

LEEANN M. PELHAM
Executive Director
LOS ANGELES CITY ETHICS COMMISSION
200 N. Spring Street
City Hall – 24th Floor
Los Angeles, CA 90012
(213) 978-1960

Complainant

BEFORE THE LOS ANGELES CITY ETHICS COMMISSION

In the Matter of:)	CEC Case No. 05-10
)	
)	
TONY CARDENAS and TONY CARDENAS)	STIPULATION, DECISION AND
FOR CITY COUNCIL,)	ORDER
)	
)	
Respondents.)	

The complainant, LeeAnn M. Pelham, Executive Director of the Los Angeles City Ethics Commission (“Commission”), and Respondents Tony Cardenas (“Cardenas”) and the “Tony Cardenas for City Council” committee (“Committee”) (collectively, “Respondents”), hereby agree that this Stipulation will be submitted for consideration by the Commission at its next regularly scheduled meeting, and that the agreements herein are contingent upon the approval of this stipulation and the accompanying Decision and Order by the Commission.

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

Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights under Los Angeles City Charter (“Charter”) § 706 and Los Angeles Administrative Code (“LAAC”) §§ 24.1.2(d) and (e), including but not limited to the issuance and receipt of an accusation, the right to personally appear at any administrative hearing held in this matter, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the Commission or an impartial administrative law judge hear the matter.

Respondents stipulate that they have violated the Los Angeles City Charter (“Charter”) as described in Exhibit 1, attached hereto and incorporated herein by reference, and that Exhibit 1 is a true and accurate summary of the facts in this matter.

Respondents agree to the issuance of the attached Decision and Order and imposition by the Commission of administrative penalties in the amount of \$3,500 to be paid in the form of a cashier's check, payable to the "General Fund of the City of Los Angeles," upon the signing of this Stipulation. The payments submitted herewith are to be held by the Commission until the Commission issues its Decision and Order in this matter.

The parties agree that in the event the Commission refuses to accept this Stipulation, it shall become null and void. The parties further agree that within ten business days after the Commission meeting at which the Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be returned to Respondents. Respondents further stipulate and agree that in the event the Commission rejects the Stipulation and a full evidentiary hearing before the Commission becomes necessary, no Commission board members or staff, nor the Executive Director, shall be disqualified because of prior consideration of this Stipulation.

DATED: 9/1/06

Leeann M. Pelham
LEEANN M. PELHAM, Executive Director
CITY ETHICS COMMISSION
Complainant

DATED: 8-23-06

Tony Cardenas
TONY CARDENAS
Respondent

DATED: 8-23-06

Tony Cardenas
TONY CARDENAS FOR CITY COUNCIL
Respondent

By: _____
Print Name

Title

DECISION AND ORDER

The City Ethics Commission has considered the above Stipulation and the attached exhibit at its meeting on _____. The City Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondents Tony Cardenas and the "Tony Cardenas for City Council" committee shall pay a fine of \$3,500 to the City of Los Angeles.

DATED: _____

GIL GARCETTI, President
CITY ETHICS COMMISSION

EXHIBIT 1

Tony Cardenas (“Cardenas”) was a City Council candidate in the special primary election for City Council District 2 held on December 11, 2001. His controlled committee was called “Tony Cardenas for City Council” (“Committee”).

A routine post-election audit by the Commission’s Audit Division and a subsequent investigation of the audit findings by the Enforcement Division disclosed violations of City campaign finance laws by the Respondents.

Cardenas and the Committee admit to having violated the Charter as follows by:

- Accepting \$3,500 (or **seven** aggregate or cumulative contributions greater than \$500) in excess of the per person contribution limit set by Charter §470(c)(3); [**7 counts**];

APPLICABLE LAW

The Charter, the Los Angeles Campaign Finance Ordinance, LAMC § 49.7.1 *et seq.*, the LAAC, and the California Political Reform Act (“PRA”), Cal. Gov. Code § 81000-91014¹ govern campaign finance.

VIOLATIONS

COUNTS 1 – 7: ACCEPTANCE OF EXCESS CONTRIBUTIONS [In Violation of Charter § 470(c)(3)] Against Respondents Cardenas and the Committee

Charter § 470(c)(3) establishes a \$500 per election limit on the total amount any candidate and his controlled committee may receive from a single person.²

Respondents stipulate that they have violated Charter § 470(c)(3)’s contribution limit, as detailed in the following seven counts, by accepting and depositing contributions from contributors whose contributions were subject either to cumulation or to aggregation pursuant to LAMC § 49.7.2,³ which, once cumulated or aggregated, exceeded the \$500 per person contribution limit:

¹ Under Charter §470(b)(1), definitions of terms set forth in the PRA, Cal. Gov. Code § 81000 *et seq.*, and its regulations, Cal. Code of Reg. §18109 *et seq.*, apply to Los Angeles City campaign finance, campaign disclosure, and government ethics provisions unless the terms are otherwise defined.

² California Government Code § 82047 defines “person” as “an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, corporation, limited liability company, association, committee, and any other organization or group acting in concert.”

³ LAMC § 49.7.2 provides in pertinent part:

For purposes of the contribution limitations contained in Charter § 470 and this article, the following shall apply:

A. All payments made by a person or organization whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization,

COUNT 1: By accepting cumulative contributions totaling \$1,000 from Official Police Garage Association of Los Angeles between October 9, 2001 and October 29, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 2: By accepting cumulative contributions totaling \$1,000 from Los Angeles City Fire Dept. Chief Officers Association between October 12, 2001 and February 10, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 3: By accepting cumulative contributions totaling \$1,000 from William M. Lasher between November 28, 2001 and June 11, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 4: By accepting cumulative contributions totaling \$1,000 from Gene A. Lucero between December 11, 2001 and May 13, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 5: By accepting cumulative contributions totaling \$1,000 from Funes Architecture and Manuel Funes dba Funes Architecture between October 5, 2001 and October 15, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 6: By accepting cumulative contributions totaling \$1,000 from ACS State & Local Solutions, Inc. between November 26, 2001 and June 16, 2003, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

COUNT 7: By accepting aggregate contributions totaling \$1,000 from AMG & Associates, LLC and Monterey Park Senior Village, Inc., who are treated as one person pursuant to LAMC § 49.7.2 (B), between December 6, 2001 and July 1, 2002, Respondents violated the \$500 contribution limit set by Charter § 470(c)(3).

FACTORS IN MITIGATION

association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons, shall be considered to be made by a single person or committee.

- B. Two or more entities shall be treated as one person when any of the following circumstances apply:
 - (1) The entities share the majority of members of their boards of directors.
 - (2) The entities share two or more officers.
 - (3) The entities are owned or controlled by the same majority shareholder or shareholders.
 - (4) The entities are in a parent-subsidiary relationship.
- C. An individual and any general or limited partnership in which the individual has a 33% or more share, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

Respondents had no prior enforcement history with the Commission at the time the violations were committed and cooperated with the investigation of this matter.

CONCLUSION

While a maximum administrative penalty in this matter could result in a penalty of up to \$5,000 per count or three times the amount unlawfully contributed, accepted, or reported, whichever is greater, (\$35,000 or \$10,500, respectively), the facts of this case justify the imposition of the agreed upon administrative penalty against Respondents totaling \$3,500. The penalty amount is equivalent to, for Counts 1 – 7, one times the total amount of all excess cumulative or aggregate contributions accepted, or (1 x \$3,500), \$3,500.