
Item 5

Action

Proposed Stipulation

Executive Summary: This item presents a proposed stipulation in Case No. 2016-01, *In the Matter of Leeor Maciborski*.

Recommended Action: Approve the proposed stipulation as presented.

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

Proposed Stipulation

In the Matter of Leeor Maciborski
(Case No. 2016-01)

A. Introduction

This case involves alleged violations of City campaign finance laws. Leeor Maciborski (Maciborski) admits to violating the Los Angeles City Charter (Charter) and the Campaign Finance Ordinance (CFO) by directing contributions to be made in excess of the per-person contribution limit during the 2013 election and causing other persons to violate that limit.

Maciborski, who chose not to be represented by counsel in the matter, 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 contributions to City candidates. During the 2013 elections, the per-person limit on contributions to a single candidate for City Council was \$700 per election. Charter § 470(c)(3).

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, such as when two or more limited liability companies share the same majority shareholders or members. Contributions from those related entities will be viewed as coming from a single person. Los Angeles Municipal Code (LAMC) § 49.7.4(E) (renumbered § 49.7.4(G) in 2014). This is commonly referred to as aggregation.

When an agent acts on behalf of another person and causes that person to violate the campaign finance laws, the agent is liable for those violations. Charter § 706; LAMC § 49.7.38(F)(2). A person is also liable for causing another person to violate the campaign finance laws. Charter § 706.

C. Facts

Maciborski is a real estate investor and managing partner of numerous rental properties in East Hollywood and Los Feliz. The properties are operated as limited liability companies (LLCs), and a number of them share the same majority members.

A review of campaign contributions made during the 2013 elections found that 13 LLCs associated with Maciborski contributed to the “Mitch O’Farrell for LA City Council 2013-

General” campaign committee in April 2013. Maciborski is the agent for each of the LLCs and is authorized to make individual expenditures up to \$1,000 for them. Maciborski admitted that he, alone, caused contributions to be made on behalf of the 13 LLCs and that he did so because he believed O’Farrell’s pro-growth and rent control campaign platform aligned with the LLCs’ interests.

Staff determined that the 13 contributing LLCs represent five smaller groups that share the same majority members. A contribution from one LLC must be aggregated with contributions from other LLCs that share the same majority members. When aggregated, the contributions that Maciborski made for each set of related LLCs exceeded the \$700 contribution limit, as detailed in the following table:

Set	LLCs	Contribution Amounts	Amount in Excess
1	340 S. Kenmore LLC 5361 Russell Apartments LLC 5420 Russell Apartments LLC	\$700 \$700 \$700	\$1,400
2	1720 N. Harvard Partners LLC 5950 Franklin LLC 6000 Franklin Partners LLC	\$300 \$300 \$300	\$200
3	1830 N. Kingsley Partners LLC 6333 Lexington LLC	\$300 \$500	\$100
4	1743 N. Garfield Partners LLC 1836 N. New Hampshire LLC 5314 Franklin Partners LLC	\$500 \$500 \$300	\$600
5	4623 La Mirada LLC Hancock Villa LLC	\$700 \$700	\$700

The LLCs made a total of \$3,000 in excess contributions. As the LLCs’ agent and the individual who caused the LLCs to make contributions, Maciborski is liable for the five excess aggregate contributions. Maciborski is also liable for causing the LLCs to violate the campaign finance laws.

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 six counts against Maciborski result in a maximum charged penalty of \$34,000 (\$5,000 each for Counts 1 through 5 and \$9,000 for Count 6).

We recommend resolving this case by imposing a penalty of \$17,000, which is equal to 50 percent of the charged maximum. We believe the recommended penalty is appropriate, given the relevant circumstances of this case. *See* Los Angeles Administrative Code § 24.27(f)(3)(A).

The recommended penalty takes into consideration the serious nature of the violations while also encouraging cooperation with Ethics Commission investigations, the equitable treatment of similar respondents, and the early resolution of violations.

Attachment:

A Proposed stipulation in Case No. 2016-01 (Maciborski)

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:

LEEOR MACIBORSKI

Respondent.

Case No. 2016-01

STIPULATION AND ORDER

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


1. This stipulation will be submitted to the members of the Commission for consideration at their next meeting.
2. If approved by the 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 (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 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 waive all rights to seek judicial review of any action by the 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 the Los Angeles Municipal Code as described in the Exhibit.
6. The Respondent will pay a total penalty in the amount of **\$17,000** in the form of a cashier's check payable to the "General Fund of the City of Los Angeles." The payment will be held by the Commission staff until the Commission members issue the order in this matter.

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Case No. 2016-01 (Leeor Maciborski)
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7. If the Commission members refuse to accept this stipulation, it will become null and void. Within ten business days after the Commission meeting at which the stipulation is rejected, the Commission staff will return all payments tendered by the Respondent in connection with this stipulation.

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

DATED: 4-2-17


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

DATED: 3-29-17


LEEOR MACIBORSKI
Respondent

By: Leeor Maciborski
(Print Name)

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ORDER

The Los Angeles City Ethics Commission considered the stipulation in Case No. 2016-01 at its meeting on _____. The members of the Commission approved the stipulation and order Leeor Maciborski to pay a fine of \$17,000 to the City of Los Angeles in accordance with the terms of the stipulation.

DATED: _____

Jessica Levinson, President
Los Angeles City Ethics Commission

STIPULATION AND ORDER
Case No. 2016-01 (Leeor Maciborski)
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EXHIBIT

I. INTRODUCTION

This case arose from a routine audit of campaign contributions made during the 2013 election cycle. Leeor Maciborski (Maciborski), who chose not to be represented by counsel in this matter, admits that he violated City campaign finance laws during the 2013 elections by causing other persons to exceed the per-person contribution limit.

II. APPLICABLE 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)(3) limits the amount of money that a single person may contribute to a single City Council candidate in a single election. During the 2013 elections, the maximum per-person contribution was \$700. LAMC § 49.7.3(B)(2)(a). 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.

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. One of the scenarios in which aggregation is required occurs when two limited liability companies (LLCs) share the same majority shareholders or members. LAMC § 49.7.4(E) (renumbered § 49.7.4(G) in 2014).

An agent acting on behalf of another person is liable for the campaign finance violations that arise out of the agent's actions. LAMC § 49.7.38(F)(2). In addition, it is a violation for one person to cause another person to violate the campaign finance laws. Charter § 706.

III. FACTS

Maciborski is a real estate investor and a managing partner of numerous multifamily rental properties in East Hollywood and Los Feliz. Each of the properties is operated as an LLC.

Based on information gathered during routine audit activity, enforcement staff reviewed campaign contributions that were made during the 2013 City elections by multiple LLCs associated with Maciborski. Enforcement staff found that 13 of the LLCs contributed to the "Mitch O'Farrell for LA City Council 2013 – General" committee (the Committee). Enforcement staff contacted Maciborski and other individuals who hold controlling interests in the LLCs. Maciborski subsequently provided enforcement staff with operating agreements for each of the LLCs.

The operating agreements and Maciborski's testimony revealed that five sets of the LLCs shared majority members and that Maciborski is an agent for each of the 13 LLCs. The sets are identified in the table below.

Set	LLCs	Contribution Amounts
1	340 S. Kenmore LLC 5361 Russell Apartments LLC 5420 Russell Apartments LLC	\$700 \$700 \$700
2	1720 N. Harvard Partners LLC 5950 Franklin LLC 6000 Franklin Partners LLC	\$300 \$300 \$300
3	1830 N. Kingsley Partners LLC 6333 Lexington LLC	\$300 \$500
4	1743 N. Garfield Partners LLC 1836 N. New Hampshire LLC 5314 Franklin Partners LLC	\$500 \$500 \$300
5	4623 La Mirada LLC Hancock Villa LLC	\$700 \$700

Because they share majority members, contributions made by LLCs in each of the sets above must be aggregated and treated as having been made by one person when the contributions are given to a single candidate in a single election. As noted in the table above, the LLCs contributed the following amounts to the Committee for the 2013 general election: \$2,100 from Set 1; \$900 from Set 2; \$800 from Set 3; \$1,300 from Set 4; and \$1,400 from Set 5. Each of these aggregate amounts exceeded the per-person contribution limit.

Maciborski is responsible for maintaining the properties associated with each of the LLCs and controls each LLC's funds for that purpose. Maciborski has authority, granted to him by his fellow members, to act unilaterally in making expenditures of up to \$1,000. Using that authority, he alone directed contributions to the Committee from the LLCs, authorized the amounts, and signed each of the checks. Maciborski told enforcement staff that he caused the LLCs to make contributions because he believed the Committee's campaign platform on pro-growth and rent control aligned with the LLCs' interests.

Maciborski controlled the five excess aggregate contributions that were made by the LLCs. He is liable for each of those excess contributions as if he had made them, himself. He is also liable for causing the LLCs to violate the campaign finance laws.

IV. VIOLATIONS

Maciborski admits that he violated City law as follows:

**COUNTS 1 - 5:
EXCESS CONTRIBUTIONS**

COUNT 1: Maciborski violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a), through LAMC § 49.7.38(F)(2), on or about April 17, 2013, by directing contributions totaling \$2,100 from aggregated persons 340 S. Kenmore LLC, 5361 Russell Apartments LLC, and 5420 Russell Apartments LLC to the Committee and thereby exceeding the per-person contribution limit by \$1,400.

COUNT 2: Maciborski violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a), through LAMC § 49.7.38(F)(2), on or about April 17, 2013, by directing contributions totaling \$900 from aggregated persons 1720 N. Harvard Partners LLC, 5950 Franklin LLC, and 6000 Franklin Partners LLC to the Committee and thereby exceeding the per-person contribution limit by \$200.

COUNT 3: Maciborski violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a), through LAMC § 49.7.38(F)(2), on or about April 17, 2013, by directing contributions totaling \$800 from aggregated persons 1830 N. Kingsley Partners LLC and 6333 Lexington Partners LLC to the Committee and thereby exceeding the per-person contribution limit by \$100.

COUNT 4: Maciborski violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a), through LAMC § 49.7.38(F)(2), on or about April 17, 2013, by directing contributions totaling \$1,300 from aggregated persons 1743 N. Garfield Partners LLC, 1836 N. New Hampshire Partners LLC, and 5314 Franklin Partners LLC to the Committee and thereby exceeding the per-person contribution limit by \$600.

COUNT 5: Maciborski violated Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a), through LAMC § 49.7.38(F)(2), on or about April 2, 2013, by directing contributions totaling \$1,400 from aggregated persons 4623 La Mirada LLC and Hancock Villa LLC to the Committee and thereby exceeding the per-person contribution limit by \$700.

**COUNT 6:
CAUSING ANOTHER PERSON TO VIOLATE THE LAW**

COUNT 6: Maciborski violated Charter § 706 on or about April 2 and 17, 2013, by causing 1720 N. Harvard Partners LLC, 1743 N. Garfield Partners LLC, 1830 N. Kingsley Partners LLC, 1836 N. New Hampshire Partners LLC, 340 S. Kenmore LLC, 4623 La Mirada LLC, 5314 Franklin Partners LLC, 5361 Russell Apartments LLC, 5420 Russell Apartments LLC, 5950 Franklin LLC, 6000 Franklin Partners LLC, 6333 Lexington Partners LLC, and Hancock Villa LLC to violate Charter § 470(c)(3) and LAMC § 49.7.3(B)(2)(a) by making a total of \$3,000 in excess contributions.

V. PENALTY

Charter § 706(c)(3) establishes the penalty formula for administrative actions taken by the Ethics Commission. The maximum penalty for a violation of the campaign finance laws is the greater of \$5,000 or three times the amount that was improperly reported, contributed, spent, given, or received. In this case, the maximum charged penalty is \$34,000 (\$5,000 each for Counts 1-5 and \$9,000 for Count 6).

The Ethics Commission is required to consider all relevant circumstances before assessing penalties. Los Angeles Administrative Code § 24.27(f)(3)(A). In proposing the penalty in this case, Ethics Commission staff noted the following mitigating circumstances: (1) Maciborski cooperated with the Ethics Commission investigation; (2) Maciborski saved Ethics Commission resources by entering into this stipulated settlement at an early stage in the investigation, prior to the preparation of a probable cause report; and (3) Maciborski has no prior enforcement history with the Ethics Commission.

Based on the facts and circumstances, staff recommends resolving this case by imposing a penalty of \$17,000, which is equal to 50 percent of the maximum charged penalty. The recommended penalty is intended to reflect the serious nature of the violations while fostering cooperation with Ethics Commission investigations, the equitable treatment of similar respondents, and the early resolution of violations.