
Item 7

Action

Proposed Stipulation

Executive Summary: This item presents a proposed stipulation in Case No. 2017-15, *In the Matter of Joseph Kouba*.

Recommended Action: Approve the proposed stipulation as presented.

Authors: Heather Holt, Executive Director
Sergio Perez, Director of Enforcement

Presenters: Sergio Perez, Director of Enforcement
Michael Louthian, Investigator

Proposed Stipulation

In the Matter of Joseph Kouba
(Case No. 2017-15)

A. Introduction

This case involves violations of City campaign finance laws. Between 2013 and 2015, Joseph Kouba (Kouba) allegedly made contributions in excess of per-person contribution limits.

Kouba, who is represented in this matter by attorney Andrew Kugler, has agreed to a proposed stipulation admitting to these violations, and we recommend that the stipulation be approved. A copy of the stipulation, which provides additional details and represents the agreement between the parties, is provided in Attachment A.

B. Law

City law limits the amount of money that a single person may contribute to City candidates and officeholders. During the 2013 and 2015 elections, the per-person limit on contributions to a single candidate for City Council was \$700 per election. Los Angeles City Charter (Charter) § 470(c)(3); Los Angeles Municipal Code (LAMC) § 49.7.3(B)(2)(a). In 2014, the maximum per-person contribution to a City Councilmember's officeholder committee was \$700 per fiscal year. LAMC § 49.7.19(F). A person is an individual, business, association, committee, or any other organization or group of persons acting in concert. Cal. Gov't Code § 82047; LAMC § 49.7.2.

To safeguard the integrity of the contribution limits, City law requires that contributions from more than one person be treated as one contribution under certain circumstances. One such circumstance is when contributions are made to the same candidate by a limited liability company and an individual who holds either an investment interest of at least 50 percent in that company or a majority of the company's voting rights. LAMC § 49.7.4(I) (renumbered in 2014; previously § 49.7.4(G)).

C. Facts

Kouba is a licensed attorney who holds a 50-percent ownership interest in Summit Media, LLC (Summit). Summit is an outdoor advertising business based in Los Angeles, which was founded in 1998 and has a portfolio of billboards across Los Angeles. Kouba's ownership interest entitles him to participate in Summit's financial decisions and direct its political contributions.

A routine review of campaign contributions revealed that Kouba and Summit both made contributions to two City Council campaign committees and two City Council officeholder committees from May 2013 through September 2015. Because Kouba owns 50 percent of Summit, contributions made by Kouba and Summit must be aggregated when they both

contribute to the same candidate in a single election or to the same officeholder in a single fiscal year. When aggregated, Kouba and Summit’s contributions exceeded the \$700 per-person contribution limit to each of the four committees identified in the following table.

Contributor	Date	Committee	Amount	Excess
Summit Kouba	May 05, 2013 April 04, 2014	Cedillo for City Council General 2013	\$700 \$500	\$500
Summit Kouba	October 28, 2013 October 28, 2013	Huizar for LA City Council 2015	\$700 \$700	\$700
Summit Kouba	August 20, 2015 September 22, 2015	Harris-Dawson for City Council 2015 Officeholder Account	\$700 \$700	\$700
Kouba Summit	September 1, 2015 September 21, 2015	Krekorian for City Council 2009 Officeholder Account	\$700 \$700	\$700

Kouba played an integral role in the decision making processes regarding Summit’s contributions. Kouba stated that he directed the contributions to these committees because he endorsed the recipient candidates and officeholders. In addition, Kouba was aware of the contribution limits and the aggregation requirement. When making these contributions, he read and signed contributor information forms stating that contributions from an individual and a business that the individual owns or controls are aggregated together and treated as a single contribution. In total, Kouba made \$2,600 in excess contributions during this time period.

D. Penalty

The maximum administrative penalty for a violation of the City’s campaign finance laws is the greater of \$5,000 or three times the amount of money that was improperly contributed, spent, or reported. Charter § 706(c)(3). In this case, the four counts against Kouba result in a maximum charged penalty of \$20,000 (\$5,000 each for Counts 1 through 4).

We recommend resolving this case by approving the stipulated penalty of \$15,000. We believe the penalty is appropriate, given the relevant circumstances of this case. *See* Los Angeles Administrative Code (LAAC) § 24.27(h)(2). In mitigation, Kouba cooperated with the investigation, and staff discovered no evidence of an intent to conceal or deceive. LAAC §§ 24.27(h)(2)(B), (E). However, in aggravation, Kouba has a prior enforcement history with the Ethics Commission, Kouba did not consult Ethics Commission staff about how to comply with the law, the violations are serious, and they indicate a pattern of activity. LAAC §§ 24.27(h)(2)(A), (C), (D).

The recommended penalty is designed to promote the equitable treatment of similar respondents, encourage the early resolution of cases, and reflect the serious nature of the violations.

Attachment:

- A *Proposed stipulation in Case No. 2017-15 (Joseph Kouba)*

SERGIO PEREZ
Director of Enforcement
Los Angeles City Ethics Commission
200 North 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:

JOSEPH KOUBA

Respondent.

Case No. 2017-15

STIPULATION AND ORDER

The complainant, Sergio Perez, Director of Enforcement for the Los Angeles City Ethics Commission (the Ethics Commission), and Joseph Kouba (the Respondent) agree to the following:

1. This stipulation will be submitted to the Ethics Commission members for consideration at their next meeting.
2. If approved by the Ethics Commission members, this stipulation and the accompanying order will be the final disposition of this matter with respect to the Respondent.
3. The Respondent understands and knowingly and voluntarily waives all procedural rights under Los Angeles City Charter §§ 706 and 709 and Los Angeles Administrative Code §§ 24.26 and 24.27. These rights include but are not limited to receiving an accusation, having the Ethics Commission members or an impartial administrative law judge hear the matter, personally appearing at an administrative hearing, confronting and cross-examining witnesses testifying at a hearing, and subpoenaing witnesses to testify at a hearing.
4. The Respondent understands and knowingly and voluntarily waives all rights to seek judicial review of any action by the Ethics Commission on this matter.
5. The exhibit that is attached and incorporated by reference is a true and accurate summary of the facts in this matter. The Respondent has violated City law as described in the Exhibit.

STIPULATION AND ORDER
Case No. 2017-15 (Joseph Kouba)
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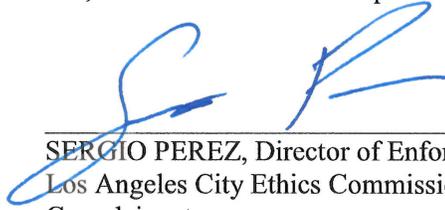
6. The Respondent will pay a total penalty in the amount of **\$15,000**. The payment will be held by the Ethics Commission staff until the Ethics Commission members issue the order in this matter. The payment will be made in the form of a cashier's check payable to the "General Fund of the City of Los Angeles."

7. If the Ethics Commission members refuse to accept this stipulation, it will become null and void. Within ten business days after the Ethics Commission meeting at which the stipulation is rejected, the Ethics Commission staff will return all payments tendered by the Respondent in connection with this stipulation.

8. If the Ethics Commission members reject the stipulation and a full evidentiary hearing becomes necessary, the stipulation and all references to it are inadmissible, and the Ethics Commission members, executive director, and staff will not be disqualified because of prior consideration of this stipulation.

DATED:

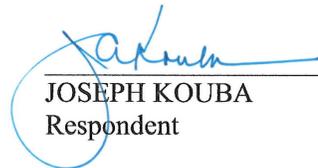
October 10, 2017



SERGIO PEREZ, Director of Enforcement
Los Angeles City Ethics Commission
Complainant

DATED:

October 6, 2017



JOSEPH KOUBA
Respondent

STIPULATION AND ORDER
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ORDER

The Los Angeles City Ethics Commission considered the stipulation in Case No. 2017-15 at its meeting on _____. The members of the Ethics Commission approved the stipulation and order Joseph Kouba to pay a fine of **\$15,000** to the City of Los Angeles in accordance with the terms of the stipulation.

DATED: _____

Jessica Levinson, President
Los Angeles City Ethics Commission

EXHIBIT

I. INTRODUCTION

This case arose from a routine audit of campaign contributions made during the 2013 election cycle. Joseph Kouba (Kouba), who is represented in this matter by attorney Andrew Kugler, admits that he violated City campaign finance laws between 2013 and 2015 by exceeding per-person contribution limits.

II. LAW

Campaign financing and disclosure in City elections are governed by the Los Angeles City Charter (Charter), the Campaign Finance Ordinance (Los Angeles Municipal Code (LAMC) §§ 49.7.1 *et seq.*), and the Political Reform Act (Cal. Gov't Code §§ 81000 – 91014).

Charter § 470(c) limits the amount of money that a single person may contribute to a single City candidate. City law also limits the amount of money that a single person may contribute to a single City officeholder. LAMC § 49.7.19(F). During all time periods relevant to this matter, the maximum per-person contribution to a City Council candidate's campaign committee was \$700 per election, and the maximum per-person contribution to a City Councilmember's officeholder committee was \$700 per fiscal year. Charter § 470(c)(3); LAMC §§ 49.7.3(B)(2)(a); 49.7.19(F). A person is an individual, business, association, committee, or any other organization or group of persons acting in concert. LAMC § 49.7.2; Cal. Gov't Code § 82047.

In certain instances, contributions from more than one person must be aggregated and treated as a single contribution in order to safeguard the integrity of the contribution limits. LAMC § 49.7.4. This occurs when one person possesses a certain degree of control over another person. For example, aggregation is required when contributions are made to the same candidate by a limited liability company and an individual who holds either an investment interest of at least 50 percent in that company or a majority of the company's voting rights. LAMC § 49.7.4(I) (renumbered in 2014; previously § 49.7.4(G)).

III. FACTS

Kouba is a licensed attorney who holds a 50-percent ownership interest in Summit Media, LLC (Summit). Summit is an outdoor advertising business based in Los Angeles, which was founded in 1998 and has a portfolio of billboards across Los Angeles. As a significant owner of Summit, Kouba participates in decisions regarding its expenses, including political contributions.

Kouba previously admitted to violating the campaign finance laws in the 2005 election cycle by failing to incorporate complete disclaimers for independent expenditure communications. Kouba made four large outdoor advertisements, which were displayed through Summit and did not fully incorporate the required disclaimer statements. The Ethics

Commission accepted Kouba’s settlement in January 2009 and imposed a penalty of \$1,000 for five violations.

Based on information gathered during a routine audit related to the 2013 elections, enforcement staff reviewed campaign and officeholder contributions made by Kouba and Summit. Enforcement staff found that, from the 2013 election cycle through the present, Kouba and Summit both made contributions to two City Council campaign committees and two City Council officeholder committees.

Contributor	Date	Committee	Amount	Excess
Summit Kouba	May 17, 2013 April 04, 2014	Cedillo for City Council General 2013	\$700 \$500	\$500
Summit Kouba	October 28, 2013 October 28, 2013	Huizar for LA City Council 2015	\$700 \$700	\$700
Summit Kouba	August 20, 2015 September 22, 2015	Harris-Dawson for City Council 2015 Officeholder Account	\$700 \$700	\$700
Kouba Summit	September 1, 2015 September 21, 2015	Krekorian for City Council 2009 Officeholder Account	\$700 \$700	\$700

Because Kouba owns 50 percent of Summit, contributions made by Kouba and Summit must be aggregated when they both contribute to the same candidate in a single election or to the same officeholder in a single fiscal year. When aggregated, the contributions exceeded the \$700 per-person contribution limit to each of the four committees identified above. Kouba made a total of \$2,600 in excess contributions during this time period.

The contributions made by Summit would not have occurred without Kouba’s involvement. As an owner of Summit, Kouba directed the contributions to these committees because he supports the recipient officeholders. In addition, at around the time of the contributions, Kouba signed contributor information forms that highlighted aggregate contributions. The forms stated that contributions from an individual and a business that the individual owns or controls are aggregated together and treated as a single contribution that is subject to the applicable limit.

IV. VIOLATIONS

Kouba admits that he violated City law as follows:

COUNTS 1 – 4: EXCESS CONTRIBUTIONS

COUNT 1: Kouba violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a) on or about October 28, 2013, by making aggregate contributions totaling \$1,400 to Huizar for LA City Council 2015 and thereby exceeding the per-person contribution limit by \$700.

COUNT 2: Kouba violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a) on or about April 4, 2014, by making aggregate contributions totaling \$1,200 to Cedillo for City Council General 2013 and thereby exceeding the per-person contribution limit by \$500.

COUNT 3: Kouba violated LAMC §§ 49.7.19(F) and 49.7.3(B)(2)(a) on or about September 21, 2015, by making aggregate contributions totaling \$1,400 to Krekorian for City Council 2009 Officeholder and thereby exceeding the per-person contribution limit by \$700.

COUNT 4: Kouba violated LAMC §§ 49.7.19(F) and 49.7.3(B)(2)(a) on or about September 22, 2015, by making aggregate contributions totaling \$1,400 to Harris-Dawson for City Council 2015 Officeholder and thereby exceeding the per-person contribution limit by \$700.

V. PENALTY

Charter § 706(c)(3) establishes the penalty formula for administrative actions taken by the Ethics Commission. The maximum penalty is the greater of \$5,000 per violation or three times the amount that was improperly reported, spent, or received. In this case, the maximum charged penalty is \$20,000 (\$5,000 each for Counts 1 through 4).

The Ethics Commission is required to consider all relevant circumstances before assessing penalties. Los Angeles Administrative Code § 24.27(h)(2). In proposing the penalty in this case, enforcement staff noted the following mitigating factors: Kouba cooperated with the investigation and saved City resources by entering into this stipulated settlement at an early stage in the investigation, prior to the preparation of a probable cause report. *See* LAAC §§ 24.27(h)(2)(E)–(F). In addition, enforcement staff uncovered no evidence of an intent to conceal or deceive by Kouba. *See* LAAC §§ 24.27(h)(2)(B).

However, enforcement staff also noted the following aggravating factors. The violations in this case are serious and indicate a pattern of activity, and Kouba did not consult Ethics Commission staff about how to comply with the law. *See* LAAC §§ 24.27(h)(2)(A), (C)–(D). Kouba has a prior record of violations with the Ethics Commission. Specifically, in the 2005 election cycle, Kouba placed four outdoor political advertisements that he paid for with an independent expenditure. Kouba reported the independent expenditures to the Commission and disclosed his name on the advertisements. However, he did not include a statement that the advertisements were not authorized by a candidate or candidate-controlled committee as required by Charter § 470(l).

Based on the facts and circumstances, staff recommends resolving this case by imposing a penalty of \$15,000 on Kouba. The recommended penalty is intended to promote the equitable treatment of similar respondents, encourage the early resolution of cases, and reflect the serious nature of the violations.