
Item 5

Action

Proposed Stipulation

Executive Summary: This item presents a proposed stipulation in Case No. 2016-16, *In the Matter of 1181 N. Hillcrest Road, LLC*.

Recommended Action: Approve the proposed stipulation as presented.

Authors: Heather Holt, Executive Director
Richard Platel, Director of Enforcement

Presenters: Richard Platel, Director of Enforcement
Eric Eusebio, Investigator

Proposed Stipulation

In the Matter of 1181 N. Hillcrest Road, LLC (Case No. 2016-16)

A. Introduction

This case involves allegations of campaign finance violations by 1181 N. Hillcrest Road, LLC (Hillcrest LLC), arising from the reimbursement of political contributions.

Hillcrest LLC, which is represented in this matter by attorney Ronald Richards, has agreed to a proposed stipulation admitting to violating the Los Angeles City Charter (Charter) by making assumed name and excess contributions during the 2015 election cycle, 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 person may give to City candidates. During the 2015 elections, City law prohibited a person from contributing more than \$700 to a City Council candidate in an election. Charter § 470(c)(3); Los Angeles Municipal Code (LAMC) § 49.7.3(B)(2)(a). A person is an individual, a business, or any other group of persons acting in concert. LAMC § 49.7.2; Cal. Gov't Code § 82047.

A contribution to a City candidate must be made in the name of the person who is the actual source of the contribution. Charter § 470(k). In other words, the source of a contribution may not reimburse another person for or use another person's name to make a contribution. *Id.* A person who reimburses a political contribution without disclosing the true source of the funds has made an assumed name contribution. This practice is prohibited to protect the per-person contribution limits and the integrity of the public matching funds program.

To further protect the contribution limits, there are circumstances in which contributions from more than one person must be aggregated and treated as if they were made by one person. LAMC § 49.7.4. For example, aggregation is required when an individual and a limited liability company in which the individual holds either an investment interest of at least 50 percent or a majority of the voting rights both contribute to the same candidate in the same election. LAMC § 49.7.4(I).

C. Facts

Hillcrest LLC was created for a development project located at 1181 North Hillcrest Road in Beverly Hills. Bruce Makowsky, a Los Angeles real estate developer, created Hillcrest LLC and is its sole owner and manager.

After receiving a whistleblower complaint, staff initiated an investigation and found evidence of the following. In December 2013, Makowsky met with Joan Pelico (Pelico) at a party. Pelico was Chief of Staff for CD 5 at the time and had recently announced her intent to run as a candidate for CD 4 during the 2015 City elections. Makowsky stated that Pelico asked him to contribute to her campaign, informed him of the campaign contribution limits, and encouraged him to find five to ten others to contribute.

On April 14, 2014, Makowsky contributed the maximum \$700 to Pelico's campaign committee (Pelico for City Council 2015). Later, he asked his executive assistant to request additional \$700 contributions from employees and business associates of Hillcrest LLC and to tell them that they would be reimbursed.

After the executive assistant conveyed his request, ten persons associated with Hillcrest LLC responded by providing \$700 personal checks payable to Pelico for City Council 2015. The committee reported receiving contributions attributed to those persons shortly thereafter. Hillcrest LLC business funds were used to reimburse each of the ten contributors. Pelico's campaign was never informed that Hillcrest LLC was the true source of the contributions, and staff found no evidence to indicate that Pelico knew the contributions were reimbursed.

Hillcrest LLC's campaign contributions to Pelico for City Council 2015 also exceeded the \$700 per-person contribution limit. Because Makowsky is Hillcrest LLC's sole owner and manager, their campaign contributions to Pelico must be aggregated. Therefore, the entire \$7,000 that Hillcrest LLC used for reimbursement was in excess of the contribution limit.

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 that was improperly reported, contributed, or received. Charter § 706(c)(3). In this case, Hillcrest LLC faces a maximum penalty of up to \$71,000 (\$5,000 per count for Counts 1 through 10, plus \$21,000 [three times \$7,000] for Count 11). We recommend resolving this case by approving the stipulated penalty of \$71,000.

We believe the recommended penalty is appropriate, given the relevant circumstances of the case. *See* Los Angeles Administrative Code (LAAC) § 24.27(h)(2). In mitigation, Hillcrest LLC cooperated with the investigation; saved Ethics Commission resources by entering into this stipulated settlement prior to an administrative hearing; and has no previous enforcement history with the Ethics Commission. *See* LAAC §§ 24.27(h)(2)(D)-(F).

In aggravation, however, the violations in this case are egregious. *See* LAAC § 24.27(h)(2)(A). In addition, the reimbursement of campaign contributions involves deliberate acts and conceals the true identity of the contributor. *See* LAAC § 24.27(h)(2)(B). Finally, staff notes that Hillcrest LLC did not consult Ethics Commission staff about how to comply with the law. *See* LAAC §§ 24.27(h)(2)(C).

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

Attachments:

A Proposed stipulation in Case No. 2016-16 (1181 N. Hillcrest Road, LLC)

RICHARD A. PLATEL
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:

1181 N. HILLCREST ROAD, LLC,
Respondent.

Case No. 2016-16

STIPULATION AND ORDER

Richard A. Platel, Director of Enforcement for the Los Angeles City Ethics Commission (the Ethics Commission), and 1181 N. Hillcrest Road, LLC (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.
6. The respondent will pay a total penalty in the amount of **\$71,000**. 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: 10-04-2019


RICHARD A. PLATEL, Director of Enforcement
Los Angeles City Ethics Commission
Complainant

DATED: 9/30/19


1181 N. HILLCREST ROAD, LLC
Respondent

BY: BRUCE MAKOWSKY
(Print Name)

President
Title

ORDER

The Los Angeles City Ethics Commission considered the stipulation in Case No. 2016-16 at its meeting on _____. The members of the Ethics Commission approved the stipulation and order 1181 N. Hillcrest Road, LLC to pay a fine of **\$71,000** to the City of Los Angeles in accordance with the terms of the stipulation.

DATED: _____

Melinda Murray, President
Los Angeles City Ethics Commission

EXHIBIT

I. INTRODUCTION

This case arose from a whistleblower complaint. 1181 N. Hillcrest Road, LLC (Hillcrest LLC) is a limited liability company solely owned and managed by Bruce Makowsky (Makowsky). The company, which is represented by Ronald Richards, Esq., admits in this administrative proceeding that it violated City campaign finance laws by reimbursing ten political contributions during the 2015 election cycle.

II. LAW

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

City law limits the amount of money that a person may give to City candidates. During the 2015 elections, City law prohibited a single person from contributing more than \$700 to a single candidate for City Council in a single election. Charter § 470(c)(3); LAMC § 49.7.3(B)(2)(a).

To protect the integrity of the contribution limits, City law prohibits a person from making a contribution in a name other than the person's own name, also referred to as an assumed name contribution. Charter § 470(k) states that “[n]o contribution shall be made, directly or indirectly, by any person or combination of persons, acting jointly in a name other than the name by which they are identified for legal purposes, nor in the name of another person or combination of persons.” A person is defined as “an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.” Cal. Gov't Code § 82047.

To further protect the integrity of the contribution limits, there are circumstances in which contributions from more than one person must be aggregated and treated as if they were made by a single person. LAMC § 49.7.4. For example, aggregation is required when one person controls another person's contribution activity and also when contributions are made by an individual and by a limited liability company in which the individual holds either an investment interest of at least 50 percent or a majority of the voting rights. LAMC §§ 49.7.4(A), (I).

III. FACTS

Makowsky is a Los Angeles real estate developer. He created Hillcrest LLC for a development project located at 1181 North Hillcrest Road in Beverly Hills. Makowsky is the sole owner and manager of Hillcrest LLC.

After receiving a complaint alleging that Makowsky had reimbursed others for political contributions, enforcement staff initiated an investigation. Through the investigation, enforcement staff found evidence of the following.

Makowsky met with Joan Pelico (Pelico) at a holiday party in December 2013. At the time, Pelico was Chief of Staff for CD 5 and had recently announced her intent to run as a candidate to represent CD 4. Pelico asked Makowsky to contribute to her 2015 election campaign and encouraged him to find five to ten others to contribute. She informed him of the campaign contribution limits.

On April 14, 2014, Makowsky personally contributed \$700, the maximum allowable amount, to Pelico's campaign committee (Pelico for City Council 2015). After making his own personal contribution to Pelico's campaign, Makowsky asked his executive assistant to request additional \$700 contributions from his employees and business associates and to tell them that they would be reimbursed. Pelico's campaign committee began receiving contributions attributed to those persons shortly after Makowsky's executive assistant requested the contributions and conveyed the promise of reimbursement.

Ten persons associated with Hillcrest LLC responded to the request for contributions by providing \$700 personal checks made payable to Pelico's campaign committee. Hillcrest LLC issued reimbursement checks totaling \$7,000 from its business account to those contributors. Pelico's campaign was never informed that the true source of the contributions was Hillcrest LLC, instead of the persons whose names appeared on the checks that it received, and staff found no evidence to indicate that Pelico knew the contributions were reimbursed.

IV. VIOLATIONS

Hillcrest LLC admits that it violated City law as follows:

COUNTS 1 – 10 ASSUMED NAME CONTRIBUTIONS

COUNT 1: Hillcrest LLC violated Charter § 470(k) by reimbursing Roman James for a \$700 contribution made in Roman James's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 2: Hillcrest LLC violated Charter § 470(k) by reimbursing Nicole Weise James for a \$700 contribution made in Nicole Weise James's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 3: Hillcrest LLC violated Charter § 470(k) by reimbursing Steven Makowsky for a \$700 contribution made in Steven Makowsky's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 4: Hillcrest LLC violated Charter § 470(k) by reimbursing Kathy Adwar for a \$700 contribution made in Kathy Adwar's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 5: Hillcrest LLC violated Charter § 470(k) by reimbursing Daisy Cancino for a \$700 contribution made in Daisy Cancino's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 6: Hillcrest LLC violated Charter § 470(k) by reimbursing Pook Savoy for a \$700 contribution made in Pook Savoy's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 7: Hillcrest LLC violated Charter § 470(k) by reimbursing Christopher Muller for a \$700 contribution made in Christopher Muller's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 8: Hillcrest LLC violated Charter § 470(k) by reimbursing Richard Roberto for a \$700 contribution made in Richard Roberto's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 9: Hillcrest LLC violated Charter § 470(k) by reimbursing Fineline Woodworking Inc., for a \$700 contribution made in the entity's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 10: Hillcrest LLC violated Charter § 470(k) by reimbursing Aiko Kelly for a \$700 contribution made in Aiko Kelly's name to the Pelico for City Council 2015 committee on or about June 2, 2014, without disclosing the true source of the contribution.

COUNT 11 EXCESS CONTRIBUTION

COUNT 11: Hillcrest LLC exceeded the per-person contribution limit and violated Charter § 470(c)(3) by contributing \$7,000 through ten assumed names to the Pelico for City Council 2015 Committee on June 2, 2014, after Makowsky, who owns more than 50 percent of and controls the contribution activity of Hillcrest LLC, had personally contributed \$700 to the committee on April 14, 2014.

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 improperly reported, spent, or received. Based on the facts and circumstances in this case, Hillcrest LLC faces a maximum penalty of up to \$71,000 (\$5,000 per count for Counts 1 through 10, plus 3 x \$7,000 for Count 11).

The Ethics Commission is required to consider all relevant circumstances before assessing penalties. Los Angeles Administrative Code (LAAC) § 24.27(h)(2). In considering the penalty in this case, the enforcement staff noted the following mitigating circumstances: (1) Hillcrest LLC cooperated with the Ethics Commission investigation and saved Ethics Commission resources by entering into this stipulated settlement prior to an administrative hearing; and (2) Hillcrest LLC has no prior enforcement history with the Ethics Commission. *See* LAAC §§ 24.27(h)(2)(D)–(F).

However, the enforcement staff also noted the following aggravating circumstances: (1) The reimbursement of campaign contributions is an extremely serious violation; and (2) The reimbursement of campaign contributions involves deliberate action and conceals the true identity of the contributor. *See* LAAC §§ 24.27(h)(2)(A)–(B). Finally, the enforcement staff noted that Hillcrest LLC did not consult with Ethics Commission staff about how to comply with the law. *See* LAAC § 24.27(h)(2)(C).

Based on the facts and circumstances, staff recommends resolving this case by imposing a penalty of \$71,000. 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.