

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES OF AMERICA</b>	:	
	:	<b>Criminal No.: 08-345 (RBW)</b>
	:	
<b>v.</b>	:	
	:	
<b>FELIPE E. SIXTO,</b>	:	
	:	
<b>Defendant</b>	:	

---

**GOVERNMENT’S MEMORANDUM IN AID OF SENTENCING**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this sentencing memorandum.

**INTRODUCTION**

\_\_\_\_\_ On December 19, 2008, Felipe E. Sixto pled guilty to a violation of 18 U.S.C. § 666 for stealing \$579,247.47 of United States Agency for International Development (USAID) funds from the Center for a Free Cuba (CFC). Mr. Sixto not only stole more than half a million dollars from a not for profit organization, but after being selected for a highly sought after position in the office of the President of the United States he continued to engage in his fraudulent conduct. Mr. Sixto’s sentence should take into account the nature and impact of his conduct and also the brazen way in which he continued his scheme, undeterred by the impact it would cause others and the office of the President of the United States.

**BACKGROUND**

CFC is a not for profit institution whose mission is to promote democracy in Cuba. In February 2003, Mr. Sixto was hired as an executive assistant at CFC, but shortly thereafter, at his request, his title was changed to Chief of Staff. Mr. Sixto’s duties included performing many of

CFC's daily administrative activities including overseeing CFC's procurement.

During the time of Mr. Sixto's scheme, CFC received a substantial portion of its funding from the United States Agency for International Development (USAID). As part of one of its programs, CFC provided flash lights and transistor radios to residents of Cuba. Around the latter part of 2004 or early 2005, the Executive Director of CFC requested that Mr. Sixto research pricing of radios from various vendors. Mr. Sixto, rather than recommending the lowest bid to CFC, devised a scheme in which, concealing his identity, he purchased radios and resold them to CFC at a profit to himself. His actions facilitated the commission and concealment of a fraud that netted him \$579,274.47 of USAID funds from CFC.

As part of his scheme, Mr. Sixto opened a bank account using the name S.H. Distributors (SHD). SHD is a company run by Mr. Sixto's father and other relatives in Miami, Florida. Mr. Sixto purchased radios from the lowest priced vendor and then resold the radios to CFC at an inflated price. Mr. Sixto mailed fraudulent invoices to CFC in the name of SHD claiming to be located in Walnut, California, at fictitious street addresses. At CFC, when an invoice arrived from a vendor it was reviewed by either CFC's General Manager or Mr. Sixto. Once a week all CFC's invoices were reviewed by CFC's accountant for processing. The accountant generated an accounts payable voucher along with a check for payment and forwarded this packet to CFC's director for his signature. Once the checks were signed, the director either returned the packet to the accountant or to Mr. Sixto to be mailed. Mr. Sixto, rather than taking the mail addressed to SHD to the post office for delivery, took the mail for himself and deposited the enclosed check in SHD's bank account in Washington D.C. Later, Mr. Sixto changed SHD's mailing address to a post office box in Washington D.C. that belonged to a friend.

On or about December, 27, 2005, Mr. Sixto incorporated a company by the name of Strategic Global Communications (SGC) in Maryland. Mr. Sixto claimed SGC was located in Woodside, California at another non existent street address. Mr. Sixto also opened two bank accounts for SGC in Washington D.C. For a short period of time, SGC purchased radios and flashlights from vendors and then sold them at cost to SHD. SHD in turn sold the radios to CFC at an inflated price allowing Mr. Sixto to make a profit. From on or about April 15, 2005, through on or about March 8, 2007, using SHD, Mr. Sixto caused to be submitted and paid by CFC invoices totaling \$798,481 resulting in unauthorized and fraudulent payments from CFC to SHD totaling \$541,075.19.

In February 2007, SGC began supplying radios to CFC directly. As part of his scheme, Mr. Sixto created and utilized the alias "Walter Lee" posing as a representative of SGC. Mr. Sixto continued to intercept payment checks CFC intended to mail to SGC for radios and flashlights and then deposited the checks into SGC's bank account. Moreover, Mr. Sixto rented space at a storage facility in Frederick, Maryland where he took delivery of radios and flashlights from vendors and then delivered them to CFC. On July 13, 2007, Mr. Sixto left CFC to join the White House Office of Intergovernmental Affairs as an Associate Director for Intergovernmental Affairs, however, he continued his scheme. Mr. Sixto changed SGC's fictitious business address to a valid mailing address at XXXXXXXXXXXX, Los Angeles, CA 90069. Mr. Sixto through SGC continued delivering radios to CFC and providing CFC with fraudulent invoices. In response, CFC made invoice payments to SGC's Santa Monica Boulevard address from which Mr. Sixto had the PO Box's mail rerouted to his home in Frederick, Maryland. Mr. Mr. Sixto then deposited the checks into SGC's bank account. From on or about March 8, 2007, through on or about September 21, 2007, Mr. Sixto, using SGC, caused to be submitted and paid by CFC invoices totaling \$190,229 resulting

in unauthorized and fraudulent payments from CFC to SGC totaling \$38,199.28.

Mr. Sixto's fraudulent scheme described above, resulted in a net gain to himself of \$579,274.47. After his scheme was discovered and an internal CFC investigation commenced, Mr. Sixto was forced to resign from his position at the White House. Mr. Sixto also entered into an agreement with CFC to return his ill gotten gains along with interest and repaid the sum of \$644,884.60 to CFC. Mr. Sixto obtained the funds to repay CFC from his father.

### **GOVERNMENT'S POSITION ON SENTENCING**

#### **I. Mr. Sixto Deserves a Significant Punishment Under the Guidelines.**

The parties have stipulated, and the Probation Office has found, that Mr. Sixto has a guidelines level of 19 under the United States Sentencing Guidelines. That level calls for a sentence of 30 to 37 months of incarceration. The parties have agreed not to seek a departure under the guidelines. Plea Agreement at C. The parties further agreed "that a sentence within the Stipulated Guidelines Range would constitute a reasonable sentence in light of all of the factors set forth in Title 18, United States Code, § 3553(a)." Id at D.

#### **II. Mr. Sixto Deserves a Significant Punishment Under Section 3553.**

The government respectfully submits that the factors under 18 U.S.C. § 3553(a) support a sentence at the middle of the guidelines range.

##### **A. Nature of the Offense**

This case is more than an employee simply stealing from his employer. It is about a man who over the course of years engaged in an intricate scheme to defraud an organization chartered to help people who were of his own heritage. The fact that the defendant stole more than half a million dollars under these circumstances is, in and of its self, deserving of a severe term of incarceration,

what is most appalling about this case is that once the defendant left CFC, after engaging in this scheme without being detected for three years, he did not stop. Despite being selected to work in the office of the President of the United States earning a six figure salary the defendant continued his fraud. The defendant did not abandon his scheme until he was discovered. He only agreed to repay the funds he embezzled when he was threatened with criminal prosecution.

Mr. Sixto's scheme was sophisticated. It was a carefully planned out and executed operation. He first incorporated a company whose sole purpose was to perpetrate his fraud and then opened bank accounts in this companies name. Through this company, SHD, when he began operating as the supplier of radios to CFC, he did not overcharge for those initial deliveries. Instead he kept his prices at the cost he obtained the merchandise from the legitimate vendors. Once CFC did not suspect any irregularities and was presumably content with the service Mr. Sixto was providing through SHD, he began to raise the prices he was charging CFC. As time progressed and as Mr. Sixto's scheme began to generate him significant returns his scheme became even more complex. He incorporated a second company, opened new bank accounts, and he began renting a storage unit and storing merchandise that he planned to sell to CFC sometime in the future. Moreover, he created aliases to operate and conceal his scheme. This is a case where the two level enhancement for a fraud that involved sophisticated means appropriately takes into account the defendant's conduct.

Mr. Sixto used the funds he stole to live a lifestyle that was beyond his means. He purchased an automobile, real estate, shared \$124,000 with his father, and went out to restaurants, among other things. Mr. Sixto's conduct however had a tremendous and lasting impact on CFC. Shortly after CFC reported its loss to USAID, USAID suspended CFC's funding. Only after a lengthy inquiry,

at a cost to CFC and the tax payers, was CFC's funding reinstated by USAID. For a period of time, CFC employees were forced to go without pay, others were terminated, and CFC was forced to move its offices to a less expensive area outside of the District of Columbia. A year after Mr. Sixto's fraud was uncovered, it is yet to be seen what impact his conduct will have on CFC's application for a new grant of funds from USAID.

**B. History and Characteristics of the Defendant**

Other than high blood pressure the defendant is healthy. He has no serious continuing physical or mental health issues. He grew up in a loving, intact, two-parent home with two older siblings who are now successful and accomplished. His father owned his own business and provided for his children. As a teenager Mr. Sixto was involved in baseball, football, wrestling, and scuba diving. Mr. Sixto reports having had a good upbringing where "his basic needs were always met."

Mr. Sixto is a well educated man. He has the love of his wife and his 11 year old son. Mr. Sixto's wife is suffering from lupus, migraines, ulcerative colitis and underwent chemotherapy treatment in 2006. Although a very unfortunate situation, Mr. Sixto's use of the funds he stole from CFC in no way can be argued were justified or even related to his wife's condition. Mr. Sixto is without drug or alcohol problems. At the time this scheme was uncovered, Mr. Sixto was being promoted to Special Assistant to the President for Intergovernmental Affairs. In short, unlike many of the defendants sentenced by the Court, there is nothing in Mr. Sixto's history or characteristics to mitigate or justify his conduct in this case.

**C. The Need for the Sentence to Reflect the Seriousness of the Offense**

A sentence at the middle of the guidelines range would reflect the seriousness of Mr. Sixto's crime and would provide just punishment for his actions.

**D. The Need for the Sentence to Afford Adequate Deterrence**

A sentence at the middle of the guidelines range would send a powerful message of deterrence to other who might be tempted to follow Mr. Sixto's path: if you steal federal funds from a not for profit organization, you will face sure and severe punishment.

**CONCLUSION**

The United States respectfully requests that the Court sentence Mr. Sixto at the middle of the guidelines range, and in accordance with the factors articulated in 18 U.S.C. § 3553(a), to punish him for his conduct and to deter others who might consider abusing their positions for their own gain.

Respectfully submitted,

JEFFREY A. TAYLOR  
United States Attorney for the  
District of Columbia

By: \_\_\_\_\_ /s/  
VASU B. MUTHYALA  
Assistant United States Attorney  
Bar Number 496935  
United States Attorney's Office  
555 4<sup>th</sup> Street, N.W., Room 5239  
Washington, D.C. 20530  
(202) 514-7541  
[Vasu.Muthyala@usdoj.gov](mailto:Vasu.Muthyala@usdoj.gov)