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

10 In the Matter of) FPPC No. 16/469
11)
12)
13 **LOS ANGELES COUNTY) STIPULATION, DECISION, AND ORDER**
METROPOLITAN TRANSPORTATION)
AUTHORITY,)
14)
15)
16 Respondents.)

17 **INTRODUCTION**

18 Respondent Los Angeles County Metropolitan Transportation Authority (“LA Metro”) is a public
19 transportation agency for the County of Los Angeles. The Enforcement Division received a referral from
20 the Franchise Tax Board’s Political Reform Audit Program resulting from an audit of LA Metro’s
21 lobbyist employer reports for January 1, 2013 through December 31, 2014.

22 Under the Political Reform Act (the “Act”),¹ a lobbyist employer must file periodic reports
23 containing, among other information, total amount of payments to each lobbying firm and other payments
24 to influence legislative or administrative action. LA Metro violated the Act by over-reporting the amount

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26 ¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the
27 Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in
28 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.

1 of payments it made to lobbying firms and by failing to disclose receipt of other payments to influence
2 over seven quarters covered by the audit period.

3 **SUMMARY OF THE LAW**

4 The audit covered lobbyist employer reports filed for January 1, 2013 through
5 December 31, 2014, so all legal references and discussions of the law pertain to the Act's provisions as
6 they existed at that time.

7 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

8 When enacting the Political Reform Act, the people of California found and declared that previous
9 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
10 For this reason, the Act is to be construed liberally to accomplish its purposes.³

11 One purpose of the Act is to promote transparency by ensuring that activities of lobbyists are
12 regulated and their finances disclosed so that improper influences will not be directed at public officials.⁴
13 Another purpose of the Act is to provide adequate enforcement mechanisms so the Act will be
14 "vigorously enforced."⁵

15 **Lobbyist Employer**

16 A lobbyist employer employs one or more lobbyists or contracts for the services of a lobbying
17 firm for the purpose of influencing legislative or administrative action.⁶ A lobbyist employer must file
18 periodic reports containing, among other information, the total amounts of payments made to each
19 lobbying firm.⁷ A lobbyist employer also must report the total of all other payments to influence
20 legislative or administrative action.⁸ Lobbyist employer reports must be filed with SOS four times per
21 calendar year by the end of the month following each calendar quarter.⁹

23 ² Section 81001, subd. (h).

24 ³ Section 81003.

25 ⁴ Section 81002, subd. (b).

26 ⁵ Section 81002, subd. (f).

27 ⁶ Section 82039.5.

28 ⁷ Sections 86115 and 86116, subd. (b).

⁸ Section 86116, subd. (h)(1).

⁹ Sections 86117 and 86118.

1 **Other Payments to Influence Legislative or Administrative Action**

2 Other payments to influence legislative or administrative action capture expenditures that are
3 instrumental in influencing public officials through activities that are closely related to lobbying, but do
4 not meet the narrow definition of lobbying.¹⁰ It includes a share of the compensation paid to employees
5 other than lobbyists who spend ten percent or more of their compensated time in any one month in
6 activities related to influencing legislative or administrative action.¹¹ It also consists of payments for
7 expenses incurred by a lobbyist or expenses incurred for goods or services used by a lobbyist in
8 connection with lobbying activities, and other expenses which would not have been incurred but for the
9 activities to influence or attempt to influence legislative or administrative action.¹²

10 **SUMMARY OF THE FACTS**

11 LA Metro employed multiple lobbying firms to advocate for its interest regarding various
12 transportation matters during the 2013-2014 legislative session. LA Metro timely filed lobbyist employer
13 reports for each quarter but over-reported the amount of payments it made to four lobbying firms from
14 April 1, 2013 through December 31, 2014 by \$40,288.12, as shown below:

Quarter	Amount Reported	Amount Paid	Difference
2	\$110,836.60	\$94,988.00	+\$15,848.60
3	\$153,390.20	\$161,576.80	- \$8,186.60
4	\$102,005.06	\$102,005.06	\$0.00
5	\$120,100.00	\$113,300.00	+ \$6,800.00
6	\$140,196.42	\$129,950.00	+ \$10,246.42
7	\$149,964.00	\$134,601.40	+ \$15,362.60
8	\$139,190.10	\$138,973.00	+ \$217.10
Total	\$915,682.38	\$875,394.26	+ \$40,288.12

21 According to LA Metro, the overstatements in six of the seven quarters resulted from reporting the
22 amounts owed to lobbying firms at the end of each reporting period rather than the amounts actually paid
23 during the reporting period.

24 LA Metro also failed to disclose other payments to influence on its quarterly lobbyist employer
25 reports. LA Metro filed a series of amendments in July and August of 2015 to those initial reports and

26 ¹⁰ Section 82045.

27 ¹¹ Former Regulation 18616, subd. (f)(1).

28 ¹² Former Regulation 18616, subd. (f)(2).

disclosed receipt of other payments to influence totaling \$121,161.64 from April 1, 2013 through December 31, 2014, as shown below:

Quarter	Filing Date	Amendment Date	Other Payments to Influence
2	7/30/13	8/4/15	\$6,964.04
3	10/30/13	8/4/15	\$8,928.49
4	1/31/14	8/4/15	\$4,474.75
5	4/29/14	7/31/15	\$75,497.81
6	7/30/14	7/31/15	\$8,538.33
7	10/29/14	7/31/15	\$9,078.34
8	1/27/15	7/31/15	\$7,679.88
Total:			\$121,161.64

These amended reports indicated the other payments to influence were for various items, including parking, mile reimbursements, meals, lodging, airfare, office overhead costs, and other miscellaneous costs, such as payments to the California Transit Association and Self-Help Counties Coalition for membership dues.

VIOLATIONS

Count 1: Failure to Accurately Report Payments Made to Lobbying Firms

LA Metro failed to accurately report the payments it made to lobbying firms from April 1, 2013 through December 31, 2014, in violation of Section 86116, subdivision (b).

Count 2: Failure to Timely Disclose Other Payments to Influence

LA Metro failed to timely disclose other payments to influence from April 1, 2013 through December 31, 2014, in violation of Sections 86116, subdivision (h)(1), and 86117.

PROPOSED PENALTY

This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed is \$10,000.

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments

1 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of
2 violations.¹³

3 This case is absent any intention to conceal, deceive, or mislead. LA Metro inadvertently
4 miscalculated payments to lobbying firms and negligently failed to disclose other payments to influence,
5 but LA Metro voluntarily filed amendments to disclose the other payments to influence in their lobbyist
6 employer reports. Furthermore, LA Metro does not have a history of violating the Act.

7 The Commission also considers penalties in prior cases with comparable violations. There are no
8 recent cases with the same violations as this case but the following cases involve analogous reporting
9 violations by lobbyist employers:

10 Count 1

11 *In the Matter of ebay, Inc.*, FPPC No. 15/1630. (The Commission approved a stipulated decision
12 on January 19, 2017.) ebay, Inc. failed to timely file a lobbyist employer report by more than 100 days
13 each for quarters 1 through 3 during the 2015-2016 legislative session. ebay, Inc. made payments for
14 lobbying activities during those quarters, totaling \$55,250 in payments for lobbying activities. The
15 Commission imposed a \$1,500 penalty per count for three counts.

16 The amount of inaccurately reported payments to lobbying firms in six reporting quarters in Count
17 1 is similar to the amount of unreported lobbying activities in three reporting quarters in *ebay, Inc.*
18 Although *eBay, Inc.* resulted in penalties totaling \$4,500 for three counts, a lower penalty is justified in
19 Count 1 since LA Metro timely filed its lobbyist employer reports and actually over-reported its payments
20 to lobbying firms. Although not accurate, this resulted in some timely disclosure whereas in the *ebay*
21 case there was no timely disclosure for the reporting periods at issue.

22 Count 2

23 *In the Matter of Lyft, Inc.*, FPPC No. 15/306. (The Commission approved a stipulated decision on
24 July 21, 2016.) Lyft failed to timely file three lobbyist employer reports by more than 70 days each for
25 quarters 7 and 8 during the 2013-2014 legislative session and for quarter 1 during the 2015-2016
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¹³ Regulation 18361.5, subd. (d).

1 legislative session. Lyft, Inc. made payments for lobbying activities during those quarters, totaling
2 \$218,917.09. The Commission imposed a penalty of \$2,000 per count for three counts.

3 The scale of the unreported other payments to influence in Count 2 is almost as large as the
4 amount of unreported lobbying activity in *Lyft, Inc.* Although *Lyft, Inc.* resulted in penalties totaling
5 \$6,000 for three counts, a lower penalty is justified in Count 2 since LA Metro timely filed its lobbyist
6 employer reports and timely disclosed its activities outside of the other payments to influence.

7 For the foregoing reasons, a penalty of \$1,000 for Count 1 and \$2,500 for Count 2, for a total in
8 the amount of \$3,500, is recommended.

9 CONCLUSION

10 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
11 Respondent Los Angeles County Metropolitan Transportation Agency hereby agree as follows:

12 1. Respondent violated the Act as described in the foregoing pages, which are a true and
13 accurate summary of the facts in this matter.

14 2. This stipulation will be submitted for consideration by the Fair Political Practices
15 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

16 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
17 of reaching a final disposition without the necessity of holding an administrative hearing to determine
18 the liability of Respondent pursuant to Section 83116.

19 4. Respondent understands, and hereby knowingly and voluntarily waives, any and all
20 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
21 This includes, but is not limited to the right to appear personally at any administrative hearing held in
22 this matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-examine
23 all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
24 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
25 reviewed.

26 5. Respondent agrees to the issuance of the decision and order set forth below. Also,
27 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
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1 \$3,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
2 Fund of the State of California—is/are submitted with this stipulation as full payment of the
3 administrative penalty described above, and same shall be held by the State of California until the
4 Commission issues its decision and order regarding the matter.

5 6. If the Commission refuses to approve this stipulation—then this stipulation shall become
6 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
7 rejected, all payments tendered by Respondent in connection with this stipulation shall be reimbursed to
8 Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
9 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
10 shall be disqualified because of prior consideration of this Stipulation.

11 7. The parties to this agreement may execute their respective signature pages separately. A
12 copy of any party's executed signature page including a hardcopy of a signature page transmitted via fax
13 or as a PDF email attachment is as effective and binding as the original.

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16 Dated: _____
17 Galena West, Chief of Enforcement
18 Fair Political Practices Commission

19 Dated: _____
20 _____, on behalf of Los Angeles County
21 Metropolitan Transportation Agency
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1 The foregoing stipulation of the parties “In the Matter of Los Angeles County Metropolitan
2 Transportation Agency,” FPPC No. 16/469, is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

_____ Alice T. Germond, Chair
8 Fair Political Practices Commission
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