

City settles with ex-employee over termination

November 5, 2011

A former city official who accused San Diego Mayor Jerry Sanders of firing him for cooperating with investigators on a conflict-of-interest probe will receive \$200,000 under a legal settlement approved Tuesday by the City Council.

Scott Kessler, who made \$120,000 annually as the city's former deputy director of economic development division, sued the city after he was fired in late 2008. The council voted 7-1 in favor of the settlement, with Carl DeMaio dissenting because the deal's details weren't disclosed before the public vote.

The city says Kessler was let go during a round of layoffs. Kessler alleged in his lawsuit that Sanders and his staff retaliated against him for a number of issues:

- Talking to the FBI and San Diego police during an investigation into civic leader Marco Li Mandri's involvement with the Midway-area business improvement district, which assesses annual fees on businesses to promote the area.
- Distributing the police report stemming from that investigation to the city Ethics Commission.
- Cooperating with U.S. government officials in a separate probe into San Diego's spending of federal housing aid.

No charges were ever filed, and Li Mandri denied any wrongdoing. [Josh Gruenberg](#), Kessler's attorney, said he believes his client would have won the case but has a new job and preferred to avoid a trial and move on with his life.

"Scott had a very righteous case and we believe the settlement to be an appropriate measure of justice for what he suffered," Gruenberg said.

Janice Brown, the outside counsel hired by the city to defend the case, said the settlement was in the city's best interests because it avoided expensive litigation costs and the risk a jury could side with Kessler.

"Today you have the resolution of the litigation for \$200,000 where there's no more litigation cost. There's no more appeal. It is over," she said told the council. "It's really a smart decision by this body."

The council authorized paying Brown as much as \$450,000 for the case, although it was unclear how much was actually spent.

Brown said Kessler sought \$1.5 million. [Gruenberg](#) said that figure represented “an unlikely best case scenario” if legal fees, loss of income and damages were awarded.

In the lawsuit, Kessler said Sanders staffer Beth Murray told him that as a result of his cooperation with authorities, “All hell had broken loose in the Mayor’s Office, and that people were upset with (Kessler), including the mayor himself.”

Investigators recommended a range of charges be brought in the conflict-of-interest probe, but none was filed after Kessler testified before a grand jury in January 2008.

According to the police report, the case involved alleged efforts to steer tens of thousands of tax dollars toward the North Bay Association of San Diego, a nonprofit organization that managed the Midway business improvement district, and people connected to it, using bribery, fraud and conspiracy.

Kessler, now a consultant for the Adams Avenue Business Association, declined to comment through his attorney. Sanders also declined to comment through a spokesman.

The settlement money comes out of the operating budget’s public liability fund, a self-insurance program for claims against the city.

Original article: <http://www.sandiegouniontribune.com/news/watchdog/sdut-city-settles-with-employee-over-termination-2011nov15-story.html>