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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
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12 In the Matter of) FPPC No. 11/1119
13 MIKE ROOS)
14 Respondent.) STIPULATION, DECISION and
15) ORDER
16)
17)

18 Complainant, the Fair Political Practices Commission, and Respondent Mike Roos agree that
19 this Stipulation will be submitted for consideration by the Fair Political Practices Commission at its next
20 regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
22 matter and to reach a final disposition without the necessity of holding an administrative hearing to
23 determine the liability of the Respondent, pursuant to Section 83116 of the Government Code.

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
25 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
26 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
27 the right to personally appear at any administrative hearing held in this matter, to be represented by an
28 attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the

1 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
2 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

3 It is further stipulated and agreed Mike Roos violated the Political Reform Act by (1) making
4 contributions to committees controlled by elected state officeholders and a candidate for elected state
5 office, while registered to lobby the California State Legislature and Governor, in violation of
6 Government Code Sections 85702 (1 count). This count is described in Exhibit 1, which is attached
7 hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate
8 summary of the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondent also agrees to the Commission imposing upon them an administrative penalty in the amount
11 of Three Thousand Dollars (\$3,000). A cashier's check from Respondents in said amount, made
12 payable to the "General Fund of the State of California," is submitted with this Stipulation as full
13 payment of the administrative penalty, to be held by the State of California until the Commission issues
14 its decision and order regarding this matter. The parties agree that in the event the Commission refuses
15 to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
16 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
17 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
18 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
19 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
20 shall be disqualified because of prior consideration of this Stipulation.

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23 Dated: _____ Gary S. Winuk, Chief of Enforcement
24 Fair Political Practices Commission

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27 Dated: _____ Respondent Mike Roos
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EXHIBIT 1

INTRODUCTION

At all relevant times, Respondent Mike Roos (“Respondent Roos”) was a registered lobbyist and Founder and Chief Consultant of Mike Roos and Company, a registered lobbying firm located in Los Angeles. The lobbying provisions of the Political Reform Act (the “Act”)¹ require registered lobbying firms to file quarterly reports, disclosing specified information about their lobbying activities, and prohibit contributions to elected state officers or candidates if that lobbyist is registered to lobby the governmental agency of the elected state officer or candidate.

This matter arose from an audit performed by the Franchise Tax Board (“FTB”) for the period of January 1, 2009 through December 31, 2010. The FTB audit report found, and the Enforcement Division confirmed, that Respondent Roos made prohibited contributions to committees controlled by two elected state officers and a candidate for elected state office while registered to lobby the California State Legislature and Governor. Respondent made a \$250 contribution to the Brown for Governor 2010 Exploratory Committee, on or about December 17, 2009; a \$1,000 contribution to State Senator Darrell Steinberg, on or about February 22, 2010; and \$465.14 in non-monetary contributions to State Senator Alex Padilla, on or about October 15, 2010. These contributions were all reported on the appropriate Report of Lobbying Firm (Form 625).

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

COUNT 1: In 2009 and 2010, Respondent Roos made contributions to committees controlled by elected state officeholders and a candidate for elected state office, while registered to lobby the California State Legislature and Governor, in violation of Government Code Section 85702.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (b) is to ensure that the activities and finances of lobbyists are disclosed, so that improper influences are not directed at public officials. To that end, the Act sets forth a legal framework that requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing legislative or administrative action. “Influencing legislative or administrative action” means supporting, promoting, influencing, modifying, opposing, or delaying any legislative or administrative action. (Section 82032.) “Legislative action” includes the drafting, introduction, consideration, modification, enactment, or defeat of any bill, report, nomination, or other matter by the Legislature. (Section 82037.) “Administrative action” includes the proposal, drafting, development, enactment, or defeat by any state agency of any

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 18110 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.

rule or regulation. (Section 82002.)

Lobbyist

Section 82039 defines a “lobbyist” as an individual who receives \$2,000 or more 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. Section 86100, subdivision (a) states that “individual lobbyists shall prepare lobbyist certifications . . . for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.” Section 85702 prohibits a lobbyist from making a contribution to “an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.”

To further regulate the influence of lobbyists, the Act prohibits a lobbyist from making a contribution to an elected state officer or candidate for elected state office “if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.” (Section 85702.)

SUMMARY OF THE FACTS

During 2009 and 2010, Respondent Roos was a registered lobbyist for, and chief consultant of, Mike Roos and Company. In 2009 and 2010, Respondent Roos made contributions totaling \$1,715.14 to committees controlled by elected state officeholders and a candidate for elected state office, while registered to lobby the California State Legislature and Governor

COUNT 1

Making a Contribution While a Registered Lobbyist

The Enforcement Division confirmed that, in 2010, Respondent Roos made contributions totaling \$1,715.14 to committees controlled by elected state officeholders and a candidate for elected state office, while registered to lobby the California State Legislature and Governor. Respondent Ruiz was registered to lobby the California State Legislature when he made the contribution.

By making contributions to elected state officeholders and a candidate for elected state office, while registered to lobby the California State Legislature and Governor, Respondent Roos violated Section 85702.

CONCLUSION

This matter consists of one count, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000).

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. The Enforcement Division also considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6), which include: 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; whether there was a pattern of violations; and whether upon learning of the violation the Respondent voluntarily filed amendment to provide full disclosure. Additionally, liability under the Act is governed in significant part by the provisions of Section 91001, subdivision (c), which requires the Commission to consider whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith, in applying remedies and sanctions.

The typical administrative penalty for making of a contribution to a candidate or elected official while registered to lobby that candidate or official's office has been at the higher end of the penalty range.

Only one other violation of Section 85702 has been recently approved by the Commission.

In the Matter of PS Eco, Inc. dba PS Enterprises and Joseph "Rick" Ruiz, FPPC No. 05/881. Respondent Joseph "Rick" Ruiz was a registered lobbyist of PS Eco, Inc., dba PS Enterprises, a registered lobbying firm located in Los Angeles County. Respondent Joseph "Rick" Ruiz made a contribution to a candidate for California State Assembly while registered to lobby the California State Legislature. The commission approved settlement of this case, with a \$3,000 penalty for this violation, on December 11, 2008.

The making of a contribution to a candidate or elected official while registered to lobby that candidate or official's office is a serious violation of the Act. In this case, Respondents disclosed these contributions on the appropriate Report of Lobbying Firm (Form 625). Respondent's violation of the Act was deliberate at worst and negligent at best. Respondent has no prior enforcement history.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the Respondent's patter of behavior, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of Three Thousand Dollars (\$3,000) for Count One is recommended.

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