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FAIR POLITICAL PRACTICES COMMISSION

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7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

8 **STATE OF CALIFORNIA**

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10 In the Matter of) FPPC No. 09/807
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FRANK J. MOLINA, and STRATEGIC) STIPULATION, DECISION and
SOLUTIONS ADVISORS;) ORDER

Respondents.)

16 Complainant Roman G. Porter, Executive Director of the Fair Political Practices Commission,
17 and Respondents Frank J. Molina and Strategic Solutions Advisors, hereby agree that this Stipulation
18 will be submitted for consideration by the Fair Political Practices Commission at its next regularly
19 scheduled meeting.

20 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
21 matter and to reach a final disposition without the necessity of holding an administrative hearing to
22 determine the liability of Respondents.

23 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
24 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Section 18361.1
25 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
26 the right to personally appear at any administrative hearing held in this matter, to be represented by an
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1 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 Respondents Frank J. Molina and Strategic Solutions Advisors, stipulate and agree that they
5 violated the Political Reform Act by failing to file lobbying firm disclosure reports, pursuant to
6 Government Code Section 86114 and failing to file lobbyist disclosure reports, in violation of
7 Government Code Sections 86113. (12 counts), as described in Exhibit 1. Exhibit 1 is attached hereto
8 and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary
9 of the facts in this matter.

10 Respondents Frank J. Molina and Strategic Solutions Advisors, agree to the issuance of the
11 Decision and Order, which is attached hereto. Respondents Frank J. Molina and Strategic Solutions
12 Advisors, also agree to the Commission imposing upon it an administrative penalty in the amount of
13 Thirty Thousand Dollars (\$30,000).

14 A cashier's check from Respondents totaling Thirty Thousand Dollars (\$30,000), made payable
15 to the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
16 administrative penalty, to be held by the State of California until the Commission issues its Decision and
17 Order regarding this matter. The parties agree that in the event the Commission refuses to accept this
18 Stipulation, it shall become null and void, and within fifteen (15) business days after the Commission
19 meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with
20 this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and agree that in the
21 event the Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
22 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
23 disqualified because of prior consideration of this Stipulation.

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Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

Dated: _____

Frank J. Molina, individually and on behalf of Strategic
Solutions Advisors

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Frank J. Molina and Strategic Solutions Advisors, FPPC No. 09/807,” including all attached exhibits, is hereby accepted as the final Decision and Order of the Fair Political Practices Commission, effective upon execution below by the Chairman.

IT IS SO ORDERED.

Dated: _____

Dan Schnur, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Frank J. Molina (“Respondent Molina”) became the owner of Strategic Solutions Advisors (“Respondent SSA”), a lobbying firm in January of 2007 after having worked in the California State Legislature from 1998 through 2006. Strategic Solutions Advisors had several clients, including the San Manuel Band of Mission Indians, The Soboba Band of Luiseno Indians, the Santa Ynez Band of Chumash Indians, the Tule River Indian Tribe and Deloitte Consulting LLP.

Respondent SSA employed Respondent Molina as its sole lobbyist. Respondent SSA received payments for lobbying services of over \$840,000 for the period from January 2007 through December 2009.

Despite qualifying as a lobbying firm and lobbyist under the Political Reform Act (the “Act”)¹, Respondents did not timely file quarterly reporting statements as either a lobbying firm or lobbyist as required from January 2007 through December 2009.

For the purposes of this Stipulation, Respondents’ violations are as follows:

- COUNT 1:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the January 1, 2007 through March 31, 2007 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 2:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the April 1, 2007 through June 30, 2007 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 3:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the July 1, 2007 through September 30, 2007 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 4:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the October 1, 2007 through December 31, 2007 reporting period, in violation of Government Code Sections 86113 and 86114.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 5:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the January 1, 2008 through March 31, 2008 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 6:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the April 1, 2008 through June 30, 2008 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 7:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the July 1, 2008 through September 30, 2008 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 8:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the October 1, 2008 through December 31, 2008 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 9:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the January 1, 2009 through March 31, 2009 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 10:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the April 1, 2009 through June 30, 2009 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 11:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the July 1, 2009 through September 30, 2009 reporting period, in violation of Government Code Sections 86113 and 86114.
- COUNT 12:** Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the October 1, 2009 through December 31, 2009 reporting period, in violation of Government Code Sections 86113 and 86114.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (b), is that the activities of lobbyists should be regulated and their finances disclosed in order that improper

influences will not be directed at public officials. The Act therefore establishes a lobbying firm and lobbyist reporting system designed to accomplish this purpose of disclosure.

Lobbying Firm

“Lobbying firm” means any business entity, including an individual contract lobbyist, which meets either of the following criteria: (1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist. (2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action. Government Code 82038.5.

Lobbyist

“Lobbyist” means any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action. Government Code Section 82039.

Duty to File Lobbyist Reports

A lobbyist shall complete and verify a periodic report which contains: (1) A report of all activity expenses by the lobbyist during the reporting period. A lobbyist shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter. Government Code Section 86113

Duty to File Lobbying Firm Reports

Lobbying firms shall file periodic reports containing all of the following: (1) The full name, address, and telephone number of the lobbying firm. (2) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period. (3) The total amount of payments received for lobbying services during the period. (4) A periodic report completed and verified by

each lobbyist in the lobbying firm pursuant to Section 86113. (5) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included. Government Code Section 86114

Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed, and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date. Government Code Section 86117

SUMMARY OF THE FACTS

Respondent Frank J. Molina (“Respondent Molina”) became the owner of Strategic Solutions Advisors (“Respondent SSA”), a lobbying firm in January of 2007 after having worked in the California State Legislature from 1998 through 2006. Strategic Solutions Advisors had several clients, including the San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians, the Santa Ynez Band of Chumash Indians, the Tule River Indian Tribe and Deloitte Consulting LLP.

Respondent SSA employed Respondent Molina as its sole lobbyist. Respondent SSA received payments for lobbying services of over \$840,000 for the period from January 2007 through December 2009.

Despite qualifying as a lobbying firm and lobbyist under the Political Reform Act (the “Act”), Respondents did not file quarterly reporting statements as either a lobbying firm or lobbyist as required from January 2007 through December 2009.

COUNTS 1-12

(Failure to File Required Lobbying Firm and Lobbyist Reports)

Respondents Frank J. Molina and Strategic Solutions Advisors failed to timely file quarterly lobbyist and lobbying firm reports for the January 1, 2007 through December 31, 2009 reporting periods, in violation of Government Code Sections 86113 and 86114.

CONCLUSION

This matter consists of twelve counts of violating the Act, carrying a maximum administrative penalty of \$60,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

For Counts 1-12, failing to file lobbyist and lobbying firm disclosure statements is a serious violation of the Act as it violates one of its central purposes, that the activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials. The public harm inherent in these violations is that the public is deprived of important and timely information from Respondents regarding the amounts and nature of lobbying activity. The typical administrative penalty for failing to file lobbyist and lobbying firm statements has been in the low to middle range of penalties.

FACTORS IN AGGRAVATION

In this matter, Respondents failed to file lobbying firm and lobbyist reports for a period of three years and failed to file until the non-filing was brought to the attention of the Respondents by the FPPC. Additionally, Respondents were not very cooperative with the investigation, causing significant delays in obtaining information and compliance with their filing obligations.

Respondents also failed to disclose over \$840,000 worth of lobbying payments and activity, depriving the public of information on a significant amount of lobbying activity. Additionally, Respondents were Responsible by contract and oral agreement to file lobbying employer reports for several of their clients, but failed to file these reports either, leaving no record of the lobbying activity.

Lastly, Respondent Molina worked in the Legislature for nearly nine years, including as the Chief of Staff to a Member of the Legislature. Thus, he was not an unsophisticated party.

FACTORS IN MITIGATION

Respondents have no history of violating the Act.

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Thirty Thousand Dollars (\$30,000), Two Thousand Five Hundred Dollars (\$2,500) each for Counts 1 – 12.

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