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7
8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10
11 In the Matter of:

12 CALIFORNIA CORRECTIONAL
13 PEACE OFFICERS ASSOCIATION

14 Respondent.

FPPC No. 13/1268

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17 **STIPULATION, DECISION, AND ORDER**

18 **STIPULATION**

19 Complainant, the Fair Political Practices Commission (Commission), and respondent California
20 Correctional Peace Officers Association (Respondent) hereby agree that this Stipulation will be
21 submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled
22 meeting.

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

26 Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural
27 rights set forth in Government Code sections 83115.5, 11503 and 11523, and in California Code of
28 Regulations, title 2, sections 18361.1 through 18361.9. This includes, but is not limited to the right to
personally appear at any administrative hearing held in this matter, to be represented by an attorney at

1 Respondent's own expense, to confront and cross-examine all witnesses testifying at the hearing, to
2 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over
3 the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondent violated the Political Reform Act by failing to
5 timely disclose certain activity expenses on its lobbyist employer reports for 2009, 2010, and 2011 in
6 violation of Government Code section 86116, subdivision (f), and failing to provide gift notifications to
7 gift recipients in violation of Section 86112.5, all 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 Respondent agrees to the issuance of the Decision and Order, which is attached hereto.
11 Respondent also agrees to the Commission imposing an administrative penalty in the total amount of
12 Five Thousand Five Hundred Dollars (\$5,500). Respondent submitted with this Stipulation a cashier's
13 check in said amount, made payable to the "General Fund of the State of California," as full payment of
14 the administrative penalty that shall be held by the State of California until the Commission issues its
15 Decision and Order regarding this matter. The parties agree that in the event the Commission refuses to
16 accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the
17 Commission meeting at which the Stipulation is rejected, all payments tendered by Respondent in
18 connection with this Stipulation shall be reimbursed to Respondent. Respondent further stipulates and
19 agrees that in the event the Commission rejects the Stipulation, and a full evidentiary hearing before the
20 Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
21 shall be disqualified because of prior consideration of this Stipulation.

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

26 Dated: _____
27 _____, on behalf of the
28 California Correctional Peace Officers Association

1 **DECISION AND ORDER**

2 The foregoing Stipulation of the parties “In the Matter of California Correctional Peace Officers
3 Association,” FPPC No. 13/1268, including all attached exhibits, is hereby accepted as the final decision
4 and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

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6 IT IS SO ORDERED.

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8 Dated: _____

_____ Joann Remke, Chair

9 Fair Political Practices Commission
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EXHIBIT 1

INTRODUCTION

Respondent California Correctional Peace Officers Association (Respondent), is a union that represents California’s correctional officers. Respondent qualifies as a lobbyist employer under the Political Reform Act (the “Act”)¹ because it pays lobbyists to advocate on its behalf. The Act requires lobbyist employers to file quarterly reports disclosing all payments made to lobbyists, as well as activity expenses such as gifts made to elected officials. The Act also requires lobbyist employers who make gifts to provide gift recipients with notification of the gift and its value. Respondent violated the Act by failing to report on its quarterly Lobbyist Employer Reports items given to State legislators, and failing to provide notification to the State legislators of the gifts.

For the purposes of this Stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1:** Respondent failed to timely report as activity expenses items it gave to State legislators on its lobbyist employer report (Form 635) for the third quarter of 2009, in violation of Government Code Section 86116, subdivision (f).

- COUNT 2:** Respondent failed to timely report as activity expenses items it gave to State legislators on its lobbyist employer report (Form 635) for the third quarter of 2010, in violation of Government Code Section 86116, subdivision (f).

- COUNT 3:** Respondent failed to timely report as activity expenses items it gave to State legislators on its lobbyist employer report (Form 635) for the third quarter of 2011, in violation of Government Code Section 86116, subdivision (f).

- COUNT 4:** Respondent failed to provide State legislators who received gifts from Respondent in 2009 with notification of those gifts in violation of Section 86112.5.

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 reported in order that improper influences will not be directed at public officials. The Act therefore establishes a lobbyist

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.

employer, lobbying firm and lobbyist reporting system designed to accomplish this purpose of disclosure.

Lobbyist Employer

“Lobbyist employer” means any person, other than a lobbying firm, who: (a) employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or (b) contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.” (Section 82039.5.)

Duty to File Lobbyist Employer Reports

A lobbyist employer must file Lobbyist Employer Reports (Form 635) on a quarterly basis containing information about payments made to lobbyists and activity expense incurred by the lobbyist employer filer. (Section 86116, subdivision (f).) A gift to an elected state official is an “activity expense.” (Section 86111, subdivision (a).) Payments made on behalf of a state official for travel expenses, lodging, and meals in connection with a speech or panel discussion pursuant to Section 89506, subdivision (a)(1) also would qualify as an “activity expense” and must be reported on a Lobbyist Employer Report.

Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. (Section 86117.)

Notification to Gift Beneficiaries

Section 86112.5 requires a lobbyist employer who files a lobbyist employer report disclosing the making of gifts to provide each gift beneficiary with notification of the date and amount of each gift, as well as a general description of the gift. That notification must be provided within 30 days of the end of the calendar quarter when the gift was given. (Section 86112.5, subd. (b).)

SUMMARY OF THE FACTS AND VIOLATIONS

Respondent has employed contract lobbyists for a number of years and has filed Lobbyist Employer Reports on a quarterly basis during this time. In 2009 through 2011, Respondent failed to timely report as activity expenses on its lobbyist employer report certain items given to State legislators. Upon recognizing that it had failed to disclose the activity expenses, Respondent filed amended reports disclosing those activity expenses.

Count 1

Failure to Timely Report Activity Expenses on Lobbyist Employer Report in 2009

Respondent’s Lobbyist Employer Report for the third quarter of 2009 failed to report as activity expenses \$3,397.50 worth of gifts Respondent gave to State legislators. Respondent

reported each of these gifts on an amended Lobbyist Employer Report filed on March 13, 2014. Subsequent to giving the gifts, Respondent failed to provide gifts notifications to the gift recipients.

By failing to timely report activity expenses in the form of items it gave to State legislators on its Report of Lobbyist Employer (Form 635) for the third quarter of 2009, Respondent violated Government Code Section 86116, subdivision (f).

Count 2

Failure to Timely Report Activity Expenses on Lobbyist Employer Report in 2010

Respondent's Lobbyist Employer Report for the third quarter of 2010 failed to report as activity expenses \$2,454.00 worth of gifts given by Respondent to State legislators. Respondent reported each of these items on an amended Lobbyist Employer Report filed on March 13, 2014. Subsequent to giving the gifts, Respondent provide gifts notifications to the gift recipients.

By failing to timely report activity expenses in the form of items it gave to State legislators on its Report of Lobbyist Employer (Form 635) for the third quarter of 2010, Respondent violated Government Code Section 86116, subdivision (f).

Count 3

Failure to Timely Report Activity Expenses on Lobbyist Employer Report in 2011

Respondent's Lobbyist Employer Report for the third quarter of 2011 failed to report as activity expenses \$18,752.00 worth of gifts given by Respondent to State legislators. Respondent reported each of these items on an amended Lobbyist Employer Report filed on January 29, 2013. Subsequent to giving the gifts, Respondent provided gifts notifications to the gift recipients.

By failing to timely report activity expenses in the form of items it gave to State legislators on its Report of Lobbyist Employer (Form 635) for the third quarter of 2011, Respondent violated Government Code Section 86116, subdivision (f).

Count 4

Failure to Provide Notification of Gift

Respondent failed to provide State legislators who received gifts from Respondent in 2009 with notification of those gifts in violation of Section 86112.5.

CONCLUSION

This matter consists of four counts of violating the Act, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count for a total of Twenty Thousand Dollars (\$20,000).

In determining the appropriate penalty for a particular violation of the Act, the Fair Political Practices Commission (“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.

The Commission recently approved a stipulated settlement in a similar case involving violations of Section 86111. *In the Matter of AltaMed Health Services Corporation*, FPPC No. 12/878, resulted from respondent AltaMed Health Services Corporation, a lobbyist employer, failing to report reportable activity expenses in quarterly lobbyist employer reports for calendar years 2010, 2011 and 2012. The unreported payments consisted of the salary of Luis Lopez, an employee of respondent, and a candidate for California State Assembly District 51 during each of those reporting periods. Mr. Lopez reported his income from the respondent on his SEIs. The Commission imposed a penalty of \$3,000 for three counts (\$1,000 per count) for failing to report activity expenses on a quarterly report.

There are no recent comparable violations of Section 86112.5.

The failure to report activity expenses in lobbyist employer reports violates one of the Act’s central purposes: that the activities of lobbyists should be regulated and their finances reported 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 information regarding the amounts and nature of reportable lobbying activity and activity expenses that may influence public officials.

Respondent made thousands of dollars in gifts and payments on behalf of to State legislators in 2009, 2010, and 2011 that it failed to timely report on its Lobbyist Employer Reports. Respondent spends hundreds of thousands of dollars every year to lobby state officials on behalf of its members so information about the payments and gifts and it makes to State legislators is highly relevant to the public in determining whether those payments and gifts may influence public officials. Also, due in part to Respondent’s failure to provide gift recipients with proper notification, some of the gifts by Respondent were also not disclosed by the recipient so the public had no way of knowing about them.

To its credit, Respondent self-identified and reported these violations to the Commission. Respondent also amended its Lobbyist Employer Reports and provided copies of the amended reports to the Enforcement Division on its own volition. Respondent cooperated fully with this investigation and has not been a party to any prior Commission enforcement actions. Also, all gifts provided to state officials by Respondent were lawful and valued at or below the applicable gift limits. Additionally, Respondent contends it has a long history of reporting activities and that the violations as issue here were inadvertent.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including the seriousness of the violations, as well as consideration of penalties in a prior enforcement action, the imposition of the following penalty is recommended: \$1,500 per count on Counts 1 through 3, and \$1,000 on Count 4 for a total penalty of \$5,500.