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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

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11
12 In the Matter of:

13 **KEVIN SLOAT and SLOAT HIGGINS**
14 **JENSEN & ASSOCIATES**

15 Respondents.

FPPC No. 13/1201

STIPULATION, DECISION, AND ORDER

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19 **STIPULATION**

20 Complainant, the Fair Political Practices Commission (Commission), and respondents Kevin
21 Sloat and Sloat Higgins Jensen & Associates (Respondents) hereby agree that this Stipulation will be
22 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
23 meeting.

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

27 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
28 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of

1 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
2 personally appear at any administrative hearing held in this matter, to be represented by an attorney at
3 Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to
4 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
5 the hearing as a hearing officer, and to have the matter judicially reviewed.

6 It is further stipulated and agreed that Respondents violated the Political Reform Act by making
7 campaign contributions to elected state officers and candidates for elective state office in violation of
8 Government Code section 85702, subdivision (a)(2), arranging the making of gifts to state legislators
9 and a legislative official that exceeded the gift limit for lobbyists and lobbying firms in violation of
10 Government Code section 86203, making gifts to state legislators that exceeded the gift limit for
11 lobbyists and lobbying firms in violation of Government Code section 86203, all as described in Exhibit
12 1. Exhibit 1 is attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1
13 is a true and accurate summary of the facts in this matter.

14 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
15 Respondents also agree to the Commission imposing an administrative penalty in the total amount of
16 \$133,500. Respondents submitted with this Stipulation a cashier's check from Respondents in said
17 amount, made payable to the "General Fund of the State of California," as full payment of the
18 administrative penalty that shall be held by the State of California until the Commission issues its
19 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
20 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
21 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in
22 connection with this Stipulation shall be reimbursed to Respondents. Respondents further stipulate and
23 agree that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
24 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
25 shall be disqualified because of prior consideration of this Stipulation.

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Dated: _____
Gary S. Winuk, on behalf of the Enforcement Division
Fair Political Practices Commission

Dated: _____
Kevin Sloat, individually, and on behalf of Sloat
Higgins Jensen & Associates

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of Kevin Sloat and Sloat Higgins Jensen & Associates,” FPPC No. 13/1201, 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 Vice Chair.

IT IS SO ORDERED.

Dated: _____
Sean Eskovitz, Vice Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent Kevin Sloat (“Respondent Sloat”) is, and at all times relevant in this matter was, a registered lobbyist and the principal officer of the respondent lobbying firm Sloat, Higgins, Jensen & Associates (“Respondent SHJ” and collectively “Respondents”). The Political Reform Act (the “Act”)¹ prohibits lobbyists from making campaign contributions to candidates and elected officials for state offices that the lobbyist is registered to lobby. The Act also prohibits lobbyists and lobbying firms from making or arranging a gift to a state officer worth more than ten dollars per calendar month. Respondents violated the Act by making non-monetary contributions to elected state officers and making and arranging gifts to state officers that exceeded the ten dollar gift limit.

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

- Counts 1- 26: Respondent Sloat made campaign contributions to elected state officers and candidates for elective state office in violation of Section 85702 and Regulation 18572, subdivision (a)(2).
- Counts 27-29: Respondents arranged the making of gifts to state legislators and a legislative official that exceeded the gift limit for lobbyists and lobbying firms in violation of Section 86203.
- Counts 30: Respondents made a gift to a state legislator that exceeded the gift limit for lobbyists and lobbying firms in violation of Section 86203.

SUMMARY OF THE LAW

Definitions and Registration Requirements

A lobbyist is an individual who is paid to communicate with any state official or legislator for the purpose of influencing legislative or administrative action. (Section 82039, subd. (a).) A lobbying firm is a business entity that receives compensation for the purpose of influencing legislative or administrative action on behalf of another person where a partner or employee of the entity is a lobbyist. (Section 82038.5.) Lobbyists and lobbying firms must register with the Secretary of State and identify the branches of government and agencies that the lobbyists attempt to influence. (Sections 86100 and 86104.)

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.

Prohibition on Lobbyist Contributions

A lobbyist is prohibited from making a contribution to an elected state officer or candidate for elected state office if that lobbyist is registered to lobby the government agency for which the candidate is seeking election or the government agency of the elected state officer. (Section 85702.) A lobbyist makes a contribution when the contribution is made by a business entity, including a lobbying firm, owned in whole or in part by a lobbyist and the lobbyist participates in the decision to make the contribution. (Regulation 18572, subd. (a)(2).) A contribution is any payment made for political purposes for which full and adequate consideration is not made to the donor. (Section 82015; Regulation 18215.) Free or discounted goods or services can be contributions if given for a political purpose. (Regulation 18215, subd. (b)(3).)

Limit on Gifts from a Lobbyist

It is unlawful for a lobbyist, or a lobbying firm, to make gifts aggregating more than ten dollars in a calendar month to any state candidate, elected state officer, or legislative official. (Section 86203.) It is also unlawful for a lobbyist or lobbying firm to act as an agent or intermediary in the making of a gift, or to arrange for the making of a gift by any other person. (Section 86203.) A lobbyist “arranges for the making of a gift” by (1) delivering a gift to the recipient; (2) acting as the representative of the gift giver if the gift giver is not present; (3) inviting an intended gift recipient to an occasion where the gift will be given; (4) soliciting responses from an intended gift recipient regarding an invitation; (5) being designated as a representative to contact for a gift giver regarding an invitation; or (6) acting as an intermediary in connection with the reimbursement of a recipient’s expenses. (Regulation 18624.)

SUMMARY OF THE FACTS AND VIOLATIONS

Respondent Sloat is the principal officer of Respondent SHJ, which he founded in 1997. Respondent SHJ has a number of high profile clients and presents itself as one of the most influential lobbying firms in California.

Campaign Contributions

For a number of years, Respondent Sloat has held fundraisers for elected state officers and candidates at his house. Respondent Sloat, and Respondent SHJ staff, at Respondent Sloat’s direction, would organize the fundraisers and invite Respondents’ clients to the events. At the fundraisers, Respondents’ clients would have access to the candidates and elected officers and would make campaign contributions to those officers/candidates. Respondent Sloat would serve catered food, as well as alcohol at the fundraisers. Typically, the campaign committee of the officer or candidate would pay for the catering. Respondent Sloat would provide guests with wine, spirits, beer, soft drinks, and water, in varying amounts, for which he was not reimbursed by the elected officer/candidate. He also often purchased floral arrangements for decoration at the fundraisers and sometimes gave cigars to guests at fundraisers.

Each of these items provided by Respondent Sloat to guests at the fundraisers qualified as a non-monetary contribution to the committee(s) of the officer(s)/candidate(s) benefitting from

the fundraiser. There was no evidence that any of the candidates or elected officers who benefitted from the fundraisers were notified or made aware that they received contributions from Respondent Sloat, and all other expenses from the fundraisers were properly disclosed by the candidates or elected officers.

The following table details each fundraising event Respondent Sloat held at his house:

| Date of Fundraiser | Officers/Candidates Receiving Contributions from Fundraiser |
|---------------------------|---|
| March 25, 2009 | Assembly Member Jeff Miller |
| April 13, 2009 | Assembly Member Karen Bass |
| May 19, 2009 | Assembly Member Isadore Hall |
| June 17, 2009 | Assembly Member Mary Hayashi |
| August 19, 2009 | Assembly Members Jose Solorio, Marty Block, Allison Huber, V. Manuel Perez, Norma Torres, Jerry Hill, and Paul Fong |
| March 9, 2010 | Assembly Members Jose Solorio, Garrett Yee, Henry Perea, Roger Hernandez, Ben Hueso and Senator Michael Rubio |
| March 25, 2010 | Senator Alex Padilla |
| June 29, 2010 | Senators Lou Correa and Gloria Negrete-McLeod |
| July 29, 2010 | Gubernatorial Candidate Meg Whitman |
| August 4, 2010 | Senator Gil Cedillo and Assembly Member Isadore Hall |
| September 21, 2010 | Assembly Member Charles Calderon |
| September 27, 2010 | Senators Michael Rubio and Juan Vargas |
| April 4, 2011 | Assembly Members Mike Gatto, V. Manuel Perez, Jose Solorio and Isadore Hall |
| April 27, 2011 | Assembly Member Mary Hayashi |
| June 1, 2011 | Senators Alex Padilla and Michael Rubio |
| June 7, 2011 | Senators Kevin de Leon and Darrell Steinberg |
| June 14, 2011 | Assembly Member Charles Calderon |
| June 23, 2011 | Lieutenant Governor Gavin Newsom |
| June 27, 2011 | Assembly Member John Perez |
| November 8, 2011 | Assembly Member Bob Blumenfield |
| January 24, 2012 | Governor Jerry Brown (Joint event with California Democratic Party and Californians to Protect Schools, Universities and Public Safety) |
| March 21, 2012 | Senators Ted Lieu and Michael Rubio |
| April 24, 2012 | Assembly Members Toni Atkins, Cathleen Galgiani, Mike Gatto, Roger Hernandez, Richard Pan, Henry Perea, and Jose Solorio |
| August 7, 2012 | Senator Rod Wright |
| August 21, 2012 | Senator Bob Huff and Assembly Member Connie Conway |
| October 10, 2012 | Governor Jerry Brown (Joint event with California Democratic Party and Yes on 30 Committee) |

Counts 1 through 26
Making Campaign Contributions to State Elected Officials and Candidates

Respondent Sloat made campaign contributions to elected state officers and candidates for elective state office in violation of Section 85702 and Regulation 18572, subdivision (a)(2).

Gifts to Officials

Arranging Gifts

Respondents arranged for state legislators and a legislative staffer to receive gifts from Respondents' clients. Employees of Respondent SHJ, at the direction of Respondent Sloat, coordinated obtaining tickets to sporting events and providing the tickets to the legislators and the legislative official.

The table below details gifts made where Respondents arranged or acted as an intermediary in the giving of the gift.

| Gift Recipient | Gift Giver | Gift | Value of Gift |
|--|--------------------------|---|----------------------|
| Assembly Member Jeff Miller | San Francisco 49ers | 2 tickets to football game on December 4, 2011 | \$258 |
| Assembly Member Jim Nielsen | Yocha Dehe Winton Nation | Tickets to Sacramento Kings vs. LA Lakers basketball game on April 13, 2011 | \$420 |
| Debra Gravert, Chief of Staff to Assembly Member Jim Frazier | San Francisco 49ers | 2 tickets to football game on December 30, 2012 | \$358 |

Gift to State Elected Officer

Respondent Sloat had lunch with Joe Coto at Esquire Grill in Sacramento on July 13, 2009. At the time, Mr. Coto was a member of the State Assembly. Respondent Sloat purchased Mr. Coto's meal using a credit card of Respondent SHJ. Mr. Coto's meal had an approximate value of \$52.36. Mr. Coto did not reimburse Respondents for the meal.

Counts 27 through 29

Arranging Gifts Over the Limit to Legislators

Respondents arranged for the making of gifts to state legislators and a legislative official that each exceeded ten dollars in value in violation of Section 86203.

Count 30

Making a Gift Over the Limit to a State Legislator

Respondents made a gift to a state legislator in the form of a free lunch that exceeded ten dollars in value in violation of Section 86203.

CONCLUSION

This matter consists of thirty counts, which carry a maximum administrative penalty of \$5,000 per count.

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 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): 1) the seriousness of the violations; 2) the presence or lack of intent to deceive the voting public; 3) whether the violation was deliberate, negligent, or inadvertent; 4) whether the Respondent demonstrated good faith in consulting with Commission staff; 5) whether there was a pattern of violations; and 6) whether the Respondent, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

One of the central purposes of the Act is to strictly regulate the activities of lobbyists and disclose their finances so that improper influences will not be directed at public officials. (Section 81002, subd. (b).) In 2000, California voters approved Proposition 34 which, among other reforms, amended the law to prohibit lobbyists from making contributions to state officers and candidates who they lobby. Further, the limit on gifts from lobbyists to state candidates and officers has been the law in California since the adoption of the Act in 1974. These laws exist to prevent lobbyists from influencing state officials through illegitimate means. These are vital protections against the corrupting influence of gifts and contributions from lobbyists.

Contributions and gifts from lobbyists may influence an official to make decisions based on the interest of the lobbyist's clients, instead of, and potentially in conflict with, the interests of the public whom the official represents. In light of all these factors, a penalty at the maximum amount permitted by law is justified to appropriately punish Respondents and deter similar violations in the future.

Respondents were cooperative with the Fair Political Practices Commission in its investigation, and have taken steps to ensure future compliance with the Act. Respondent Sloat contends that he believed in good faith that the home and office fundraiser exception allowed him to spend \$500 per event at his house without it being counted as a contribution.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, the imposition of a penalty of \$4,500 per count for Counts 1 through 29, and \$3,000 for Count 30, for a total penalty of \$133,500 is recommended.