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# Item 6

## Action

### *Proposed Stipulation*

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**Executive Summary:** This item presents a proposed stipulation in Case No. 2022-030, *In the Matter of Brian Silveira and Brian Silveira & Associates*.

**Recommended Action:** Approve the proposed stipulation as presented.

**Authors:** David Tristan, Executive Director  
Heather Holt, Deputy Executive Director  
Kenneth Hardy, Director of Enforcement

**Presenters:** Kenneth Hardy, Director of Enforcement  
Marisol Aguayo, Special Investigator

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# *Proposed Stipulation*

*In the Matter of Brian Silveira and Brian Silveira & Associates (Case No. 2022-030)*

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## **A. Introduction**

This case involves allegations that Brian Silveira (Silveira) and Brian Silveira & Associates (BSA) failed to register as lobbying entities and report lobbying activities. Silveira and BSA, who chose not to be represented by counsel in this matter, have agreed to a proposed stipulation admitting the 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**

The Municipal Lobbying Ordinance (MLO) requires persons who qualify as lobbying entities to register with the Ethics Commission and to report their lobbying activities. Los Angeles Municipal Code (LAMC) §§ 48.01 *et seq.*

A lobbyist is an individual who is compensated to spend 30 or more hours in a consecutive three-month period engaged in lobbying activities that include at least one direct communication with a City official or employee for the purpose of attempting to influence municipal legislation on behalf of another person. LAMC § 48.02. A lobbying firm is an entity that has a partner, owner, shareholder, officer, or employee who qualifies as a lobbyist and that receives or becomes entitled to receive at least \$1,000 in compensation during a consecutive three-month period for engaging in lobbying activities in an attempt to influence municipal legislation on behalf of another person. LAMC § 48.02.

Lobbyists and lobbying firms must register with the Ethics Commission within 10 days after the end of the calendar month in which they qualify as a lobbying entity. LAMC § 48.07. In addition to registering, lobbying entities must also file quarterly disclosure reports for every calendar quarter during which they retain that status. LAMC § 48.08(A)(1). An individual who qualifies as both a lobbyist and a lobbying firm is required to file just one report, as a lobbying firm, for each quarter. *Id.*

The requirement that lobbying entities disclose their lobbying activities is borne out of the public's interest in identifying "interests which attempt to influence decisions of City government, as well as the means employed by those interests." LAMC § 48.01(B)(2). This transparency helps to ensure both the integrity of and the public's confidence in City government. Failure to report such activities circumvents these important goals.

## C. Facts

Silveira is the owner and only employee of BSA, a full-service land use and development consulting firm that provides its clients with a range of services related to, among other things, land use entitlements and community and government relations issues in the City.

Silveira qualified as a lobbyist and BSA qualified as a lobbying firm in 2021 and 2022. Silveira was required to register himself and BSA in the first quarters of 2021 and 2022 and was also required to file quarterly disclosure reports on behalf of BSA for all of 2021 and the first two quarters of 2022. Silveira and BSA were not registered when first contacted by enforcement staff, but they have since registered and filed the required quarterly reports.

## D. Penalty

In administrative enforcement matters, the commissioners may impose a penalty up to the greater of \$5,000 per violation or three times the amount that was improperly reported, spent, or received. Los Angeles City Charter § 706(c)(3). In this case, the maximum charged penalty is \$40,000 (\$5,000 x 8 counts).

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 that Silveira did not consult Ethics Commission staff about how to comply with the law. *See* LAAC § 24.27(h)(2)(c). Enforcement staff further noted the aggravating circumstance that the violations in this case are serious. *See* LAAC §§ 24.27(h)(2)(A), (C).

However, enforcement staff also noted the following mitigating circumstances: (1) Silveira and BSA cooperated with the staff and 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; (2) Silveira and BSA have registered and filed all required disclosure reports; (3) Silveira and BSA have no prior enforcement history with the Ethics Commission; and (4) staff found no evidence of a deliberate violation or an intent to conceal or deceive. *See* LAAC §§ 24.27(h)(2)(B), (D)–(F).

Based on the specific facts and circumstances in this case, staff recommends resolving this case by imposing a \$20,000 penalty. 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. 2022-030 (Brian Silveira and Brian Silveira & Associates)*

KENNETH HARDY, SBN 162181  
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:

BRIAN SILVEIRA AND BRIAN SILVEIRA  
& ASSOCIATES,

Respondents.

Case No. 2022-030

**STIPULATION AND ORDER**

Kenneth Hardy, Director of Enforcement of the Los Angeles City Ethics Commission (Ethics Commission), and Brian Silveira and Brian Silveira & Associates (respondents) agree to the following:

1. This stipulation and accompanying order 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 order will be the final disposition of this matter with respect to the respondents.
3. The respondents understand and knowingly and voluntarily waive all procedural rights under Los Angeles City Charter (Charter) sections 706 and 709 and Los Angeles Administrative Code sections 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 respondents understand and knowingly and voluntarily waive all rights to seek judicial review of any action by the Ethics Commission on this matter.

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STIPULATION AND ORDER

Case No. 2022-030 (Brian Silveira and Brian Silveira & Associates)

Page 1 of 3

*Item 6—Attachment A*

1 of 6

5. The exhibit that is attached and incorporated by reference is a true and accurate summary of the facts in this matter. The respondents violated City law as described in the Exhibit.

6. The respondents will pay a total penalty in the amount of **\$20,000**. On or before December 13, 2022, the respondents will make an initial payment of **\$1,666.66**, which will be held by the Ethics Commission staff until the Ethics Commission members issue the order in this matter. For the remaining **\$18,333.34** the respondents will pay **\$1,666.66**, on or before the first of each month, beginning on February 1, 2023 and ending on December 1, 2023. The payment will be made in the form of a cashier's check made payable to the "General Fund of the City of Los Angeles."

7. If the Ethics Commission does not approve this stipulation, it will become null and void. Within ten business days after the Ethics Commission meeting at which the stipulation is disapproved, the Ethics Commission staff will return all payments tendered by the respondents in connection with this stipulation.

8. If the Ethics Commission does not approve 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: 12/2/22

[Redacted Signature]

KENNETH HARDY  
Director of Enforcement  
Los Angeles City Ethics Commission  
Complainant

DATED: 12/1/2022

[Redacted Signature]

BRIAN SILVEIRA  
Respondent

[Redacted Signature]

BRIAN SILVEIRA & ASSOCIATES  
Respondent

**ORDER**

The Los Angeles City Ethics Commission considered the stipulation in Case No. 2022-030 at its meeting on December 14, 2022. The members of the Ethics Commission approved the stipulation and order Brian Silveira and Brian Silveira & Associates to pay a fine of **\$20,000** to the City of Los Angeles in accordance with the terms of the stipulation.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Jeffery Daar, President  
Los Angeles City Ethics Commission

## EXHIBIT

### I. INTRODUCTION

Brian Silveira (Silveira) and Brian Silveira & Associates (BSA), who chose not to be represented by legal counsel in this matter, admit that they violated City law by failing to register as a lobbyist and lobbying firm and by failing to file quarterly disclosure reports in 2021 and for the first two quarters of 2022.

### II. APPLICABLE LAW

Lobbying and the disclosure of lobbying activities related to City matters are governed by the Municipal Lobbying Ordinance (Los Angeles Municipal Code (LAMC) §§ 48.01 *et seq.*).

A lobbyist is an individual who is compensated to spend 30 or more hours in a consecutive three-month period engaged in lobbying activities that include at least one direct communication with a City official or employee for the purpose of attempting to influence municipal legislation on behalf of another person. LAMC § 48.02. Municipal legislation is, essentially, any substantive legislative or administrative matter that is proposed or pending before a City agency. *Id.*

A lobbying firm is an entity that receives or becomes entitled to receive at least \$1,000 in compensation for engaging in lobbying activities during a consecutive three-month period in an attempt to influence municipal legislation on behalf of another person and has a partner, owner, shareholder, officer, or employee who qualifies as a lobbyist. *Id.* An individual lobbyist who is a solo practitioner can qualify as a lobbying firm. *Id.*

An individual who qualifies as a lobbyist must register with the Ethics Commission within 10 days after the end of the calendar month in which the individual qualifies as a lobbyist. LAMC § 48.07. A lobbying firm must register with the Ethics Commission within 10 days after the end of the calendar month in which a partner, owner, shareholder, officer, or employee qualifies as a lobbyist. *Id.*

In addition to registering, lobbying entities must also file quarterly disclosure reports with the Ethics Commission for every calendar quarter during which they retain that status. LAMC § 48.08(A)(1). However, an individual who qualifies as both a lobbyist and a lobbying firm is required to file just one report, as a lobbying firm, for each quarter. *Id.*

The requirement that lobbying entities disclose their activities is borne out of the public's interest in identifying "interests which attempt to influence decisions of City government, as well as the means employed by those interests." LAMC § 48.01(B)(2). This transparency helps to ensure both the integrity of and the public's confidence in City government. Failure to report such activities circumvents these important goals.

### III. FACTS

Silveira is the owner and only employee of BSA, a full-service land use and development consulting firm that provides its clients with a range of services related to, among other things, land use entitlements and community and government relations issues in the City.

From January 2021 to September 2022, Silveira was paid to engage in 30 or more hours of lobbying activities and to engage in direct communications with City officials to further the interests of BSA clients. During this time, Silveira met with a variety of City officials, including staff in elected offices.

Because of Silveira's lobbying activities and direct communications, he qualified as a lobbyist in 2021 and 2022. BSA qualified as a lobbying firm, because it was entitled to receive more than \$1,000 from clients for City lobbying activities in the first quarters of 2021 and 2022 as a result of Silveira's lobbying activities. Silveira and BSA were required to register as lobbying entities in 2021 and 2022. In addition, Silveira and BSA were required to file quarterly reports disclosing their lobbying activities during all of 2021 and the first two quarters of 2022.

Neither Silveira nor BSA was registered with the Ethics Commission at the time the investigation began. After discussing his activities with investigators and reviewing the regulations, Silveira acknowledged that he and BSA should have registered and filed disclosure reports with the Ethics Commission, and he took immediate steps to retroactively file the missing documents. Silveira registered and reported for 2021 and 2022 and is currently in compliance. Silveira notes that the majority of Silveira and BSA's business interactions were with City staff and not elected City officials.

### IV. VIOLATIONS

Silveira and BSA admit that they violated City law as follows:

#### **COUNTS 1–2: FAILURE TO REGISTER AS A LOBBYIST AND LOBBYING FIRM**

COUNT 1: Silveira and BSA violated LAMC section 48.07(A) by failing to register as a lobbyist and lobbying firm for the year 2021.

COUNT 2: Silveira and BSA violated LAMC section 48.07(A) by failing to register as a lobbyist and lobbying firm for the year 2022.

#### **COUNTS 3–8: FAILURE TO FILE DISCLOSURE REPORTS**

COUNT 3: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the first quarter of 2021.



COUNT 4: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the second quarter of 2021.

COUNT 5: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the third quarter of 2021.

COUNT 6: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the fourth quarter of 2021.

COUNT 7: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the first quarter of 2022.

COUNT 8: Silveira and BSA violated LAMC section 48.08(A)(1) by failing to file a quarterly disclosure report for the second quarter of 2022.

## **V. PENALTY**

Charter section 706(c)(3) establishes the penalty formula for administrative actions taken by the Ethics Commission. The commissioners may impose a penalty up to 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 \$40,000 (\$5,000 x 8 counts).

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, enforcement staff noted that Silveira did not consult Ethics Commission staff about how to comply with the law. *See* LAAC § 24.27(h)(2)(C). Enforcement staff also noted the aggravating circumstance that the violations in this case are serious. *See* LAAC § 24.27(h)(2)(A).

However, enforcement staff also noted the following mitigating circumstances: (1) Silveira and BSA cooperated with the staff and 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; (2) Silveira and BSA have registered and filed all required disclosure reports; (3) Silveira and BSA have no prior enforcement history with the Ethics Commission; and (4) enforcement staff found no evidence of a deliberate violation or an intent to conceal or deceive. *See* LAAC §§ 24.27(h)(2)(B), (D)–(F).

Based on the specific facts and mitigating circumstances in this case, staff recommends resolving this case by imposing a \$20,000 penalty. 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.