
 11 submit three annual reports to the government detailing its implementation of the compliance measures
 12 described and agreed to in the DPA. *Id. See Declaration of David Ward in Support of Motion to Dismiss*
 13 *Information, Exhibit A, Exhibit B and Exhibit C.*

14 The DPA provides that if the SF Recology Group defendants fulfilled the terms of the DPA, at
 15 the end of the three-year term, the government would move to dismiss the Information filed against the
 16 defendants. *See United States v. Goldfarb*, 2012 WL 3860756 (N.D. Cal. 2012) (internal citations
 17 omitted) (“deferred prosecution agreements are agreements by the government not to prosecute a
 18 potential defendant in return for an admission of conduct and a period in which the defendant is subject
 19 to certain conditions, such as the payment of restitution or the adherence to a corporate compliance
 20 program.”).

21 The Recology defendants have met the requirements of the DPA, in both letter and in spirit. As
 22 described in detail below, the SF Recology Group has undertaken significant and meaningful efforts to
 23 change their corporate culture. They have implemented a substantial and sustained corporate anti-
 24 corruption program of training and monitoring, which continues to this day. They have hired over a half
 25 dozen senior executives with compliance and anti-corruption backgrounds, many with decades of
 26 experience, along with other employees. The companies have made wholesale changes to its Board of
 27 Directors, and have appointed a new slate of senior executives, both from outside the company, as well
 28 within its ranks. Finally, they provided substantial assistance to the government into its ongoing

1 investigations involving public corruption in San Francisco, including by providing significant
 2 cooperation in the government's prosecution of two corrupt former Recology executives and others with
 3 whom they conspired.

4 II. CASE BACKGROUND

5 The SF Recology Group was at the center of one of the largest corruption scandals in San
 6 Francisco history. In its DPA, Recology admitted that its senior government affairs executive, Paul
 7 Giusti, directed hundreds of thousands of dollars in bribes to Mohammed Nuru, the then-Director of the
 8 San Francisco Department of Public Works. *Dkt. 2-1* (Deferred Prosecution Agreement, Attachment A,
 9 Statement of Facts). The company admitted that the bribes were paid with the knowledge of two of
 10 Giusti's superiors, most directly former Recology Group Manager John Porter. *Id.*

11 As the company admitted in its DPA, Giusti secretly funneled hundreds of thousands of dollars
 12 of money from Recology in bribes to Nuru, paid intending to influence him to take actions to to benefit
 13 Recology. *Id.* These bribes included \$60,000 from Recology paid to fund four lavish holiday parties
 14 that Nuru hosted for friends and political supporters, payments that secretly funneled to Nuru by Giusti
 15 and Porter through a corrupt San Francisco non-profit, The Lefty O'Doul's Foundation for Kids, run by
 16 co-conspirator Nick Bovis, concealed as "holiday donations"¹ Recology admitted that in addition to the
 17 holiday party payments, Giusti had Recology direct over \$900,000 to two non-profits for a DPW-
 18 sponsored trash pickup program called "Giants' Sweep," at the direction and for the political benefit of
 19 Nuru. *Dkt. 2-1* (DPA, Attachment A, Statement of Facts). Finally, Recology admitted that Giusti
 20 arranged for one of Recology's companies to hire Nuru's son for a paid internship. *Id.* After senior
 21 Recology executives learned of his hiring, they ordered that the internship for Nuru's son be terminated.
 22 *Id.* Giusti then arranged for Nuru's son to be employed at another non-profit, and arranged for Recology
 23 to pay for that internship as well. *Id.*

24 Recology admitted that all the payments were made intending to influence Nuru to use his
 25 position and influence to benefit Recology. *Dkt. 2.* At the time, Nuru was the highest-ranking City of
 26

27 ¹ Bovis pled guilty to one count of conspiracy to commit honest services wire fraud and one
 28 count of insurance fraud, and was sentenced on March 7, 2024 to nine months imprisonment and fined
 \$100,000. *See United States v. Nick Bovis*, 20-CR-0204 WHO.

San Francisco public official overseeing Recology's business with the City, and he had enormous influence over the rates Recology could charge, various fees Recology charged the city, and sway over a range of other financial or operational issues affecting and impacting Recology. *Id.* As Paul Giusti stated in his plea agreement, a happy Nuru was good for Recology's business and an unhappy Nuru could be very bad for Recology's business. *United States v. Paul Giusti*, 21-CR-00294 WHO, *Dkt. 40-1* (Plea Agreement).

The conspiracy ended on January 6, 2020, when FBI agents executed search warrants and questioned Nuru. Charges against Nuru were filed a week later, on January 15, 2020. *United States v. Mohammed Nuru*, 21-CR-0490 WHO *Dkt. 1*. Nuru pled guilty on January 6, 2022, *Id. Dkt. 95*. On August 15, 2022, the Court sentenced Nuru to 84 months imprisonment and imposed a \$30,000 fine. *Id., Dkt. 125*. Giusti pled guilty on August 12, 2022 to one count of Conspiracy to Bribe a Local Official and to Commit Honest Services Wire Fraud in violation of 18 U.S.C. § 371 and agreed to cooperate with the government. *United States v. Paul Giusti*, 21-CR-00294 WHO, *Dkt. 40* (Plea Agreement). On December 14, 2023, Giusti was sentenced to three years of Probation, including six-months of home confinement, and was fined \$30,000. *Id., Dkt. 57* (Judgment)

Former SF Recology Group Manager John Porter was charged by Complaint on April 13, 2021 with one count of Conspiracy to Commit Honest Services Wire Fraud, and then charged by Indictment on July 21, 2022. *United States v. Porter*, 22-CR-0270 WHO, *Dkt. 1* (Complaint), *Dkt. 40* (Indictment). Porter pled guilty on May 3, 2023, 26 days before his trial was set to commence. *Id., Dkt. 108*. Porter did not cooperate. On September 21, 2023, the Court sentenced Porter to three years of Probation, including six-months of home confinement, and fined him \$30,000. *Id., Dkt. 116*. (Judgment).

III. RECOLOGY COMPLIANCE PROGRAM

Beginning even before entering into its Plea Agreement, Recology began taking steps to reform its corporate culture. These actions, which have continued throughout the period of its DPA, have been in the government's view genuine, significant, and impactful. They include significant changes to its Board of Directors and Executive Leadership team, and the adoption of a robust, ongoing compliance and training program. The SF Recology Group has also provided cooperation and substantial assistance to the government in its public corruption investigations involving San Francisco public officials.

1 a. Executive Leadership Changes

2 Beginning almost immediately after the government's investigation into Recology became public
3 in 2020, the company undertook significant changes in its executive leadership, starting with the then-
4 CEO, who in 2020 resigned and stepped down from Recology's Board. *See Ward Decl., Exhibit D.*
5 Shortly thereafter, the former COO, named as Executive 2 in the DPA, resigned and was replaced by a
6 former Group Manager from Recology's Southern California group. *Id.* Carey Chen, the SF Recology
7 Group's Chief Legal Officer, was promoted to Executive Vice President and Chief Risk Officer, and in
8 2023 was named to the companies' Board of Directors. Mr. Chen was the Recology executive who,
9 along with outside counsel, led the companies' cooperation with the government's corruption
10 investigations and prosecutions.

11 In addition, as part of the development and implementation of its compliance program, Recology
12 hired six outside auditors or attorneys, including as Associate General Counsel and Director of
13 Compliance a former senior FBI counter-terrorism official, and, as Head of Internal Audit, a former
14 KPMG executive with 25 years of audit experience, both of whom report directly to Chen, the Chief
15 Legal and Compliance Officer. *Id. Exhibit A*, pg. 9.

16 b. Board of Directors

17 Before the government's criminal investigation became public, Recology's Board of Directors
18 consisted of seven members, including the then-Chief Executive Officer. By April 2021, seven of the
19 eight board members had resigned, retired, or had been voted out of office by the company's ESOP
20 (Employee Stock Ownership Plan) committee. *Ward Decl., Exhibit D.* Current board members include
21 Recology's new Chief Executive Officer, Chief Legal Officer Chen, and two independent outside
22 directors. *Id. Exhibit C.*

23 c. Compliance Program

24 Recology has built a substantial and ongoing compliance program that includes a new
25 compliance department, new hires, regular training for employees, enhanced training for managers, as
26 well as regular communications to employees related to compliance issues. *See Ward Decl., Exhibit A.*

27 Recology has conducted multiple training programs in 2022 and 2023 for all employees, and
28 additional training programs in 2022, 2023, and in April 2024 for managers and corporate directors,

including one-on-one in-person trading for all managers and vice presidents on the company's Code of Conduct, as well as ethics, conflict of interest, and antitrust and competition law. *Ward Decl.*, **Exhibit C**, pg. 25-30 (Chronology of Significant Compliance Program Updates). In 2024, Recology launched a monthly Compliance Insights newsletter distributed to employees addressing code of conduct and corporate compliance issues. *Id.* Throughout the period of its DPA, the SF Recology Group has made repeated and sustained efforts to communicate to its employees and managers its new rules and guidance on key anti-corruption measures, including its new gifts and charitable contributions policy, new limits on political contributions, and other measures designed to deter and detect corruption. *See Ward Decl. Exhibit A*, pp. 9-14. All of the policies now limit or bar these types of donations or payments, and impose new approval mechanisms for the ones that are still allowed. In 2024, Recology explicitly barred political contributions to any elected official or candidate in the City of San Francisco by the company or its senior leadership, even in their individual capacity. *Id. Exhibit C*. pg. 14.

d. Recology's Cooperation

Recology also provided significant cooperation with the government in its investigation into corruption among San Francisco public officials and other conspirators. Specifically, Recology provided substantial assistance in the prosecution of former Recology executive John Porter. For almost nine months, Recology provided documents to the government, made multiple witnesses available for interviews and trial (if needed), and both outside and internal counsel (led by Now Chief Legal Officer Carey Chen) provided guidance and direction to the government as it prepared for trial against defendant Porter. In the end, Porter pled guilty before trial, but Recology nonetheless by any measure provided substantial assistance to the government.

IV. CONCLUSION

Recology's crimes were a stunning betrayal of the duties that it owed to the City of San Francisco, its employees and shareholders, and its customers. For years, the companies' culture allowed a corrupt senior executive, Giusti, engage in years of bribes to one of the companies most powerful regulators. The conduct was only stopped after it was targeted in the government's San Francisco corruption investigations. It was a grave failure by one of San Francisco's most significant local companies.

1 But since the corruption was exposed, Recology has taken true steps to meaningfully reform
2 itself, as described above. They have met the requirements of the DPA and the government therefore
3 respectfully asks the Court to grant it leave to dismiss the Information.

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5 DATED: October 3, 2024

RAVI NARAYAN
Attorney for the United States

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7 /s/ David Ward
8 DAVID J. WARD
Assistant United States Attorney
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	NO. 21-CR-0356 WHO
	)	
Plaintiff,	)	ORDER ON MOTION FOR LEAVE TO DISMISS
	)	INFORMATION
v.	)	
	)	
RECOLOGY SAN FRANCISCO; SUNSET	)	
SCAVENGER COMPANY; GOLDEN GATE	)	
DISPOSAL & RECYCLING COMPANY,	)	
	)	
Defendants.	)	

ORDER

Based on the representations of the parties, and for good cause shown, and pursuant to Fed. R. Crim P. 48(a), the government is hereby GRANTED leave to dismiss the Information in *United States v. Recology San Francisco, Sunset Scavenger & Golden Gate Disposal & Recycling Company*, 23-CR-0356 WHO.

IT IS SO ORDERED.

Dated:

HON. WILLIAM H. ORRICK
United States Senior District Judge