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9
10 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

11 **STATE OF CALIFORNIA**

12 In the Matter of:

FPPC No. 14/0443

13 California Employment Law Council and
14 Paul Grossman

STIPULATION, DECISION, and ORDER

Respondents.

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16 **STIPULATION**

17 Complainant, the Fair Political Practices Commission, and Respondents California Employment
18 Law Council and Paul Grossman hereby agree that this Stipulation will be submitted for consideration
19 by the Fair Political Practices Commission at its next regularly scheduled meeting.

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

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

3 It is further stipulated and agreed that Respondents violated the Political Reform Act by failing
4 to timely file their Quarter 4 (October 1, 2013 to December 31, 2013) Lobbyist Employer Report, in
5 violation of Section 86117 of the Government Code (1 count) as described in Exhibit 1. Exhibit 1 is
6 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
7 accurate summary of the facts in this matter.

8 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
9 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
10 One Thousand Dollars (\$1,000). A cashier's check from Respondents in said amount, made payable to
11 the "General Fund of the State of California," is submitted with this Stipulation as full payment of the
12 administrative penalty, and shall be held by the State of California until the Commission issues its
13 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
14 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
15 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
16 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
17 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
18 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
19 shall be disqualified because of prior consideration of this Stipulation.
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22 Dated: _____ Gary S. Winuk, on Behalf of the Enforcement Division
23 Fair Political Practices Commission

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25 Dated: _____ Paul Grossman, individually and on behalf of
26 California Employment Law Council
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DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of California Employment Law Council and Paul Grossman,” FPPC No. 14/0443, 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 Chair.

IT IS SO ORDERED.

Dated: _____
Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondents are California Employment Law Council (CELC) and the Responsible Officer for the CELC, Mr. Paul Grossman. Respondent is a non-profit organization representing the interests of some of California's largest employers including Google Inc., Sony Pictures Entertainment, Inc., Wells Fargo Bank, etc.

The CELC also has been functioning as an unregistered Lobbyist Employer in California since 1999. As a Lobbyist Employer, Respondents have a duty to file quarterly Lobbyist Employer Reports disclosing its lobbying activities on a timely basis. Respondents failed to timely file their Quarter 4 ("Q4")(October 1, 2013 to December 31, 2013) Lobbyist Employer Report (Form 635). The Report was not filed until July 1, 2014, 150 days late. The Report included a total of \$27,874.67 in activity for the period.

For the purposes of this Stipulation, Respondents' violations of the Political Reform Act (the "Act")¹ are as follows:

COUNT 1: Respondent failed to timely file their Q4 (October 1, 2013 to December 31, 2013) Lobbyist Employer Report (Form 635), in violation of Government Code Section 86117.

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 lobbyist reporting system that requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing decisions of the State Legislature and state administrative agencies.

One feature of the lobbyist reporting system, found at Section 86116, is that any person who qualifies as a "lobbyist employer" is required to file periodic reports containing information about the lobbying activities being conducted on behalf of the lobbyist employer. Under Section 82039.5, a person, other than a lobbying firm, qualifies as a "lobbyist employer" if the person either: (a) employs one or more lobbyists, for economic consideration, for the purpose of influencing legislative or administrative action; or (b) contracts for the services of a lobbying

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.

firm, for economic consideration, for the purpose of influencing legislative or administrative action.

Section 86117, subdivision (a) provides that the periodic reports required by Section 86116 must be filed by the end of the month following each calendar quarter.² Section 86118 requires that the periodic reports of lobbyist employers shall be filed with the Secretary of State.

SUMMARY OF THE FACTS

Respondents are the CELC and Mr. Paul Grossman, the Responsible Officer of the CELC. The CELC had prior history with the Fair Political Practices Commission (FPPC), when they failed to file Lobbyist Employer Reports for Quarter 7 (“Q7”) (July 1, 2012 to September 31, 2012) and Quarter 8 (“Q8”) (October 1, 2012 to December 31, 2012) during the 2011/2012 legislative session. At that time, the matter was resolved through a Streamline Stipulation offer, with a Tier 1 fine for each count, resulting in a \$400 fine.

In this case, the CELC has again failed to timely file their Lobbyist Employer Report, this time for Q4 (October 1, 2013 to December 31, 2013) of the 2013/2014 legislative session.

Respondents were given written notifications by the Political Reform Division of the Secretary of State’s office regarding the non-filing of the Lobbyist Employer Report on February 21, 2014 and on March 27, 2014. Subsequently, they were referred over to the Enforcement Division of the FPPC (the “Division”) for their failure to file on May 9, 2014. The CELC did not address this problem until they were contacted by the Division on June 24, 2014. The CELC later filed the Lobbyist Employer Report on July 1, 2014 (150 days after the due date), reporting \$27,874.67 in lobbying activity.

COUNT 1

(Failure to File Required Lobbyist Employer Report)

Respondents CELC and Mr. Paul Grossman, the Responsible Officer of CELC, failed to timely file their Q4 (October 1, 2013 to December 31, 2013) Lobbyist Employer Report (Form 635), in violation of Government Code Section 86117.

CONCLUSION

This matter consists of 1 count of violating the Act, which carries a maximum administrative penalty of five thousand dollars (\$5,000) per count.

² Regulation 18116 dictates that if the last day of the month falls on a Saturday, Sunday, or official holiday, the filing deadline is extended to the next regular business day.

In determining the appropriate penalty for a particular violation of the Act, the Commission 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 Commission 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.

FACTORS IN MITIGATION

Respondents filed the outstanding form within one week after being contacted by the FPPC.

FACTORS IN AGGRAVATION

Respondents have a prior history of not filing their Lobbyist Employer Reports. Specifically, their last violation was committed last year. This year, Respondents again failed to timely file the required Lobbyist Employer Report for Q4 (October 1, 2013 to December 31, 2013), filing this document revealing \$27,874.67 in lobbying activity 150 days late. Moreover, Respondents have consistently filed each of their Lobbyist Employer Reports late for the 2013/2014 legislative session; this is despite the fact that Respondents have had more than a decade's worth of experience as a Lobbyist Employer and are considered to be very sophisticated filers.

OTHER SIMILAR CASES

Recent penalties approved by the Commission concerning violations of Section 86117 include:

- *In the Matter of Heineken USA*, FPPC No. 13/0823. Respondent Heineken USA failed to timely file four Lobbyist Employer Reports (Form 635) between October 1, 2011, and December 31, 2012, disclosing total payments paid for lobbying services in the amount of \$49,000, in violation of Government Code Sections 86115, 86116, 86117, and 84605 (4 counts). **Total Proposed Penalty: \$4,000.**
- *In the Matter of Brencourt Advisors, LLC*, FPPC No. 13/0122. Respondent Brencourt Advisors, LLC, a California lobbyist employer failed to timely file two Lobbyist Employer Reports (Form 635) between July 1, 2011 and December 31, 2011, disclosing \$125,000 of payments for lobbying services an average of 57 days late, in violation of

Government Code Sections 86115, 86117, and 84605 (2 counts). **Total Proposed Penalty: \$2,000**

- *In the Matter of Deloitte Consulting LLP*, FPPC No. 10/0506. Respondent Deloitte Consulting LLP, a California lobbyist employer, failed to timely file eight Lobbyist Employer Reports (Form 635) between January 1, 2008 and December 31, 2009, failing to disclose total payments made for lobbying services in the amount of \$122,500, in violation of Government Code Sections 86115 and 86117 (8 counts). **Total Proposed Penalty: \$8,000**

PENALTY

The facts of this case, including the aggravating and mitigating factors discussed above justify imposition of a total administrative penalty of \$1,000.

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