

**BOARD OF ETHICS
OF THE CITY OF PHILADELPHIA**

J. Shane Creamer, Jr.
Executive Director
Board of Ethics
of the City of Philadelphia
1515 Arch Street, 18th Floor
Philadelphia, PA 19102

Matter No.: 2106ET19

v.

Celena Morrison



Respondent

RESPONDENT CELENA MORRISON’S POST HEARING BRIEF

Respondent Celena Morrison (“Respondent” or “Ms. Morrison”), by and through her undersigned attorneys, and pursuant to the December 21, 2021 Post-Hearing Order, hereby submits her Post Hearing Brief and states as follows:

I. PROPOSED FINDINGS OF FACT

1. J. Shane Creamer, Jr. is the Executive Director of the Board of Ethics. Stip. Fact, 1.
2. Respondent Celena Morrison is the Executive Director for the Philadelphia Office of LGBT Affairs. Stip. Fact. 2.
3. Prior to holding the position of Executive Director for the Philadelphia Office of LGBT Affairs, Ms. Morrison spent years as an activist and community organizer in the transgender community. Transcript of Hearing, Dec. 15, 2021, (“Tr.”) at 184-188.

4. At the end of 2019, while Ms. Morrison was the Director of Programming for the William Way LGBTQ Community Center, she was approached by the City of Philadelphia about applying for the position of Executive Director for the Philadelphia Office of LGBT Affairs (“Executive Director”). Tr. 189:17-189:6. Ms. Morrison eventually applied for the position and began in the role on March 2, 2020. *Id.*; Stip. Fact 3.

5. As Executive Director, and pursuant to Section 4-2001 of the Home Rule Charter, Ms. Morrison ensures that the Office of LGBT Affairs performs the following functions: (a) develop proposed City policy regarding civil rights issues affecting LGBT people; (b) coordinate the implementation of policies and programs to meet the City’s diversity and equality goals as expressed in this Charter, ordinances and Executive Orders; (c) coordinate among City Departments, agencies and offices to improve LGBT access to City services, and to promote equality and safety for LGBT people; (d) support the growth and development of the City’s LGBT communities; and (e) serve as liaison between the City’s and region’s LGBT communities and the City. Stip. Fact 4.

6. Ms. Morrison had very little supervision when she began working for the City. Tr. 190:15.

7. Prior to starting as the Executive Director in March 2020, Ms. Morrison’s would-be supervisor resigned. Tr. 189:12-17

8. Approximately a week and a half after starting as Executive Director, Ms. Morrison, [REDACTED], began working from home due to COVID-19. Tr. 189:18-190:1. During that time, Ms. Morrison’s newly appointed supervisor also resigned and someone who had little knowledge of the Office of LGBT Affairs became Ms. Morrison’s supervisor. Accordingly, Ms. Morrison relied on the Office’s two interns to learn the job. Tr. 190:2-19.

9. Ms. Morrison received ethics training when she began working for the City. However, she is “not sure how much [she] took from that” because she did not “have an idea of who the ethics office was, the Board of Ethics, who they are, what the relationship is with the City or any – I didn’t understand much of any of that.” Tr. 191:13-20

KENDALL STEPHENS

10. Kendall Stephens (“Ms. Stephens”) is a Philadelphia transgender community advocate. Stip. Fact 5.

11. For many years, Ms. Morrison and Ms. Stephens were long-time personal friends and both active in the LGBT community. Stip. Fact 6.

**MS. MORRISON LIVES WITH MS. STEPHENS;
MS. STEPHENS OFFERS TO LOAN MS. MORRISON \$4,000**

12. Ms. Morrison moved into Ms. Stephens’ home in July or August 2020 to escape [REDACTED]. Tr. 196:8-197:17

13. During the time that Ms. Morrison was living in Ms. Stephens’ home, Ms. Morrison spoke to Ms. Stephens about her plan “to find a place and never go back.” Ms. Stephens, in the presence of Ms. Morrison and Ms. Stephens’ partner Avery Shaw, told Ms. Morrison: “I got you girl. If you need anything, I got you.” Tr. 199:1-20

14. Ms. Stephens told Ms. Morrison that she had \$200,000 in cash hidden in her closet. Ms. Stephens told Ms. Morrison how she got some of the cash. Ms. Stephens showed Ms. Morrison the money in her closet. Tr. 167:18-168:3; 203:1-9.

15. Ms. Stephens asked Ms. Morrison how much money she would need to rent her own place. Ms. Morrison told Ms. Stephens that she would look for a place to rent for between \$1,200 to \$1,500 a month. Ms. Morrison would need the first month’s rent, last month’s rent, and a deposit, which would be approximately \$3,500. Ms. Stephens and Ms. Morrison decided that

“\$4,000 was a good enough amount.” Ms. Stephens said that she would provide Ms. Morrison the money when Ms. Morrison needed it for a rental. Tr. 200:17-201:5

16. Ms. Morrison, Ms. Stephens and Mr. Shaw discussed Mr. Shaw drafting a loan agreement. Tr. 199:21-200:3.

17. Ms. Stephens’ offer to loan Ms. Morrison \$4,000, and related conversations, occurred while Ms. Morrison was living with Ms. Stephens. Ms. Morrison moved out of Ms. Stephens’ home some time prior to August 24, 2020. Tr. 201:6-22.¹

18. Ms. Morrison understood that Ms. Stephens agreed to provide Ms. Morrison \$4,000 from the money she had in her closet. Prior to Ms. Stephens offering Ms. Morrison the loan, Ms. Morrison “had no idea that Ms. Stephens had that money. [She] would have never even known to even ask to borrow ... that amount of money from her because she did not have a job. She was -- she had student loans.” Tr. 156:20-157:3.

19. Ms. Morrison moved out of Ms. Stephens’ home some time before August 24, 2020.

HEARTS ON A WIRE

20. Ms. Stephens was a “member” of a community organization, Hearts on a Wire, meaning she was someone “helping the endeavor.” Tr. 24:19-22

21. In August 2020, Ms. Stephens attempted to coordinate a meeting between Hearts on a Wire, the Office of LGBT Affairs and other stakeholders. Stip. Fact. 7.

22. Ms. Morrison was not the only City official with whom Ms. Stephens was trying to connect regarding Hearts on a Wire. Ms. Stephens was also trying to connect with Kelly Burkhardt

¹ The offer was also made prior to any GoFundMe campaign. Tr. 203:1-12. “I never thought about the GoFundMe. I don't -- I'm not sure how those work or how -- how quickly you get the money for that, so I would have never thought about that as being a source. We had already discussed that long before that accident happened. And when that accident happened to her, I wasn't thinking about the [\$]4,000 then, you know.” Tr. 204:5-11.

(“Ms. Burkhardt”), who is an employee of the Philadelphia District Attorney's Office working in victim services. Tr. 84:9-23.

23. Ms. Stephens wanted to set up an “exploratory meeting” with the Office of LGBTQ Affairs and Ms. Burkhardt. Tr. 85:4-8. Ms. Stephens testified:

You know, my plan was to see what was within her jurisdiction; you know what her powers were, what her thoughts were so that we can kind of match what she could do with what our vision was. So, you know, this was going to be more like an exploratory sort of meeting to see what was possible. I had my own ideas, but you know, I don't know what her office can do or can't do.

Tr. 26:15-21.

24. On August 19, 2020, Ms. Morrison agreed to an exploratory meeting with Ms. Stephens, Ms. Burkhardt, and Naiymah Sanchez on August 28, 2020. ED-4:1.

25. The Office of LGBT Affairs grants request for meetings to anyone who seeks one to determine if “their mission meets our mission and if there’s a possibility of how... a partnership would work.” Tr. 133:22-134:8; see also Tr. 205:15-206:2 (“we figure out a time to meet with these people to give them an opportunity to tell us about the work that they're doing and to make sense of why they feel the need to work with us. And we have those exploratory meetings with just about anyone that asks. But from that -- after that -- those meetings are to determine what they're doing, if that work aligns with our mission, and if partnering makes sense for what -- what we're doing.”)

26. While the Office agrees as a matter of practice to “exploratory meetings” with any individual or group that seeks one, the Office has discretion as to whether it will partner with an organization. Ms. Morrison explained that whether the Office works with an organization or individual “depends on ... the work that they're doing aligns with our mission.” Tr. 247:18-248:10.

27. The exploratory meeting with Ms. Stephens, Ms. Morrison and Ms. Burkhardt never occurred. The Office of LGBTQ Affairs was never asked to provide resources, promotional opportunities or otherwise partner with Hearts on a Wire. Tr. 206:3-22; 85:18-24.

AUGUST 24, 2020 ATTACK ON MS. STEPHENS

28. On August 24, 2020, Ms. Stephens was physically attacked in her Point Breeze home. The assailants allegedly used transphobic and derogatory slurs when attacking her. This attack received widespread local media coverage as a potential hate crime. Stip. Fact 8.

29. Ms. Morrison was on the phone with Ms. Stephens for a personal call at around approximately 9:00 p.m., immediately preceding the attack on August 24th. While they were speaking, there was a commotion outside. Ms. Stephens opened her front door and Ms. Morrison could hear the commotion. Ms. Morrison ended the phone call, and told Ms. Stephens to be careful, be safe, and call her back to let her know that everything was okay. Stip. Fact 9; Tr. 143:17-144:1; 207:16-209:3.

30. Approximately 30 minutes later, Ms. Stephens called Ms. Morrison. She was upset and screaming that “they came up in her house and beat her up.” Ms. Morrison immediately jumped out of bed, got dressed and rushed to Ms. Stephens’ house. When she arrived, Ms. Morrison was told that Ms. Stephens was already at the police station. Ms. Morrison immediately left Ms. Stephens’ house and went to the police station. Tr. 144:1-13; 209:24.

31. Ms. Morrison went to the police station to meet Ms. Stephens as a friend. “It was personal. It was 10:00 o'clock at night. I'm not doing anything in my professional capacity at 10:00 o'clock at night. I'm not paid to be doing that.” Tr. 231:13-17.

32. Ms. Stephens testified that she was upset about her treatment by the police and specifically that they were characterizing her assault as a “simple assault” and she felt that the attack was actually much worse than a simple assault. She felt it was a hate crime. Tr. 88:1-14.

33. At the police station, Ms. Morrison spoke briefly with Ms. Stephens, who “was really upset and yelling. And she did kind of scream out that they weren't taking her serious, that it wasn't -- they're saying that it's not a hate -- that that's a simple assault. And so because she was making so much noise, I asked Avery, who was her husband at the time, to take her over to the side while I was able to have a conversation with the police officer.” Tr. 144:14-24; see also 210:2-17.

34. Ms. Morrison testified: “it wasn't for me to determine whether it was a hate crime or not. But I wanted to listen to their reasoning of why it wasn't being labeled a hate crime so that I could tell that to Kendall, because she wasn't hearing it because she was yelling, and so they weren't trying to communicate with her during that time.” Tr. 210:2-17.

35. The police officer told Ms. Morrison that Ms. Stephens was upset because she accused two officers of laughing. Tr. 211:6-11

36. Ms. Morrison referenced Police Directive 4.15 while speaking to the police officer. Tr. 146:6-14.

37. Directive 4.15 “is a directive that dictates how the police interact with trans identified folks. It instructs them to use their -- the correct pronouns, the preferred name of their choice; and also, in the case that someone needs to be searched, you know, who to call. You know, if there's a trans-identified woman and there's only men officers present, then a female officer needs to be called to do that. So I have associates that are police officers prior to this role and some that I've met while serving in this role. And I am -- I was about to say "surprised," but I'm not

surprised anymore at how often they are not aware of the directives that are in place. So as a trans-identified person who has had those terrible interactions with police, who has been assaulted by police, for my own protection, I'm going to remind you of Directive 4.15 before I start having a conversation with you before I interact myself. So it's kind of a precautionary thing.” Tr. 211:18-212:12.

38. Ms. Morrison makes it a habit to announce Directive 4.15 before her interactions with police. Tr. 146:6-14; 211:6-11.

39. Ms. Morrison referenced Directive 4.15 on August 24th as “Celena, a Black woman of trans experience,” not as the director of the mayor’s office. Tr. 212:13-16.

40. Ms. Morrison did not identify herself as the Executive Director from the Mayor’s Office of LGBTQ Affairs or as a City official. Tr. 146:15-21; 210:18-211:4.

41. Nothing happened at the police station after Ms. Morrison spoke with the officer. Ms. Morrison drove Ms. Stephens and Mr. Shaw to the hospital. Ms. Morrison returned home. Tr. 212:17-21.

42. After leaving the police station, Ms. Morrison sent a text message to Ms. Stephens:

I just want you to know that I love you as a sister and I have your back as my sister and as a member of this community. I have your back in my professional position as well and we will not take this lying down.

Stip. Fact 11.

43. Ms. Morrison explained that she wrote this “[b]ecause I wanted to connect Kendall to every resource that was available to her.” Ms. Morrison agrees that this was part of her job as Executive Director. Stip. Fact 12.

44. Ms. Morrison also texted Ms. Stephens that: "I sent [Mr. Shaw] the email address of the police lgbtq [*sic*] liaison so that he can notify him and I'm going to call on your behalf tomorrow." Stip. Fact 13.

45. Ms. Stephens testified that Ms. Morrison helped her after the attack by coming to her home after the attack. Ms. Stephens said that Ms. Morrison told her that: "she would help me have that charge enhanced because of the gravity of the situation. She also helped me with the advocacy around that. So we ended up -- I got in her car. We went to the 17th district police station. And I believe the person's name was Sergeant Vogel or Captain Vogel. He was especially nasty towards me because I was still, like, bleeding out and trying to advocate." Tr. 36:21-37:16

46. Ms. Stephens testified that she asked Ms. Morrison for help getting the charges against her attackers "enhanced" because: "Well, it was a hate crime, so I was confused by the only charge was simple assault. I mean, these people barged into my home. They broke and entered. It was, like, so many other charges that weren't -- they weren't charged with, the people who assaulted me. So I was confused and didn't know really what to do. So she helped me in that regard." Tr. 38:14-39:4

47. Ms. Stephens later acknowledged that Ms. Morrison may not have met her at her house. Tr. 86:9-21.

48. Asked "What was your understanding as to how Ms. Morrison could help you get the charges enhanced?" Ms. Stephens testified:

Using the power of her office, the connections that she had with the police to help me get justice. And we had conversations on text message where I was asking for help, and I was getting and receiving help. So I was getting the help that I was asking for: Help to get charges enhanced, help to, you know, start an internal affairs investigation on the responding officers. I didn't know names. I didn't know emails. And I was -- that was given to me by Ms. Morrison on how to move forward.

Tr. 40:3-21

49. Ms. Stephens testified: “I was seeking that help from her because she was the Executive Director of the LGBTQ affairs office. She was someone that had ties with the Criminal Justice Center. I did not have ties to that degree at that time.” Tr. 41:1-8

50. Ms. Stephens knew Ms. Burkhardt and her role with the District Attorney’s Office prior to August 24, 2020. Tr. 84:24-85:3.

51. Ms. Stephens also testified that she understood that Ms. Morrison is “not responsible for charging decisions in criminal cases.” Tr. 92:7-15

52. Ms. Stephens further acknowledged that Ms. Morrison did not do anything to impact whether the people who attacked her were charged or not. Tr. 92:16-19.

**AUGUST 25th – MS. MORRISON DESCRIBES
HER INVOLVEMENT ON AUGUST 24th AS PERSONAL**

53. August 25, 2020 at 4:29 p.m., Michele Zipkin (“Michele” or “Ms. Zipkin”), a reporter with The Gay News, emailed Ms. Morrison:

Thanks so much for your willingness to send a statement for the story about the attack on Kendall Stephens that happened last night. My questions are below. ...

See R-1:5.

54. Ms. Morrison understood that she received the email because “immediately following the event, Kendall contacted Michele. She contacted Beccah Hendrickson from ABC and some other reporters to tell them about the attack. During that conversation, Kendall volunteered me as someone who was present during the incident, and I -- that's why Michele reached out to me.” Tr. 218:12-18. Ms. Morrison had not reached out to Ms. Zipkin or offered to make a statement. Tr. 249:10-23.

55. Upon receipt of the email, Ms. Morrison contacted her supervisor and the communications department because she “did not want to make any statements. ... [She] didn't want anything to be officially on record or a statement about what happened to Kendall because it was not [Ms. Morrison's] experience.” Tr. 218:21-219:4.

56. On August 25th at 4:47 p.m., Lauren Cox (“Lauren” or “Ms. Cox”), Deputy Communications Director, Office for the Mayor, emailed Press.Phila.gov and Ms. Morrison:

Celena – We have no context for what this request is about, so can you please fill us in.

See R:1-4

57. On August 25th at 5:18 p.m., Ms. Morrison emailed Ms. Cox:

Lauren, this is a close friend of mine that was assaulted last night by about five guys and girls. I met her at the police department and drove her to the hospital.

I honestly don't feel comfortable answering those questions. I will take your advice [sic] it differs.

See R-1:4

58. According to Ms. Morrison: “my thought was that of course there should be a statement from my office, but I did not want that statement to come from me personally because I did not want to involve myself professionally as much as possible. It's -- outside of connecting Kendall to resources. I didn't want to make any statement about what happened because I was not there when the actual attack happened.” Tr. 223:2-9

59. On August 25th at 5:27 p.m., Ms. Cox wrote:

Thanks for adding that context, Celena. And sorry you are now dealing with this both personally and professionally.

I will draft up a general statement later this evening and have you review before I send to the reporter.

...

See R:1-3

60. On August 25th at 6:19 p.m., Ms. Morrison wrote:

A fight started outside her home. I was actually on the phone with her because she is a popular community activist. We were discussing prison policy when I heard her say that there was, there was -- there was a fight outside her house. I told her that I would catch up with her later and to be safe.

At some point the angry mob [sic] turned on her when they were told that she was trans. They forced themselves into her house and assaulted her. She even has a broken nose.

See R-1:2-3

61. On August 25th at 6:34 p.m., Ms. Cox wrote:

I'll draft something up in a bit and send it - send your way.

See R-1:2.

62. On August 25th at 6:41 p.m., Ms. Morrison wrote: "Thank you, Lauren."

See R-1:2.

63. On August 25th at 9:29 p.m., Ms. Cox wrote to Ms. Zipkin:

Celena joined Kendall following her assault as a personal friend. As such, she is not comfortable confirming any specific details of the incident. ...

See R-2:2.

64. The email accurately reflects what Ms. Morrison told Ms. Cox about the incident on August 25th. Tr. 233:6-234:19.

**MS. MORRISON IS CONTACTED BY THE POLICE
AND DISTRICT ATTORNEY'S OFFICE**

65. In the days after the August 24th attack, representatives from the Philadelphia Police Department and the District Attorney's Office contacted Ms. Morrison for information from Ms. Stephens. Tr. 149-155.

66. Ms. Morrison did not contact the Police Department; the Police Department contacted her. Tr. 235:19-23.

67. On September 2, 2020, Deputy Commissioner Robin Wimberly contacted Ms. Morrison by email. She wrote:

I am reaching out to you concerning the incident that occurred at the 17th District with Kendall. I want to ensure Kendall understands the Complaint Against Police process is available. Please call me on my cell...

ED-8:1.

68. On September 9, 2020 Commissioner Wimberly emailed Ms. Morrison again. She wrote:

Circling back, had Kendall changed her mind regarding filing a Complaint Against Police? Please let me know if I can be of service any manner [sic].

ED 8:2-3.

69. On September 10, 2020, Ms. Morrison responded:

Thank you so much for following up. I spoke to Kendall and she does want to move forward with filing a Complaint Against Police.

She asked me to share her contact info with you. Her Cell number is ...

Let me know if there is anything else I can do.

ED-8:2.

70. On September 15, 2020, Commissioner Wimberly wrote to Ms. Morrison:

Hi, I just spoke with Kendall and walked her through the process. Again thank you for your help.

ED-8:2.

71. There are no further communications between Ms. Morrison and Commissioner Wimberly or anyone else at the Police Department regarding Ms. Stephens or the attack.

72. Ms. Morrison testified: “the police commissioner contacted me. I'm not really sure how they found out about Kendall -- Kendall's experience. But in my -- in my experience, I know Kendall to be -- when something happens, she reaches out to anyone she can. So I wasn't surprised if she had contacted someone or the story had made it to the police commissioner of what her intentions were as far as how she felt she was treated by the police.” Tr. 235:6-17

73. Ms. Morrison does not know Commissioner Wimberly and the September 2, 2020 email about Ms. Stephens was the first time Ms. Morrison was contacted by Commissioner Wimberly. In fact, this was the first time the police ever contacted Ms. Morrison. Tr. 149:18-150:8.

74. The District Attorney's Office also contacted Ms. Morrison about Ms. Stephens' attack. Tr. 236:5-7.

75. On August 28, 2020, Adam Geer (“Mr. Geer”), Director of Diversity & Inclusion, Assistant District Attorney, contacted Ms. Morrison asking to discuss the Kendall Stephens matter. Tr. ED-9:2.

76. On September 2, 2020, Ms. Morrison sent Mr. Geer photographs and a link to an interview that Ms. Stephens did with an Instagram blogger. Mr. Geer responded that he was aware of the information. ED-9.

77. There are no additional communications between Ms. Morrison and Mr. Geer or anyone else at the District Attorney's Office regarding Ms. Stephens or the attack.

78. Ms. Morrison did not believe she had the discretion to ignore Deputy Commissioner Wimberly or anyone from the Police Department or District Attorney's office. Tr. 235:24-236:4; 237:9-13.

79. The way in which the Police Department and District Attorney's Office reached out to Ms. Morrison about Ms. Stephens' attack was not standard. When Ms. Morrison was asked on cross examination: "But I want to make sure I understand clearly ... If there were LGBT victims, they would contact you to reach out to those individuals to see if they wanted their services? Is that how it works?" Ms. Morrison responded: "No....Typically, no. That's not how it works. That's how it happened in this case." Tr. 254:12-255:7.

80. Ms. Morrison explained: "My office at some point is informed when -- when these things happen. This particular case, all of this happened really quickly because Kendall initiated the phone calls to the press, to all of these people in -- on her own behalf. So that's how my office was contacted. I've never been contacted by the deputy commissioner of the police. I've never been contacted by Adam Geer from the district attorney's office about a victim, ever." Tr. 254:12-255:7.

81. Ms. Morrison was also asked on cross examination: "Okay. And so I think if I understood your testimony correctly, you would never give the police or the district attorney's office contact information for a victim without the victim's permission; is that right?" She answered A. "Correct." Tr. 255:8- 256:6.

82. She was then asked on cross examination: "So you did so in this case because Ms. Stephens was seeking your -- your support and your help getting ... the police department and DA's office?" Tr. 255:8- 256:6.

83. Ms. Morrison responded:

No, I did not. I didn't provide Ms. Kendall's information until I checked in with Ms. Stephens to make sure that she was okay.

She was further asked: But that's -- that's what I mean. Until after you knew that she was seeking your help in contacting those departments?

Ms. Morrison responded: Well, she wasn't -- she was -- I was contacted by those offices on Kendall's behalf. They wanted to be connected to Kendall. I then reached out to Kendall to see if she was okay with me providing her contact information, and that's how those connections were made.

...

Kendall did not reach out to me to contact the deputy commissioner or the district attorney's office.

Tr. 255:8- 256:6.

LOAN

84. On September 23, 2020, after Ms. Morrison identified a home to rent, Ms. Stephens provided her the \$4,000 loan that they had discussed when Ms. Morrison was living in her home.

Tr. 202:17-203:9.

85. On September 23, 2020, Ms. Stephens and Ms. Morrison executed a loan agreement that reflected a no-interest loan from Ms. Stephens to Ms. Morrison for \$4,000 and that the amount would be repaid monthly over a twelve-month period beginning on October 23, 2020. Stip. Fact 18; ED-12.

86. Ms. Stephens provided a cashier's check for \$4,000 to Ms. Morrison that same day. Stip. Fact 19; ED-13.

GOFUNDME CAMPAIGN

87. After her attack, Ms. Stephens raised over \$35,000 through GoFundMe donations to, in part, pay for her medical expenses. Ms. Morrison had no role in the GoFundMe campaign. Stip. Fact 17.

88. Ms. Stephens created the GoFundMe campaign to “help with my bills and also to help with resources that can help the community, as well. So I was looking beyond myself in this matter and was looking to also raise money to help other people such as myself who share my identity who often get attacked.” Tr. 42:3-8

89. Ms. Stephens’ GoFundMe Campaign page read, in part:

How funds will be used: Half of the money will go tot the operational costs associates with William Ways LGBT Community Center’s trans Resource center and board member dues associated with my volunteering there. ... The other half will go to establishing and updating security in my house, moving/relocation expenses, and medical, travel-related, and other miscellaneous expenses associated with my road to recovery. The plan: Though the funds will be sent directly to me, I will send 50% of the donations to William Way in the form of a certified check. Director of William Way Chris Bartlett is aware of my intention to donate half of all donation proceedings.

ED-11:2-3.

90. Ms. Stephens testified that she provided Ms. Morrison the \$4,000 loan from the GoFundMe donations. She testified:

[Ms. Morrison] wanted to put first, last, and security on a new home. She was [REDACTED] which was why she was at my house originally. So I wanted to -- I just wanted to help her, and I had the money. She said, you know, ‘You made all this money from the GoFundMe. You know, could you help me with \$4,000?’ And I didn't see a problem with it. I was already helping people with the community. She was a member of the community so, you know. I had raised a lot of money towards this same effort, you know, just to help people who are trans who are experiencing

[REDACTED], and she experienced [REDACTED] so I wanted to help her.”

Tr. 44:2-15

91. On November 24, 2020, Ms. Stephens updated the GoFundMe Campaign page in November 24, 2020, stating:

Thank you for your donations. A donation is being made to the William Way LGBTQ Community Center – Trans Resource Center

ED-11:3

92. Ms. Stephens did not update her GoFundMe page to advise that she was donating or loaning the funds to any other person or organization. Tr. 117:12-16

93. Ms. Stephens testified that she “gave” money from the GoFundMe campaign to other individuals or organizations. Tr. 112:16-114:2. She did not “loan” the money. Tr. 113:4-114:2. She did not ask any recipient to execute a loan document. Tr. 114:3-5. She did not expect any recipient of the GoFundMe campaign donations to pay her back. Tr. 114:6-7.

94. Ms. Stephens testified that the only alleged GoFundMe campaign donations that were “loaned,” instead of “given,” were the funds loaned to Ms. Morrison. Tr. 117:17-20.

MS. MORRISON AND MS. STEPHENS HAVE A FALLING OUT

95. Following Ms. Stephens' attack, a transgender woman was murdered in Philadelphia. The murder prompted the District Attorney's Office to hold a press conference. Tr. 238:10-13.

96. Ms. Morrison was contacted by the Philadelphia District Attorney's Office and about the press conference. Ms. Morrison was asked to find someone who works with the trans community to participate in the press conference. Tr. 238:13-17. Ms. Morrison identified Tatyana Woodard, who works with the community, to be a part of the press conference. Tr. 238:23-239:4.

97. Ms. Stephens contacted Ms. Morrison to ask why she was not invited to participate in the press conference. Tr. 95:10-12. Based on that conversation, Ms. Morrison understood that Ms. Stephens was upset that she was not invited to participate. Tr. 245:13-246:1.

98. Ms. Morrison advised Ms. Stephens that she was not the organizer of the event. Tr. 95:13-15

99. Ms. Stephens was upset that she was not part of the press conference. She “didn’t know who to be upset with. [She] was just upset, period.” Tr. 98:19-24.

100. Ms. Stephens felt she should have had some role in the press conference because she was a recent victim of a hate crime. Tr. 101:3-102:10

101. Ms. Stephens was upset at Ms. Morrison for allegedly “underrepresenting her role in that press conference.” Tr. 99:5-8

102. Ms. Stephens testified that Larry Krasner apologized to her after the press conference. She testified that he was the “dominating presence” at the press conference. Tr. 97:6-13

103. Ms. Morrison was surprised that Ms. Stephens was upset that she was not invited because Ms. Morrison was not asked to identify a victim of a hate crime. Tr. 238:18-22.

104. Prior to the press conference, Ms. Morrison and Ms. Stephens spoke on the phone almost every day. After the press conference, they stopped speaking. Tr. 246:21-24.

LOAN REPAYMENT

105. Ms. Stephens testified that she contacted Ms. Morrison when the first payment was due on October 23, 2020, stating: “Today is the first day of your loan. Do you -- you know, how do you plan on paying it,” something to that -- something to that regard. She never responded back to me. So then the next text message was my intent to sue her if she planned on defaulting on the

loan. I made it very clear that that was what I was going to do and I meant it. I wanted her to know that was the next course of action from me if the communication, you know, wasn't there and I wasn't getting any money toward the loan." Tr. 52:24-53:18

106. Alternatively, Ms. Morrison testified that after the press conference, Ms. Stephens sent one text message. Ms. Morrison was at work. She responded asking her to call so they could talk. Tr. 246:24-247:3

107. Ms. Morrison subsequently tried to call Ms. Stephens but was blocked from calling. Tr. 247:4-10. Ms. Morrison reached out to Mr. Shaw in an effort to connect with Ms. Stephens. Ms. Morrison was unable to connect with Ms. Stephens. Tr. 158:12-19; 246:10-12.

108. On February 25, 2021, Board Enforcement staff received an anonymous complaint alleging that Ms. Morrison had accepted \$4,000 from a constituent. After a preliminary inquiry, the Board initiated an investigation on February 26, 2021, pursuant to Phila. Code Sec. 20-606(1)(g) and Board Regulation 2.4. On March 2, 2021, Board Enforcement Staff contacted Ms. Morrison and notified of her of the investigation. Stip. Fact 20.

109. When Ms. Morrison was contacted by Ms. Curley, she did not understand the Board of Ethics' role. She thought Ms. Curley was defending her against something that someone was saying about her. Tr. 193:19-194:12.

110. When she better understood the situation, Ms. Morrison advised Ms. Curley that she intended to pay back the loan and asked Ms. Curley if she would deliver the check for the full amount to Ms. Stephens. Tr. 194:24;195:4; 159:14-20.

111. Ms. Morrison testified: "I know that my intentions were not to violate any rule. But I do -- I did, and from the beginning I said that if I did break an ethics rule, it was not intentional. I was not aware of the stipulations and how these things worked at that point. Going through this

has taught me all that I know about how the Board of Ethics works with -- as opposed to with the City. So I didn't know any of that.” Tr. 248:11-23.

II. PROPOSED CONCLUSIONS OF LAW

112. Ms. Morrison received a monetary “gift” from Ms. Stephens in the form of a \$4,000 cashier’s check, pursuant to a no-interest loan executed on September 23, 2020. See ¶¶ 84-86; Philadelphia Code Section 20-604(1).

113. Ms. Stephens was not seeking “official action,” as defined by Philadelphia Code Section 20-601(17), from Ms. Morrison at or around the time she received the loan.

114. Regarding Ms. Morrison’s actions in connection with Hearts on a Wire, Ms. Stephens testified that she was seeking an “exploratory meeting” with Ms. Morrison and other City officials about the organization. She wanted to understand what the organization could do. See ¶¶ 21-23. Ms. Morrison agreed to attend an exploratory meeting. Ms. Morrison did not exercise any discretion in agreeing to the meeting as her Office practice is to meet with every person/organization that seeks a meeting. There is no evidence to the contrary. See ¶¶ 24-26.

115. Ultimately the meeting did not occur. Neither Ms. Stephens nor anyone else from Heart on a Wire sought any additional action by Ms. Morrison. See ¶ 27.

116. Ms. Stephens was not seeking “official action” from Ms. Morrison related to Hearts on a Wire and Ms. Morrison did not engage in any “official action” related to Hearts on a Wire. See ¶¶ 21-27; Philadelphia Board of Ethics Non-Public General Counsel Opinions 2012-516; 2021-503.

117. Similarly, Ms. Stephens was not seeking “official action” from Ms. Morrison after her August 24, 2020 attack. *Id.*

118. Ms. Morrison did not engage in any official action when she went to the police station in her personal capacity, as a friend, on August 24, 2020. See ¶¶ 30-31. She did not exert any power or advise anyone of her position. Rather, she attempted to get information from the police that Ms. Stephens was unable to hear because she was screaming. Ms. Morrison did not exert any “power” during the conversation. See ¶¶ 32-33.

119. Ms. Morrison advised the police officer whom she spoke to about Directive 4.15. Ms. Morrison does this any time she interacts with police officers. It is denied that advising a police officer of a city regulation that impacts Ms. Morrison as a trans woman constitutes an exertion of power or official act. See ¶¶ 36-39.

120. Ms. Stephens did not seek Ms. Morrison’s assistance after the August 24th attack because of her role with the Office of LGBT Affairs. Ms. Stephens contacted Ms. Morrison after the attack as a friend. Ms. Stephens did not ask Ms. Morrison to meet her at the police station. Ms. Morrison followed Ms. Stephens to the police station, when she was not at her home, as a friend. See ¶ 30.

121. Ms. Morrison advised other City officials of the incident, and that she was not acting in an official capacity when she went to the police station, the very next day. See ¶¶ 53-64.

122. Ms. Stephens testified that she met Ms. Morrison at her home after the attack. She testified that she sought Ms. Morrison’s support in enhancing her charges and that, after discussing enhancing her charges, they went to the police station together. See ¶¶ 45-46.

123. Yet Ms. Stephens later acknowledged that Ms. Morrison did not go to her home after the attack. See ¶ 47.

124. Ms. Stephens also acknowledged that she understood that Ms. Morrison did not have any role in charging decisions and that Ms. Morrison did not do anything to impact whether the people who attacked her were charged or not. See ¶¶

125. Ms. Morrison intended to and did support Ms. Stephens personally and professionally. See ¶¶ 42-43. However, her professional support was limited to ministerial acts. In her professional capacity, Ms. Morrison would have been able to connect Ms. Stephens to resources if necessary. However, in this situation, Ms. Morrison did not have to connect Ms. Stephens to resources. See ¶ 83. Instead, individuals from the police department and DA's office reached out to Ms. Morrison, likely due to Ms. Stephens' own outreach to City personnel and the press. See ¶80.

126. Ms. Morrison was not asked to, nor did she take any official discretionary actions in acting as a liaison between Ms. Stephens and the Police Department or District Attorney's Office. See ¶¶ 65-77.

127. Deputy Commissioner Wimberly contacted Ms. Morrison regarding Ms. Stephens. Ms. Morrison relayed information as requested. Ms. Morrison did not make any decisions, discretionary or otherwise regarding the matter. See ¶¶ 67-73.

128. Ms. Geer contacted Ms. Morrison regarding Ms. Stephens. Ms. Morrison relayed information as requested. Ms. Morrison did not make any decisions, discretionary or otherwise regarding the matter. See ¶¶ 74-77.

129. As Ms. Morrison testified, this was not the standard procedure or role that her office plays when there is a violent attack. See ¶¶ 79-80.

130. At most, Ms. Morrison engaged in ministerial tasks of acting as an intermediary between the police, the DA and Ms. Stephens until they connected directly. See ¶ 78.

131. The Executive Director has not identified any “official” discretionary action sought by Ms. Stephens that would have been in Ms. Morrison’s power. See ¶¶78; 83.

132. There is no evidence Ms. Morrison was involved in Ms. Stephens’ criminal matter. There is no evidence that Ms. Stephens thought Ms. Morrison could impact her pending criminal matter. See ¶¶ 51-52.

133. Ms. Morrison did not act “knowingly, that is voluntarily and intentionally, and not because of mistake or accident” when she accepted and received the monetary no interest loan from Ms. Stephens. The Executive Director has not provided any evidence to support this position. See ¶¶ 6-9; 111.

134. Ms. Morrison acknowledges receiving the funds. She did not however believe or understand that she was prohibited from doing so. See ¶ 111.

III. ARGUMENT

The Executive Director has failed to establish that Ms. Morrison violated Philadelphia Code Section 20-604(1) as Ms. Stephens was not seeking “official action” by Ms. Morrison at the time she received a loan from Ms. Stephens. Accordingly, the single Count alleging a violation of Section 20-604(1), as set forth in the Amended Notice of Administrative Enforcement, should be dismissed. Moreover, even if the Hearing Officer were to find that Ms. Stephens was seeking “official action” at the time Ms. Morrison accepted the loan, and violated Section 20-604(1), the Executive Director has not established the existence of an aggravating factor, as Ms. Morrison was not acting “knowingly” in accepting a loan from Ms. Stephens.

A. Relevant Law

Philadelphia Code Section 20-604(1) provides that a City officer or employee shall not accept, receive, or solicit monetary “gifts” from any person who is seeking “official action” from

that officer or employee, or from any person who has a financial interest, at the time or in close proximity to the time the gift is received, which the officer or employee is able to substantially affect through official action. A “gift” includes any payment, advance, rendering, or deposit of money. Phila. Code § 20-601(10).

An “official action” is any act or omission taken by an officer or employee in her official capacity that requires discretion and is not ministerial in nature. Phila. Code § 20-601(17). Section 20-601(7) does not provide guidance as to what would constitute a discretionary act as opposed to a ministerial act. However, some guidance is provided by the definition of “Transactions Involving the City,” which reads:

Any proceeding, application, submission, request for a ruling, or other determination, contract, lease, claim, case, award, decision, decree, judgment or legislation including ordinances and resolutions or other particular matter which the City officer or employee in question believes, or has reason to believe (a) is or will be the subject of City action; or (b) is one to which the City is or will be a party; or (c) is one in which the City has a direct proprietary interest. This shall not include routine applications or requests for routine information or other matters which are of a ministerial nature and do not require the exercise of discretion on the part of any City officer or employee.

See Philadelphia Code § 20-601(27).

Notably, the definition excludes “routine applications or requests for routine information” as “ministerial.” *Id.*

The Philadelphia Board of Ethics has also provided some guidance as to what is considered “ministerial.” In 2012, in interpreting the meaning of “participated” in the context of Philadelphia Code Section 20-603(1), the General Counsel advised that:

“participated,” means “official actions that [the former employee was] involved in as part of [their] duties, in a way that [was] more than ministerial...[they] made a recommendation, did some

research, participated in a meeting, analyzed some data, drafted a document or the like.”

See Philadelphia Board of Ethics Non-Public General Counsel Opinion 2012-516, pg. 4. <https://www.phila.gov/ethicsboard/Advisory%20Opinions/GC.Op.2012-516.pdf>

In Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2021-503, April 22, 2021, the General Counsel concluded that to be considered “assisting”, under Philadelphia Code 20-603, the:

role would need to entail some act of discretion specific to the matter in question. For example, general conversations about a project would not constitute ‘assisting’ the non-profit with the matter for the purposes of Section 20-603. On the other hand, offering a recommendation about which City officers an employee of the non-profit should talk to about a project or drafting a proposed scope of work for a project would. If your client’s fundraising or promotional work for the nonprofit merely refers to or has an incidental effect on a matter they participated in prior to leaving City service, that would not, in my opinion, constitute ‘assisting’ the organization with the matter, for the purposes of Section 20-603.

See Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2021-503, April 22, 2021 <https://www.phila.gov/media/20210908112001/BOE-minutes-20210519.pdf> (emphasis added).

Finally, a violation of Philadelphia Code Section 20-604(1) is subject to a civil penalty of \$1,000, which may be increased to \$2,000 if an aggravating factor is present. See Code §§ 20-612(1); 20-1302. An aggravating factor includes a finding that the violation was committed “knowingly,” meaning that it was “done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.” Phila. Code § 20-1302(1)(b)(i).

B. Ms. Stephens was not Seeking any “Official Action” by Ms. Morrison

Pursuant to Section 20-604(1), Ms. Morrison was prohibited from accepting, receiving, or soliciting a “gift” from Ms. Stephens if Ms. Stephens was seeking “official action” from Ms.

Morrison. Ms. Morrison admits that she received a monetary “gift” from Ms. Stephens in the form of a \$4,000 loan executed on September 23, 2020.² However, there is not any evidence to support the Executive Director’s allegation that Ms. Stephens was seeking “official action” from Ms. Morrison at that time.

The Executive Director alleges that Ms. Stephens was actively seeking official action from Ms. Morrison in two ways:

First, Ms. Stephens solicited and advocated for Ms. Morrison’s and the Office of LGBT Affairs’ involvement with the organization “Hearts on a Wire” throughout August 2020. As Executive Director, Ms. Morrison had discretion as to whether her office became involved with Hearts on a Wire. Ms. Morrison stated that Ms. Stephens’ involvement was critical in her decision to participate in meetings with Hearts on a Wire. See Exhibit A at 11. So, Ms. Stephens was actively seeking official action from Ms. Morrison such that Ms. Stephens was a prohibited source for monetary gifts. In soliciting, accepting, and receiving a \$4,000 no-interest loan from Ms. Stephens, Ms. Morrison violated Philadelphia Code § 20-604(1).

Second, Ms. Morrison was intrinsically involved with Ms. Stephens’ interactions with multiple city officials immediately following the attack and for weeks after. Ms. Stephens sought and reasonably believed that Ms. Morrison would use the power of her office and position as Executive Director to support and

² It is specifically denied that Ms. Morrison “requested” the funds from Ms. Stephens after a GoFundMe campaign. Rather, prior to the attack, while Ms. Morrison was living with Ms. Stephens, Ms. Stephens offered to loan Ms. Morrison money to obtain new housing. Ms. Stephens advised Ms. Morrison that she had the funds available to assist her. See ¶¶ 13-18.

Ms. Stephens claimed in her testimony that she lent Ms. Morrison funds from the GoFundMe campaign that she organized after her attack. See ¶ 93. Initially, the hearing was the first time that Ms. Stephens made such an allegation. Additionally, the claim lacks credibility based on the totality of the record evidence. Ms. Stephens’ GoFundMe Campaign page provided that she was raising funds for herself and for William Way. See ¶ 89; ED-11:1-3. Ms. Stephens testified that she advised the community that she was donating funds raised to [REDACTED]. She testified that Ms. Morrison fit that description and accordingly was an appropriate recipient of the funds. See ¶¶ 88; 90. Yet, Ms. Stephens did not, despite making other updates to her GoFundMe Campaign page, update her page to advise the individuals donating to her campaign that she had changed the intended recipients. ED-11:3; ¶ 92. Moreover, Ms. Stephens did not donate or give the money to Ms. Morrison as she did with other recipients of the funds. Rather, Ms. Stephens loaned Ms. Morrison the money with the expectation that it be repaid. See ¶¶ 93-94. The loan was consistent with the discussion Ms. Morrison testified occurred prior to Ms. Stephens’ attack; it is not consistent with the way GoFundMe “donation” campaigns would work or how Ms. Stephens otherwise managed the GoFundMe donations.

advocate for Ms. Stephens, both throughout the criminal prosecution of her attackers and with filing any complaint against the Police Department. And, Ms. Morrison did in fact use her position to assist Ms. Stephens during this time.

See Amended Notice of Administrative Enforcement Proceeding, ¶¶ 36-38. The record evidence does not support the Executive Director’s position that Ms. Morrison engaged in “official action” in either situation.

1. Ms. Stephens Did Not Seek or Receive Official Action by Ms. Morrison related to Hearts on a Wire

Regarding Hearts on a Wire, the Executive Director alleges that Ms. Morrison had discretion as to whether the Office of LGBTQ Affairs would become involved with the organization. While ultimately that may have been true, Ms. Stephens requests of Ms. Morrison did not reach that stage.

Ms. Stephens testified that she, as a “member” of Hearts on a Wire, was seeking an “exploratory meeting” with Ms. Morrison and other City officials. Ms. Stephens wanted to understand what the Office could do. See ¶¶ 20-23. On August 19, 2020, Ms. Morrison agreed to attend an exploratory meeting. See ¶ 24.

In seeking the meeting, Ms. Stephens did not ask that Ms. Morrison engage in any discretionary, official act. The Office of LGBTQ Affairs meets with every person/organization that seeks an “exploratory” meeting. See ¶ 25. Seeking or having such a meeting, which would be similar to a “general conversation” about a project, would not constitute an act of discretion. See Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2021-503, April 22, 2021.

Moreover, ultimately the meeting did not occur. Neither Ms. Stephens nor anyone else from Heart on a Wire sought any additional action after August 19, 2020. See ¶ 27.

2. Ms. Stephens Did Not Seek or Receive any Official Action from Ms. Morrison after her Attack

Similarly, Ms. Stephens was not seeking “official action” from Ms. Morrison after her August 24, 2020 attack. The claim that “Ms. Morrison was intrinsically involved with Ms. Stephens’ interactions with multiple city officials immediately following the attack and for weeks after” is unsupported by the record evidence.

a. Ms. Morrison did not engage in any “official act” at the Police Station

The Executive Director alleges:

The night of the attack, Ms. Morrison interacted with Philadelphia police, informing them of City policy toward LGBT crime victims. She did this in front of Ms. Stephens, such that Ms. Stephens reasonably inferred that Ms. Morrison could exert the power of her position in this situation and with interactions with Philadelphia police.

Notice at ¶¶ 40-41.

Philadelphia Code Section 20-604(1) provides that a City officer or employee shall not accept, receive, or solicit monetary “gifts” from any person who is seeking “official action.” It is specifically denied that Ms. Stephens was seeking any official action from Ms. Morrison at the police station on August 24, 2020.

Ms. Stephens initially testified that after the attack, Ms. Morrison met her at her home. She claimed she asked Ms. Morrison to assist her in enhancing the charges against her assailants and she and Ms. Morrison went to the police station together. See ¶¶ 45-46. However, Ms. Stephens later acknowledged that Ms. Morrison did not meet her at her home after the attack (and therefore could not have had such a conversation with her). See ¶ 47. Moreover, there is no evidence that Ms. Stephens ever asked Ms. Morrison to meet her at the police station. Rather, Ms. Morrison drove to the police station after learning that Ms. Stephens was there from someone else. She went there as a friend. See ¶¶ 30-31.

There is similarly no evidence that Ms. Stephens sought any official action by Ms. Morrison while they were at the police station. Ms. Morrison and Ms. Stephens testified that Ms. Stephens was screaming and was upset about the charges she understood would be brought. Ms. Morrison did not take any “actions” related to Ms. Stephens’ concerns. See ¶¶ 32-33. Rather, she attempted to understand the police’s position so she could share it with Ms. Stephens, who was not listening because she was screaming. See ¶ 34. Ms. Morrison did not advise anyone of her position or exert any “power” during the conversation. See ¶ 40.

The Executive Director suggests that Ms. Morrison engaged in official action because she cited to Directive 4.15 when speaking to the police officer. Ms. Morrison advised the police of Directive 4.15, as she does any time she interacts with police officers. See ¶¶ 36-39. It was not on account of Ms. Stephens. It is denied that advising a police officer of a city regulation in an effort to ensure one’s own safety constitutes an exertion of power or that it was an “official act.”

Moreover, Ms. Morrison advised other City officials of the incident and that she had gone to the hospital in her personal capacity the very next day, August 25th. See ¶¶ 53-64.

b. Acting as a “liaison” did not constitute an “official act”

The Executive Director further alleges that Ms. Morrison engaged in “official acts” by serving as a liaison between Ms. Stephens and the District Attorney’s Office and Ms. Stephens and the Police Department.

The Executive Director contends that Ms. Morrison engaged in an official act when she acted as a liaison between Ms. Stephens and the District Attorney’s Office in that: “At Ms. Stephens direction, Ms. Morrison forwarded information regarding the incident to their office.” Notice at 43.

This claim is unsupported. Mr. Geer contacted Ms. Morrison seeking information. After getting Ms. Stephens' permission, Ms. Morrison provided the requested information. See ¶¶ 74-77. Such an act did not require any "discretion" on Ms. Morrison's part.

The Executive Director further contends that Ms. Morrison engaged in an official act when "Ms. Morrison served as a liaison between Ms. Stephens and the Police Department to provide information on how to file a complaint against police officers for their alleged treatment of Ms. Stephens based on her LGBT status." Notice at 44.

Ms. Morrison did not "provide information on how to file a complaint against police officers for their alleged treatment of Ms. Stephens." Rather, as clearly stated in Commissioner Wimberly's email, Commissioner Wimberly advised Ms. Stephens as to how to file a complaint. See ¶¶ 69-70; ED-8:2.

While Ms. Morrison intended to and did support Ms. Stephens personally and professionally, her professional support was limited to ministerial acts. In her professional capacity, Ms. Morrison's only relevant function would be to connect Ms. Stephens to resources. In this situation, Ms. Stephens did not ask Ms. Morrison to connect her to resources and Ms. Morrison did not initiate connecting Ms. Morrison to any resources. Instead, individuals from the Police Department and District Attorney's office reached out to Ms. Morrison, likely due to Ms. Stephens' own outreach to City personnel and the press, regarding Ms. Stephens' attack. See ¶¶ 66-83. While "offering a recommendation about which City officers" an individual should talk to may be considered a discretionary act, See Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2021-503, April 22, 2021, Ms. Morrison was not asked to, nor did she provide any such assistance in this situation.

Ms. Morrison did not make any decisions, interpret any rules or regulations or provide Ms. Stephens any advice regarding the attack or Ms. Stephens' criminal case. Deputy Commissioner Wimberly contacted Ms. Morrison regarding Ms. Stephens. Ms. Morrison relayed information as requested. Ms. Morrison was not asked to, nor did she, make any decisions, discretionary or otherwise regarding the matter. See ¶¶ 67-73. Mr. Geer also contacted Ms. Morrison regarding Ms. Stephens. Ms. Morrison relayed information as requested. Ms. Morrison was not asked to, nor did she, make any decisions, discretionary or otherwise regarding the matter. See ¶¶ 74-77.

At most, Ms. Morrison engaged in ministerial tasks of acting as an intermediary between the Police Department and the District Attorney and Ms. Stephens at their direction.

Finally, the Executive Director alleges: "because of Ms. Morrison's involvement in the criminal matter and the proximity in time to the execution of the no-interest loan, Ms. Stephens was afraid to pursue repayment from Ms. Morrison for fear of the influence she could have on Ms. Stephens' pending criminal matter and career in the LGBT advocacy community."

This claim is entirely unsupported. There is no evidence Ms. Morrison was involved in any way in the criminal matter. Seemingly to this point, Ms. Stephens claimed, for the first time during the hearing, that she wanted Ms. Morrison's support in "enhancing" her charges. Initially, Ms. Morrison's testimony regarding that conversation was unreliable at best. Ms. Stephens testified:

I was getting the help that I was asking for: Help to get charges enhanced, help to, you know, start an internal affairs investigation on the responding officers. I didn't know names. I didn't know emails. And I was -- that was given to me by Ms. Morrison on how to move forward.

See ¶ 48. None of these allegations are supported. There is no evidence that Ms. Morrison helped get charges enhanced or helped start an internal investigation. In fact, while Ms. Stephens initially testified to the above, she later acknowledged that she understood that Ms. Morrison did

not have any role in charging decisions and did not provide assistance in that process. See ¶¶ 51-52. Additionally, there is no evidence that Ms. Stephens relied on Ms. Morrison for any names or emails.

The Executive Director has not identified any “official,” discretionary action sought by Ms. Stephens that would have been in Ms. Morrison’s power. The conclusory allegation that “Ms. Stephens reasonably relied on and actively sought Ms. Morrison’s support, advocacy, and action in this matter, not only as a friend, but specifically as the Executive Director of the Office of LGBT Affairs” does not establish that she sought any “official action” from Ms. Morrison that Ms. Morrison could substantially affect.

3. Ms. Stephens was not seeking any action from Ms. Morrison at the time she accepted or received the “Gift”

Even assuming that the Hearing Officer were to find that Ms. Stephens sought “official action” regarding the Hearts on a Wire meeting or after the August 24, 2020 attack, Ms. Stephens was not seeking any action from Ms. Morrison at the time Ms. Morrison “accepted” or “received” the gift from Ms. Stephens.

Section 20-604(1) provides that a “City officer or employee shall not accept, receive, or solicit monetary ‘gifts’ from any person who is seeking ‘official action’ from that officer or employee.” Ms. Morrison never “solicited” a gift from Ms. Stephens. Rather, Ms. Stephens offered Ms. Morrison a loan.³

³ Solicit is defined by Merriam-Webster as:

1a: to make petition to : ENTREAT

b: to approach with a request or plea
solicited Congress for funding

2: to urge (something, such as one's cause) strongly

3a: to entice or lure especially into evil

b: to proposition (someone) especially as or in the character of a prostitute

4: to try to obtain by usually urgent requests or pleas
solicited donations

<https://www.merriam-webster.com/dictionary/solicit>

While Ms. Morrison acknowledges that she accepted or received the gift on September 23, 2020, Ms. Stephens was not seeking any action from Ms. Morrison in her official capacity at that time. Specifically, there were no requests or other communications regarding Hearts on a Wire after August 19, 2020. See ¶¶ 24; 27. Additionally, there were no requests or other communications regarding Ms. Stephens' August 24, 2020 attack after September 15, 2020, at the very latest. Ms. Morrison's last communication with any City Official regarding Ms. Stephens occurred on September 15, 2020, when Commissioner Wimberly wrote to Ms. Morrison: "Hi, I just spoke with Kendall and walked her through the process. Again thank you for your help." See ¶ 70. There is no record evidence that Ms. Stephens sought any action from Ms. Morrison in her official capacity after that date. Moreover, there is no record evidence that Ms. Morrison took any actions regarding Ms. Stephens after that date.

The Executive Director has not established that Ms. Stephens was seeking official action from Ms. Morrison at the time Ms. Morrison accepted the loan. His argument relies on overstatements about Ms. Morrison's role as it related to Ms. Stephens.

While Ms. Morrison was willing to help her friend after a violent attack in any way she could, Ms. Stephens did not seek, and Ms. Morrison did not engage in any "official action" on her behalf. Because Ms. Stephens already had sufficient connections, the one service Ms. Morrison would have been able to provide was not necessary. Ms. Stephens testimony that she requested that Ms. Morrison assist her in getting the charges against her assailants enhanced was, frankly, incredible and contradicted by her own later testimony. Moreover, even if sought, Ms. Morrison had no involvement in, and therefore could not provide the assistance that Ms. Stephens claims she sought.

The record evidence demonstrates that, at most, Ms. Stephens sought ministerial acts by Ms. Morrison. This does not suffice to support a charge that Ms. Stephens violated Philadelphia Code Section 20-604(1).

4. Ms. Morrison did not act “knowingly, that is voluntarily and intentionally, and not because of mistake or accident”

Finally, even assuming arguendo that the Hearing Officer were to find that Ms. Stephens was seeking “official action” from Ms. Morrison at the time she gave her a loan, Ms. Morrison did not act “knowingly, that is voluntarily and intentionally, and not because of mistake or accident” when she accepted and received the loan from Ms. Stephens.

Ms. Stephens was Ms. Morrison’s friend. Ms. Stephens offered Ms. Morrison funds to help her escape [REDACTED]. At no time did Ms. Morrison consider that offer, or her acceptance of that offer, to be in any way related to her job. At no time did Ms. Morrison take any action, or fail to take any action, because of the loan. While Ms. Morrison acknowledges receiving the funds, she did not believe or understand that she was prohibited from doing so. See ¶ 111. Any violation of the Philadelphia Code was unintentional, due to a mistake on Ms. Morrison’s part.

IV. **CONCLUSION**

For the reasons set forth above, Ms. Morrison respectfully requests that the Hearing Officer and the Board of Ethics dismiss the charge against her.

Dated: January 14, 2022

Respectfully submitted,

**PIETRAGALLO GORDON
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above-captioned Respondent Celena Morrison's Post Hearing Brief was served via Electronic mail upon the following:

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