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# Item 7

## Action

### *Selection of Hearing Officers*

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**Executive Summary:** This item presents the options for the selection of hearing officers in Case No. 2020-019, *In the Matter of John Lee*.

**Recommended Action:** Select an option for an administrative hearing officer and, if necessary, select a preliminary hearing officer.

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

**Presenters:** Kenneth Hardy, Director of Enforcement  
Stephen Colon, Chief Investigator

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# *Selection of Hearing Officers*

*In the Matter of John Lee* (Case No. 2020-019)

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## **A. Introduction**

The Ethics Commission’s enforcement procedures are governed by detailed regulations. *See* Los Angeles Administrative Code (LAAC) §§ 24.21–24.29. When administrative enforcement proceedings need to be initiated, a probable cause report must be served. LAAC §§ 24.25(a), 24.26(a)(1). A determination must then be made regarding whether probable cause exists to believe that a violation occurred and that the respondent committed or caused the violation. LAAC § 24.26(c)(1). If probable cause is found to exist, an accusation detailing the allegations against the respondent must be publicly announced, an evidentiary hearing must be held, and hearing officers must be selected. Los Angeles City Charter (Charter) § 706(c); LAAC §§ 24.26(d), 24.27(a)(1), 24.27(b)(1), 24.27(f).

An accusation has been publicly announced in *In the Matter of John Lee* (Case No. 2020-019). A copy of the accusation is provided as Attachment A. This matter must now proceed to an evidentiary hearing, and hearing officers must be selected. Section C sets out the options for hearing officers. The enforcement regulations are provided as Attachment B.

## **B. Matter at Issue**

### 1. Alleged Facts

The following facts have been alleged by the Director of Enforcement. John Lee (Lee) was employed as a City Council Aide from 1996 to 1999, for a short period in 2002, and from June 3, 2003, to June 12, 2017. From 2016 until he left City service on June 12, 2017, Lee served as Chief of Staff to former City Councilmember Mitchell Englander (Englander), who represented City Council District 12 (CD 12) at the time.

While serving as Englander’s Chief of Staff, Lee was a Council Aide VII. Council Aides are required to file California Form 700 Statement of Economic Interests (Form 700) and are, therefore, City officials. Lee filed an annual Form 700 for each of the 2003 through 2016 calendar years, and filed a “leaving office” Form 700 in 2017. The instructions for Form 700 discuss the state gift limits and gift disclosure requirements.

City officials are also required to periodically complete ethics training, which addresses state and City gift limits and gift disclosure requirements. LAMC § 49.5.15(A). Lee completed ethics training at least twice, in 2011 and 2016.

In 2016, Lee met Businessperson A (an individual who operated businesses in Los Angeles relating to major development projects), Lobbyist A (a City lobbyist), and Developer A

(a City developer). Later that year, Businessperson A paid for dinner and drinks for a group of individuals that included Englander and Lee. Ethics Commission staff estimated that the value of Lee's dinner and drinks was over \$50.

Lee filed a Form 700 with the Ethics Commission on March 31, 2017, to disclose his reportable financial interests in calendar year 2016. Lee signed the Form 700 under penalty of perjury but did not report any gifts.

In 2017, Businessperson A paid for an evening of poker, including alcohol and hostess services, for a group of individuals that included Englander and Lee. Ethics Commission staff estimated that the value of Lee's alcohol and hostess services was \$133.33.

Also in 2017, Lee publicly announced that he would be leaving his City position to work as a consultant in the private sector. Lobbyist A suggested a group trip to Las Vegas to celebrate Lee's career change, and a trip began on June 1, 2017. Businessperson A provided Lee and the other members of the group with access to the "comps" that Businessperson A received from the resort and casino at which they stayed. The comps included an individual suite (living room and bedroom) for each member of the group, as well as transportation to and from the Las Vegas airport. Lee stayed at the hotel for two nights. Ethics Commission staff estimated that the value of Lee's room, room amenities, and transportation to and from the airport was at least \$300 for the first day and at least \$300 for the second day.

During the Las Vegas trip, Businessperson A provided Lee with an estimated \$1,000 in casino gambling chips. Lee lost all of his gambling chips playing Baccarat. Businessperson A paid for dinner and drinks for the group at the casino, as well as bottle service and other perks at a nightclub. Developer A paid for additional bottle service at the nightclub. Ethics Commission staff estimated that the value of Lee's dinner and drinks was \$431.50 and that the value of Lee's bottle service was \$4,000 from Businessperson A and \$1,666.67 from Developer A.

Lee left his position as Englander's Chief of Staff on June 12, 2017. On June 23, Lee filed his "leaving office" Form 700, which covered the period of January 1 through June 12 of that year. Lee signed the Form 700 under penalty of perjury but did not report any gifts.

In June 2017, the Federal Bureau of Investigation (FBI) and the United States Attorney's Office began an investigation concerning whether Businessperson A had provided improper personal benefits to Englander, Lee, and others, and whether each individual had accepted those benefits. The investigation focused in part on the Las Vegas trip.

The FBI contacted Englander for a voluntary interview on or about September 1, 2017. Afterward, Englander sent two backdated checks to Businessperson A, each payable in the amount of \$442, with a note stating that the checks were for "Vegas expenses." One check was allegedly from Englander, and the other was allegedly from Lee. Businessperson A received the checks more than 30 days after the Las Vegas trip.

Englander resigned from office on December 31, 2018. A special election was called to fill the CD 12 office for the remainder of the term. Lee and 14 others qualified as candidates. At

the time of the primary election on June 4, 2019, Lee had not amended his Form 700s to report the gifts he received in 2016 and 2017.

No candidate won in the primary election, so a general election was held on August 13, 2019, with Lee and Loraine Lundquist (Lundquist) on the ballot. At the time of the general election, Lee had not amended his Form 700s to report the gifts he received in 2016 and 2017. Lee won the general election with 51.55 percent of the vote.

The CD 12 seat appeared on the ballot again in the regular 2020 elections, and Lundquist competed against Lee for the seat again. The primary election was held on March 3, 2020. At the time of the primary election, Lee had not amended his Form 700 to report the gifts he received in 2016 and 2017. Lee won the primary election with 50.6 percent of the vote.

Additional details regarding the alleged facts are contained in Attachment A.

## 2. Procedural History

Lee is represented in this matter by attorney Amber Maltbie of Nossaman LLP. Enforcement staff attempted multiple times to resolve this case through a stipulated settlement, but Lee has declined to settle.

The Director of Enforcement served a probable cause report on Lee on June 6, 2023. LAAC § 24.26(a)(1). Lee requested a probable cause conference, which was held on August 31, 2023. LAAC § 24.26(a)(3)(A). On September 22, 2023, Lee was served with notice that probable cause exists to believe that the City's Governmental Ethics Ordinance was violated and that Lee committed the violations. LAAC § 24.26(c)(1). The alleged violations include two counts of accepting excess gifts, three counts of failing to disclose gifts, four counts of misusing a City position, and one count of aiding and abetting the misuse of a City position.

An accusation against Lee was publicly announced on October 2, 2023. LAAC § 24.26(d). The matter must now be scheduled for an evidentiary hearing. Charter § 706(c); LAAC § 24.27(a)(1). The Director of Enforcement estimates that the administrative hearing will take approximately one day, not including any preliminary hearing matters.

## C. **Selection of Hearing Officers**

When an enforcement matter must proceed to an evidentiary hearing, the members of the Ethics Commission are required to select both an administrative hearing officer and a preliminary hearing officer.

### 1. Administrative Hearing Officer

An administrative hearing officer schedules and presides over the hearing on the merits. LAAC § 24.27(b)(1). The administrative hearing officer receives hearing briefs filed by the parties, may issue subpoenas, and must make decisions regarding the admissibility of evidence.

LAAC §§ 24.27(c)(3), 24.27(d)(3), 24.27(f)(2)(C). Under LAAC section 24.27(a)(1), there are four options for an administrative hearing officer:

- 1) An outside entity may be selected to provide an individual hearing officer.
- 2) One Ethics Commission member may sit as an individual hearing officer.
- 3) The Ethics Commission members may sit as a hearing panel, with an individual hearing officer presiding.
- 4) The Ethics Commission members may sit as a hearing panel, without an individual hearing officer presiding.

Option 1 is most frequently selected for Ethics Commission enforcement matters. If you select that option, this matter will be referred to the California Office of Administrative Hearings (OAH). Since 2004, the Ethics Commission has contracted with OAH for administrative law judges to serve as hearing officers. The OAH in-person filing fee is \$125 per case. The hourly rate for administrative law judges is \$369 for Fiscal Year 2023-24. OAH typically schedules our hearings two to six months after a case is filed.

If you select either Option 1 or Option 2, the individual administrative hearing officer must make a recommendation regarding whether the alleged violations occurred. The hearing officer must provide a written report with factual findings, conclusions of law, and a summary of the evidence. LAAC § 24.27(g)(2)(A). The members of the Ethics Commission must then determine whether the alleged violations actually did occur and, if so, what penalty is appropriate. LAAC §§ 24.27(g)(2)(C), 24.27(h)(1).

## 2. Preliminary Hearing Officer

A preliminary hearing officer must also be selected, in case either party requests a hearing on a technical matter prior to the hearing on the merits. The preliminary hearing officer decides questions regarding issues such as process requirements, legal interpretations, and discovery disputes. LAAC §§ 24.27(c)(2), 24.27(e)(1)–(2). The preliminary hearing officer also makes decisions regarding requests for reconsideration, which may be filed by a party to challenge a preliminary decision. LAAC § 24.27(e)(3).

The preliminary hearing officer must be an individual, rather than a panel. LAAC § 24.27(a)(3). A member of the Ethics Commission may serve as the preliminary hearing officer. *Id.* An individual may serve as both the administrative hearing officer and the preliminary hearing officer. *Id.* If you select Option 1 for the administrative hearing officer, OAH will appoint both the administrative hearing officer and the preliminary hearing officer. *Id.*

## **D. Looking Ahead**

If you choose an individual hearing officer (Option 1 or 2), that individual will schedule the administrative hearing and, following the hearing, must make a written recommendation regarding whether the alleged violations occurred. LAAC § 24.27(g)(2). The recommendation

must then be considered at a commission meeting for a final determination. Before making a determination regarding the recommendation, you must certify that you have either heard the testimony in person or reviewed the entire record of the proceedings. LAAC § 24.27(g)(1)(B).

The parties present their arguments regarding penalties directly to the Ethics Commission members. LAAC § 24.27(h)(1)(B). Because individual hearing officers make recommendations only regarding whether violations occurred, the penalty discussion is part of the commission meeting at which an individual hearing officer's written recommendation is considered.

If you choose to sit as a hearing panel (Option 3 or 4), you must select dates to conduct the administrative hearing. At the administrative hearing, you may finalize a determination regarding whether one or more violations occurred, as well as regarding appropriate penalties, without conducting an additional commission meeting.

All determinations regarding violations and penalties must be decided by a quorum (three votes) and must be based on a preponderance of the evidence. LAAC §§ 24.27(g)(1), 24.27(h)(1). If you determine that no violation occurred, the staff must publish a statement to that effect. Charter § 706(c)(3); LAAC § 24.27(g)(4). If you determine that one or more violations did occur, you must issue a verbal order that contains a summary of the facts, your conclusions of law, and any penalty that is imposed. LAAC § 24.27(i)(1). Staff then prepares a written statement that is consistent with the verbal order, for signature by the Ethics Commission president. *Id.*

## **E. Conclusion**

An evidentiary hearing must be held in this matter. We recommend that you select one of the options identified in section C.1 for an administrative hearing officer and, if necessary, select a preliminary hearing officer.

### *Attachments:*

- A Accusation in Case No. 2020-019, In the Matter of John Lee*
- B Investigations and Enforcement Regulations*

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**BEFORE THE LOS ANGELES CITY  
ETHICS COMMISSION**

In the Matter of:

JOHN LEE,

Respondent.

Case No. 2020-019

**ACCUSATION**

**A. BACKGROUND**

On June 6, 2023, the Director of Enforcement for the Los Angeles City Ethics Commission (Ethics Commission) filed a probable cause report in this case with the Executive Director of the Ethics Commission and served a copy of the report on the respondent, John Lee (Respondent Lee), via his attorney, Amber Maltbie of Nossaman LLP.

On June 27, 2023, Respondent Lee filed a response to the probable cause report and requested a probable cause conference. On August 4, 2023, the Director of Enforcement filed a rebuttal to the response. The probable cause conference took place on August 31, 2023. Additional material was submitted by both parties during the probable cause conference. On September 22, 2023, the probable cause conference officer served on Respondent Lee and the Director of Enforcement a written determination that there is probable cause to believe that Respondent Lee committed the violations detailed in Counts 1 through 9 and Count 11 of the probable cause report.

Los Angeles Administrative Code (LAAC) section 24.26(d) provides that, if probable cause is found to exist, then the Director of Enforcement shall prepare an accusation within 14 calendar days of being served with the determination of probable cause. It also provides that the Executive Director shall publicly announce the determination of probable cause no later than ten calendar days after service of the accusation, unless the parties stipulate to the entry of an order under LAAC section 24.27(i)(2) during this time period.

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**ACCUSATION**

Case No. 2020-019 (John Lee)

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## B. APPLICABLE LAWS

The Ethics Commission is charged with the impartial and effective administration, implementation, and enforcement of the City's governmental ethics laws. Los Angeles City Charter (Charter) §§ 702, 706. The Ethics Commission's enforcement processes are governed by Charter sections 702 and 706 and LAAC sections 24.21 through 24.29.

To help restore public trust in government, the City adopted the Governmental Ethics Ordinance (GEO) (Los Angeles Municipal Code (LAMC) §§ 49.5.1 *et seq.*). The GEO governs the conduct of City officials and, in some instances, the conduct of City employees who are not City officials as well as other persons. "City official" means an elected City officer or an agency board member, officer, employee, commissioner, or consultant who is required to file a Statement of Economic Interests, also known as Form 700 of the California Fair Political Practices Commission (FPPC), pursuant to the Political Reform Act (PRA) (Cal. Gov't Code § 81000 *et seq.*). LAMC § 49.5.2(C).

The GEO incorporates the PRA's limit on the monetary value of gifts that a City official may receive from a single source during a calendar year. LAMC § 49.5.8(B); Cal. Gov't Code § 89503. In 2016, a City official was prohibited from accepting more than \$460 in gifts from a single source. In 2017, the limit was \$470. Cal. Gov't Code § 89503; California Code of Regulations, Title 2 (2 Cal. Code Regs.), § 18940.2. Under the PRA, the gift limit is not violated if an official who received a gift in excess of the allowable limit returns it to the donor unused, purchases it, or pays down the excess amount within 30 days of receipt. 2 Cal. Code Regs. § 18941.

The GEO requires that City officials adhere to certain disclosure requirements of the PRA. When a City official receives one or more gifts from a single source with a total value of at least \$50, he or she must disclose the gift or gifts using Form 700. LAMC § 49.5.9(B)(1)(d); Cal. Gov't Code § 87203; 2 Cal. Code Regs. § 18940(d). City officials are required to file a Form 700 with the Ethics Commission within 30 days after assuming office, annually, and within 30 days after leaving office. Cal. Gov't Code §§ 87202-87204, and 87500(f); LAMC § 49.5.9. Under the PRA, a Form 700 can be amended at any time.

An omission or misstatement of fact in a Form 700 is material if there is a substantial likelihood that a reasonable person would consider it important in evaluating whether a candidate should be elected to, or retained in, public office, or whether a public official can perform the duties of office free from any bias caused by concern for the financial interests of the official or the official's supporters. *People v. Hedgecock* (1990) 51 Cal.3d 395, 406-407.

The GEO provides that: "City officials, agency employees, appointees awaiting confirmation by the City Council, and candidates for elected City office shall not misuse or attempt to misuse their positions or prospective positions to create or attempt to create a private advantage or disadvantage, financial or otherwise, for any person." LAMC § 49.5.5(A).

A person who violates a provision of the Charter or of a City ordinance relating to campaign finance, lobbying, conflicts of interest, or governmental ethics, or who causes another



person to violate a provision, or who aids and abets another person in a violation, is liable under the provisions of Article VII of the Charter. Charter § 706; *see also* LAMC § 49.5.16(D).

### **C. STATUTE OF LIMITATIONS**

To commence administrative enforcement proceedings, Ethics Commission staff must serve a probable cause report no more than four years after the date of an alleged violation. LAAC § 24.26(a)(2). However, if the respondent engaged in concealment or deceit, the four-year statute of limitations is tolled for the period of concealment or deceit. LAAC § 24.26(a)(2)(A).

Concealment and deceit were found to be present in this case. As more fully described below, Respondent Lee did not disclose any gifts from Businessperson A or Developer A on the Form 700 that he filed for the 2016 calendar year or on the leaving office Form 700 that he filed in 2017. Respondent Lee never amended these Form 700s.

On March 9, 2020, the United States Department of Justice (DOJ) issued a press release announcing that former City Councilmember Mitchell Englander (Englander) was named in an indictment that had been returned by a federal grand jury on January 16, 2020. The indictment had been filed under seal. Respondent Lee's identity was masked in the indictment (he was identified as City Staffer B) and was not identified in the DOJ press release. However, on March 9, 2020, Respondent Lee tweeted: "I was in Las Vegas with Councilmember Englander in June 2017, and I did everything in my power to pay for and reimburse expenses related to this trip. I was unaware of any illegal activities for which Councilmember Englander is being charged." On March 9, 2020, the public and the Ethics Commission staff first became aware of the Las Vegas trip and Respondent Lee's involvement. The Ethics Commission initiated an investigation and a probable cause report was filed and served on June 6, 2023.

### **D. SUMMARY OF ALLEGED FACTS**

#### **1. Background Information**

Respondent Lee was employed by the City as a Council Aide from 1996 to 1999, for a short period in 2002, and from June 3, 2003, to June 12, 2017. From 2016 until he left City service on June 12, 2017, Respondent Lee served as Chief of Staff to Englander, who represented City Council District 12 (CD 12). On August 13, 2019, Respondent Lee was elected to the City Council to represent CD 12.

During his time as Englander's Chief of Staff, Respondent Lee's official designation under the City's employment structure was Council Aide VII. Council Aides are required to file Form 700 and are, therefore, City officials who must comply with City and state gift restrictions and complete mandatory ethics training. Respondent Lee filed an annual Form 700 for each of the 2003 through 2016 calendar years, and filed a "leaving office" Form in 2017.

City officials are required to periodically complete ethics training. LAMC § 49.5.15(A). Respondent Lee completed ethics training at least twice (in 2011 and 2016). The instructions for Form 700 discuss the gift limits and disclosure requirements.

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#### **ACCUSATION**

Case No. 2020-019 (John Lee)

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The DOJ used the designations “Businessperson A,” “Developer A,” and “Lobbyist A” to identify individuals in its cases in federal district court. Businessperson A operated businesses in Los Angeles relating to major development projects. Developer A was a real estate developer and architect in Los Angeles who operated his own architectural, planning, and development firm. Both Businessperson A and Developer A had business interests in Los Angeles and sought to connect with high-level City officials in order to further these interests.

## **2. 2016 Gifts**

Respondent Lee first met Businessperson A in 2016 at a lunch meeting that included Englander, Lobbyist A, and another person. The meeting took place at Yxta Cocina Mexicana, a restaurant in downtown Los Angeles. Later in 2016, Englander and Respondent Lee had dinner with Businessperson A, Lobbyist A, and another person at the Water Grill, a restaurant in downtown Los Angeles. Businessperson A paid for the dinner and provided his own wine for the group to consume during dinner. Ethics Commission staff estimated the value of Respondent Lee’s dinner and drinks to be over \$50.

Respondent Lee filed an annual Form 700 with the Ethics Commission on March 31, 2017, and signed it under penalty of perjury. The disclosure period was January 1 through December 31, 2016. Respondent Lee did not report any gifts on that Form 700.

## **3. 2017 Gifts**

In April or May of 2017, Englander and Respondent Lee played poker with Businessperson A, Developer A, Lobbyist A, and another person at an establishment in Koreatown. Businessperson A paid the bill for the evening, which included the cost of alcohol and hostess service. The total bill was approximately \$800. Ethics Commission staff estimated that the per-person value of the alcohol and hostess service to be \$133.33.

In or around May of 2017, Respondent Lee publicly announced that he would be leaving his City position to work as a consultant in the private sector. Lobbyist A suggested a group trip to Las Vegas to celebrate Respondent Lee’s upcoming career change.

On June 1, 2017, Respondent Lee, Englander, Businessperson A, Lobbyist A, Developer A, and one other person flew to Las Vegas. Respondent Lee paid for his own flights to and from Las Vegas. Businessperson A provided Respondent Lee and the other members of the group with access to the “comps” that Businessperson A received from the resort and casino at which they stayed. These comps were hotel-provided amenities ordinarily limited to VIP customers, like Businessperson A, who had provided a certain amount of money to the resort and casino in the past. These comps included individual suites (living room and bedroom) for each member of the group, including Respondent Lee, as well as transportation to and from the Las Vegas airport. Respondent Lee stayed at the hotel for two nights. Ethics Commission staff estimated the value of Respondent Lee’s room, room amenities, and transportation to and from the airport to be at least \$300 for the first day and at least \$300 for the second day.

On June 1, 2017, Businessperson A provided Respondent Lee and other members of the group with casino gambling chips. The total value of the chips given to Respondent Lee was \$1,000. Respondent Lee used them to play Baccarat with Businessperson A and others. According to Respondent Lee, he lost all of his chips playing Baccarat.

Later that evening, Businessperson A provided dinner and drinks for Respondent Lee and the other members of the group at a restaurant inside the resort and casino. Businessperson A was charged approximately \$2,481 for the dinner and drinks for the group. Ethics Commission staff estimated that the value of Respondent Lee’s dinner and drinks to be \$431.50.

Following the dinner, the group, including Respondent Lee, took a limousine comped by the resort and casino to a nightclub located at another hotel and casino. There, Businessperson A paid approximately \$24,000 for bottle service, which included a private table for the group in a premium location in the nightclub, alcohol by the bottle, mixers, a server, immediate entry into the nightclub, and other perks. Developer A paid an additional \$10,000 for the bottle service for the group. The group allowed other female patrons of the nightclub, who came and went during the evening, to partake of the drinks. Ethics Commission staff estimated the per-person value of the bottle service paid for by Businessperson A to be \$4,000 and the per-person value of the bottle service paid for by Developer A to be \$1,666.67.

On or about June 3, 2017, Respondent Lee sent Businessperson A a text message thanking Businessperson A for the enjoyable Las Vegas trip. The text message stated nothing about Englander or Respondent Lee reimbursing Businessperson A for any portion of the trip.

Respondent Lee left his position as Chief of Staff to Englander on June 12, 2017. On June 23, Respondent Lee filed his “leaving office” Form 700, which covered the period from January 1 through June 12. Respondent Lee signed the Form 700 under penalty of perjury. Respondent Lee did not report receiving any gifts during the reporting period.

The value of the gifts that Respondent Lee received and the portion that exceeded the gift limit are summarized in the table below.

Excess and Unreported Gifts to Respondent Lee in 2017				
Source	Gift	Value	Total Value	Value in Excess of \$470
Businessperson A	Alcohol and Hostess Service	\$133.33	\$6,164.83	\$5,694.83
	Dinner	\$431.50		
	Bottle Service	\$4,000.00		
	Hotel Room (2 nights)	\$600.00		
	Casino Chips	\$1,000.00		

Developer A	Bottle Service	\$1,666.67	\$1,666.67	\$1,196.67
<b>Totals:</b>			<b>\$7,831.50</b>	<b>\$6,891.50</b>

**4. Conduct Related to the Federal Investigation**

In June of 2017, following the Las Vegas trip, the Los Angeles offices of the Federal Bureau of Investigation (FBI) and the United States Attorney’s Office (USAO) began an investigation concerning whether Businessperson A had provided improper personal benefits to Englander, Lee, and others, and whether each individual had accepted those benefits. The FBI and USAO focused their investigation in part on the June 2017 Las Vegas trip.

In August of 2017, Respondent Lee voluntarily submitted to an interview with the FBI and the USAO. In August of 2017, prior to being contacted by the FBI or the USAO, Englander became aware of the investigation. Englander subsequently reached out to Businessperson A using a secure messaging app to express his desire to reimburse Businessperson A for portions of the June 2017 Las Vegas trip.

On or about September 1, 2017, the FBI contacted Englander to seek a voluntary interview with him regarding the investigation. Afterward, Englander sent two checks to Businessperson A, which Businessperson A received on September 14. The two checks were each in the amount of \$442 and both were dated August 4. One check was made from Englander payable to Businessperson A, and the other was made from Respondent Lee payable to Businessperson A. The package containing the checks included a note from Englander stating that the checks were being provided to Businessperson A for “Vegas expenses.” The checks were sent to make it appear as if Englander and Respondent Lee had written the checks to Businessperson A to reimburse him for certain expenses related to their Las Vegas trip prior to the FBI asking to interview Englander and prior to the FBI interviewing Respondent Lee. This effort at partial reimbursement occurred more than 30 days after the Las Vegas trip.

**5. Conduct Related to Elections and Future Elections**

On October 11, 2018, Englander announced that he was stepping down from his position as a City Councilmember at the end of the year. His term of office expired on December 14, 2020. Englander vacated his office on December 31, 2018.

A special election for the remainder of the term of the vacant CD 12 City Council seat was called, with the primary election scheduled for June 4, 2019. Respondent Lee and 14 others qualified as candidates. At the time of the primary election, the federal investigation was not publicly disclosed, and Respondent Lee had not amended his Form 700 to report the gifts he had received in 2017.

No candidate won in the primary election, so a general election (run-off) was scheduled for August 13, 2019. Respondent Lee and opponent Loraine Lundquist (Lundquist) qualified for the run-off. At the time of the run-off, the federal investigation was not publicly disclosed and Respondent Lee had not amended his Form 700 to report the gifts he had received in 2017. Respondent Lee won the election with 51.55 percent of the vote and became the next City Council member for CD 12.

The CD 12 seat was on the ballot again in the regular 2020 elections. Respondent Lee and Lundquist competed again in the primary election, which this time was held on March 3, 2020. At the time of this election, the federal investigation was not publicly disclosed and Respondent Lee had not amended his Form 700 to report the gifts he had received in 2017. Respondent Lee, now an incumbent, won in the primary election with 50.6 percent of the vote.

Respondent Lee's failure to disclose on his 2017 leaving office Form 700 the gifts that he had received and his failure thereafter to amend the Form 700 to disclose the gifts were material omissions in that a reasonable person could consider the gifts important in evaluating whether Respondent Lee should be elected to or retained in public office.

#### **E. SUMMARY OF ALLEGED VIOLATIONS**

Respondent Lee violated the GEO and the Charter as follows:

##### **COUNTS 1 – 2: ACCEPTING EXCESS GIFTS**

COUNT 1: Respondent Lee violated LAMC section 49.5.8(B) in 2017 by accepting gifts from Businessperson A that exceeded the gift limit by \$5,694.83.

COUNT 2: Respondent Lee violated LAMC section 49.5.8(B) in 2017 by accepting gifts from Developer A that exceeded the gift limit by \$1,196.67.

##### **COUNTS 3 – 5: FAILING TO DISCLOSE GIFTS**

COUNT 3: Respondent Lee violated LAMC section 49.5.9(A) on March 31, 2017, by failing to disclose on his annual Form 700 the gifts that he had received from Businessperson A during 2016.

COUNT 4: Respondent Lee violated LAMC section 49.5.9(A) on June 23, 2017, by failing to disclose on his leaving office Form 700 the gifts he had received from Businessperson A during 2017.

COUNT 5: Respondent Lee violated LAMC section 49.5.9(A) on June 23, 2017, by failing to disclose on his leaving office Form 700 the gifts he had received from Developer A during 2017.

**COUNTS 6 - 9:  
MISUSE OF POSITION**

COUNT 6: Respondent Lee violated LAMC section 49.5.5(A) in 2016 and 2017 by misusing his position as Englander’s Chief of Staff as a vehicle to knowingly obtain multiple gifts from Businessperson A and Developer A, whom Respondent Lee knew had business interests in Los Angeles and who desired to reach out to high-level City officials, and to knowingly keep such gifts out of the public eye.

COUNT 7: Respondent Lee violated LAMC section 49.5.5(A) and misused his position as a candidate for City Council by failing to amend his leaving office Form 700 to reflect the gifts that he had received during 2017, in order to create or attempt to create an advantage for himself and a disadvantage for his opponents during the special primary election on June 4, 2019.

COUNT 8: Respondent Lee violated LAMC section 49.5.5(A) and misused his position as a candidate for City Council by failing to amend his leaving office Form 700 to reflect the gifts that he had received during 2017, to create or attempt to create an advantage for himself and a disadvantage for his opponent during the special general election on August 13, 2019.

COUNT 9: Respondent Lee violated LAMC section 49.5.5(A) and misused his position as a City Councilmember and a candidate for City Council by failing to amend his leaving office Form 700 to reflect the gifts that he had received during 2017, to create or attempt to create an advantage for himself and a disadvantage for his opponent during the primary election on March 3, 2020.

**COUNT 10:  
AIDING AND ABETTING MISUSE OF POSITION**

COUNT 10: Respondent Lee violated Charter section 706 in 2017 by aiding and abetting Englander in the misuse of Englander’s position as a City Councilmember to create or attempt to create an improper advantage for himself and Englander by participating with Englander in using back-dated checks to make it appear that they had reimbursed Businessperson A for the gifts they received in Las Vegas before the FBI interviewed Respondent Lee and asked to interview Englander.

**F. ADMINISTRATIVE HEARING**

If the parties do not stipulate to the entry of an order under LAAC section 24.27(i)(2), a public evidentiary hearing must be held to determine whether the alleged violations occurred. Charter § 706(c); LAAC §§ 24.26(d)(4), 24.27(a)(1). If the members of the Ethics Commission determine through the hearing process that one or more violations occurred, they must issue an order and may require Respondent Lee to, among other things, pay a monetary penalty of up to

the greater of \$5,000 per violation or three times the amount of money that was improperly received or reported. Charter § 706(c)(3).

DATED: 9/26/2023



KENNETH C. HARDY  
Director of Enforcement  
Los Angeles City Ethics Commission

# Investigations and Enforcement

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Los Angeles Administrative Code §§ 24.21-24.29

*Effective October 14, 2017*

Los Angeles City  
**ETHICS COMMISSION**

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**Los Angeles Administrative Code  
Division 24, Chapter 2  
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## Investigations and Enforcement Regulations

*Los Angeles Administrative Code Division 24, Chapter 2*

Added by Ordinance No. 167974, effective 7/08/92.

Renumbered by Ordinance No. 182265 (prev. 24.1.2), effective 10/29/12.

Amended in its entirety by Ordinance No. 182907, effective 4/02/14.

### SEC. 24.21. DEFINITIONS.

- (a) **“Commission”** means the Los Angeles City Ethics Commission.
- (b) **“Deputy Executive Director”** means the Commission staff member who is authorized by the Executive Director to serve as the Commission’s executive officer when the Executive Director is absent or otherwise unable to serve.
- (c) **“Director of Enforcement”** means the Commission staff member who is in charge of enforcement matters.
- (d) **“Ethics Officer”** means a Commission staff member whose City job classification is ethics officer, including but not limited to Ethics Officer I, Ethics Officer II, and Ethics Officer III.
- (e) **“Executive Director”** means the Commission’s executive officer.

in any relevant inquiry, investigation, hearing, or proceeding.

- (b) The Executive Director and the Director of Enforcement may administer oaths and affirmations on behalf of the Commission and may delegate that authority to any Ethics Officer.
- (c) The Executive Director and the Commission staff may divulge evidence of possible unlawful conduct discovered during an investigation to the following:
  - (1) A government attorney authorized by law to prosecute the unlawful conduct;
  - (2) A government agency with the authority to investigate or enforce laws relating to the unlawful conduct; or
  - (3) A government agency with the authority to discipline City employees for the unlawful conduct.

### SEC. 24.22. AUTHORITY TO INVESTIGATE AND REFER.

- (a) In connection with Commission investigations and enforcement actions, the Executive Director and the Commission staff may inspect books, records, and electronic data; receive and investigate complaints; administer oaths; certify to official acts; issue subpoenas for the attendance of witnesses or the production of books, accounts, documents, electronic data, or testimony

### SEC. 24.23. COMPLAINTS.

- (a) A complaint alleges possible violations of state or City laws relating to campaign financing, lobbying, conflicts of interests, or governmental ethics.
  - (1) Any person may file a complaint with Commission staff.
  - (2) Commission staff may internally initiate a complaint based on personal knowledge, an audit, a staff referral, a referral from another government or

law enforcement agency, a news article, or another source of information that may indicate a possible violation.

- (3) Concerns raised at public meetings or to members of the Commission are not complaints.
  - (4) Complaints are confidential and are not subject to disclosure as required to preserve the confidentiality mandated by Charter Section 706.
- (b) Commission staff will process and review all complaints.
- (c) A complaint is most helpful if it is in writing, is dated by the complainant, and contains the following information with as much detail and specificity as possible and to the best of the complainant's knowledge and belief:
- (1) The name and address of the alleged violator;
  - (2) The provisions of law allegedly violated;
  - (3) Facts evidencing the alleged violations;
  - (4) The names and addresses of potential witnesses; and
  - (5) An address, telephone number, and email address at which the complainant may be reached during normal business hours.
- (d) Based on the initial review of a complaint, Commission staff may do one or more of the following:
- (1) Continue to investigate the allegations in the complaint;

- (2) Refer the complaint or the complainant to another government or law enforcement agency;
- (3) Take no action for reasons which may include, but are not limited to, the following:
  - (A) The complaint does not contain sufficient facts or information to pursue an investigation;
  - (B) The evidence does not support the allegations;
  - (C) The complaint expresses opinions rather than specific, actionable allegations;
  - (D) The allegations in the complaint have already been disposed of as a result of another complaint or are already under investigation by the Commission or another government or law enforcement agency; or
  - (E) The Commission has no jurisdiction over the allegations in the complaint.

## **SEC. 24.24. SUBPOENAS AND SUBPOENAS DUCES TECUM.**

### **(a) Issuing Subpoenas.**

- (1) The Director of Enforcement may issue subpoenas and *subpoenas duces tecum* on behalf of the Commission. The Director of Enforcement may delegate this authority in writing to any Ethics Officer.
- (2) A subpoena or *subpoena duces tecum* may not be issued unless the Director of Enforcement finds that the person to

be subpoenaed or the information to be requested in the *subpoena duces tecum* is material to a specific matter under investigation or subject to enforcement action or that the person or entity to be subpoenaed controls material information.

(b) **Notice to Consumers.** If a *subpoena duces tecum* seeks the production of a customer's financial records from a third party, notice to the customer shall be given as required by California Government Code Sections 7460 *et seq.* If a *subpoena duces tecum* seeks the production of a consumer's personal records from a third party, notice to the consumer shall be given as required by California Code of Civil Procedure Section 1985.3. A customer or consumer who moves to quash or modify the production of records under either law shall file written notice of the motion with the Commission staff on the same date that the motion is filed.

(c) **Service.** A subpoena shall be served at least 15 calendar days before the time required for attendance. A *subpoenas duces tecum* shall be served at least 28 calendar days before the time required for attendance or production of the requested documents.

(d) **Compliance.**

(1) If the Director of Enforcement consents, the custodian of records or documents that is the subject of a *subpoena duces tecum* may satisfy the *subpoena duces tecum* by delivering the requested records or documents together with an affidavit in compliance with Section 1561 of the California Evidence Code.

(2) If any person refuses to attend or testify or timely produce any records or documents required by a subpoena or *subpoena duces tecum*, the Executive Director may petition the Los Angeles Superior Court for an order compelling the person to comply with the subpoena or *subpoena duces tecum*.

(3) Failure to timely comply with a subpoena or *subpoena duces tecum* without lawful excuse is both of the following:

(A) A violation of these regulations and subject to sanctions under the Los Angeles Administrative Code (LAAC) Section 24.29(f); and

(B) A violation of and subject to enforcement under LAAC Section 19.21.

(e) **Witness Mileage and Fees.** A witness appearing pursuant to a subpoena or a *subpoena duces tecum*, other than a party, is entitled to receive the same mileage and fees allowed by law to a witness in a civil case pending in the Los Angeles Superior Court. This does not apply to an officer or employee of the City of Los Angeles. Mileage and fees may be received once the witness has complied with the subpoena or *subpoena duces tecum* and submitted a written request.

(f) **Objections.**

(1) A person served with a subpoena or *subpoena duces tecum* may object to its terms by filing written objections with the Executive Director. Objections shall include a working facsimile number or valid email address for which the person or the person's legal

representative has authorized service of the ruling on the objections. Objections must be filed by the following deadlines:

- (A) No later than five calendar days after service of a subpoena.
  - (B) No later than 14 calendar days after service of a *subpoena duces tecum*.
- (2) The Executive Director shall rule on objections and issue an order in writing by the following deadlines:
- (A) No later than four calendar days after written objections to a subpoena are filed.
  - (B) No later than seven calendar days after written objections to a *subpoena duces tecum* are filed.
- (3) A petition for judicial review of the Executive Director's ruling must be filed within five calendar days after the date a ruling on a subpoena is issued and within seven calendar days after the date a ruling on a *subpoena duces tecum* is issued. Written notice of a petition shall be filed with the Executive Director on the same date that the petition is filed with the superior court.
- (4) Failure to file timely written objections with the Executive Director waives all grounds for any objection to a subpoena or *subpoena duces tecum* and all grounds to petition for judicial review.

## **SEC. 24.25. PRELIMINARY ENFORCEMENT DETERMINATION.**

- (a) Based on a review of the evidence gathered through the course of an investigation, the Director of Enforcement shall determine whether enforcement action should be initiated and whether a referral to another government or law enforcement agency is appropriate for enforcement or disciplinary purposes.
- (b) The Director of Enforcement shall obtain the Executive Director's concurrence prior to initiating enforcement action, making a referral, or closing a case.
  - (1) If a referral is made, information gathered by Commission staff in the course of the investigation may be provided to the other government or law enforcement agency.
  - (2) A determination that no further action should be taken by Commission staff at that time shall not prevent any other government agency from initiating other enforcement or disciplinary action based on the same allegations and facts.
- (c) The Executive Director may determine that a civil action by the Commission is appropriate or may refer the matter to the members of the Commission, who shall consider the matter in closed session and decide whether such an action is appropriate. If the Commission commences a civil action to pursue substantive civil penalties, it may not initiate an administrative enforcement proceeding based on the same allegations against the same respondent.

## **SEC. 24.26. PROBABLE CAUSE DETERMINATION.**

### **(a) Probable Cause Report.**

(1) The Director of Enforcement must file a written probable cause report with the Executive Director to commence administrative enforcement proceedings.

(A) The probable cause report shall identify the alleged violations and contain a summary of law and evidence gathered through the investigation, including exculpatory and mitigating information of which the staff has knowledge, that is sufficient to justify the issuance of an accusation. The report may include hearsay, including declarations of investigators or others relating to the statements of witnesses or the physical evidence.

(B) After the probable cause report is submitted to the Executive Director, the respondent shall be served with the following:

- (i) A copy of the probable cause report;
- (ii) Notification that the respondent has the right to respond in writing to the probable cause report; and
- (iii) Notification that the respondent has the right to request a probable cause conference, at which the respondent may be present in person and represented by legal counsel or another representative.

(2) A probable cause report may not be served to commence administrative enforcement proceedings more than four years after the date of an alleged violation. This four-year period is tolled for the following periods:

(A) If the respondent engaged in concealment or deceit, for the period of concealment or deceit. Concealment or deceit may occur as part of an alleged violation, such as with money laundering or the falsification of records, or may occur as conduct following a complaint.

(B) If the respondent fails to comply with a subpoena or *subpoena duces tecum*, from the date the compliance was originally required until the date compliance is achieved.

(3) A respondent may submit a written response to the probable cause report.

(A) The response may request a probable cause conference.

(B) A response, including a request for a probable cause conference, must be filed with the Executive Director and served on all other respondents listed in the probable cause report on the same day, and not later than 21 calendar days following service of the probable cause report.

(4) The Director of Enforcement may submit a rebuttal to the response. A rebuttal must be served on each respondent on the same day that it is filed with the Executive Director, and not later than ten calendar days

following receipt of the response to the probable cause report.

**(b) Probable Cause Conference.**

(1) If requested by a respondent, a probable cause conference shall be held at a time and location and in a method fixed by the Executive Director.

(A) The probable cause conference shall be conducted informally by the Executive Director. Formal rules of evidence shall not apply.

(B) Notice of the date, time, location, and method of the conference shall be served on each respondent at least 14 calendar days before the conference.

(2) The probable cause conference shall be closed to the public unless a respondent otherwise requests and all other respondents agree to a public conference. If a conference is closed to the public, only Commission staff, respondents, and respondents' legal counsel or representatives have the right to attend.

(3) The Executive Director may allow witnesses to attend and participate in part or all of the probable cause conference, regardless of whether the conference is public. In making this determination, the Executive Director shall consider the relevancy of the proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate.

(4) The probable cause conference shall be recorded.

(A) The Commission shall retain the recording and provide a copy to each respondent.

(B) A respondent may ask that a certified court reporter attend and record the probable cause conference. That respondent shall provide copies of any transcript to the Executive Director and all other respondents. The cost of such a record shall be borne by the respondent requesting the record.

**(c) Probable Cause Determination.**

(1) The Executive Director shall make a written determination regarding probable cause.

(A) The determination shall be based solely on the probable cause report, any responses or rebuttals, and any arguments and evidence presented by the parties.

(B) The Executive Director may find there is probable cause to believe a violation has occurred only if the evidence is sufficient to lead a reasonable person to believe that a violation has been committed and that the respondent committed or caused the violation.

(C) A finding of probable cause by the Executive Director does not constitute a finding that a violation has actually occurred.

(D) The Executive Director shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, prior to the alleged violation, the respondent obtained formal advice

under Charter Section 705(b) regarding the same facts, truthfully disclosed all material and pertinent facts, and acted in accordance with the formal advice.

- (2) The Executive Director shall make the determination regarding probable cause within 45 calendar days after the later of the date the probable cause report was served, the date the probable cause conference was held, or the date the last pleading was received if no probable cause conference is held. The Executive Director shall not make a determination regarding probable cause before the respondent's deadline to respond to the probable cause report.
- (3) The Executive Director shall serve notice of the determination regarding probable cause on each respondent and the Director of Enforcement within five calendar days of making the determination.

**(d) Accusation and Announcement.**

- (1) If the Executive Director determines that probable cause exists, the Director of Enforcement shall prepare an accusation within 14 calendar days of being served with the determination of probable cause.
- (2) The accusation shall clearly specify the provisions of law that were allegedly violated and set forth the acts or omissions with which the respondent is charged.
- (3) The accusation shall be served on the respondent within ten calendar days of being completed.

(4) The Executive Director shall publicly announce the determination of probable cause no later than ten calendar days after service of the accusation, unless the parties stipulate to the entry of an order under Section 24.27(i)(2) during this time period.

- (A) The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Charter or ordinances unless and until the violation is proved in a subsequent administrative hearing.
- (B) The announcement shall not be made public until all respondents have been served with the accusation.

**(e) Recusal of the Executive Director.**

- (1) If the Executive Director determines that he or she will be unavailable, cannot be fair and impartial, or for any other reason should not make the probable cause determination, the probable cause conference shall be conducted by a person selected by the Deputy Executive Director from a list of former Executive Directors, former members of the Commission, and current and former Ethics Officers.
  - (A) The person selected shall have the same authority as the Executive Director to conduct the probable cause conference and to make the determination of probable cause.
  - (B) The person selected is subject to the prohibitions in Charter Section 700(d) from the date of selection



until the enforcement matter is resolved.

- (2) A respondent may seek the recusal of the Executive Director by filing a written recusal request with the Executive Director within ten calendar days after being served with the probable cause report.
  - (A) The request shall state the reasons why the Executive Director cannot be fair and impartial with respect to a particular matter and should not make the probable cause determination.
  - (B) The Executive Director shall make a written determination regarding the request and serve the respondent with notice of the determination within seven calendar days.
  - (C) Failure to file the request with the Executive Director within ten calendar days after being served with the probable cause report waives all grounds for recusal.
  - (D) A petition for judicial review of a determination concerning recusal of the Executive Director must be filed with a court within ten calendar days following the date of notice of the determination.
  - (E) If the request is granted, the probable cause conference shall be conducted in the same manner as under paragraph (1) above.
- (f) The Executive Director may extend the time limits in this section for good cause.

- (g) The Executive Director may permit or request any party to file additional material related to a probable cause determination and may specify a reasonable deadline for the filing.

## **SEC. 24.27. ADMINISTRATIVE HEARINGS.**

### **(a) Hearing Officer.**

- (1) After an accusation has been issued, an administrative hearing shall be conducted. The Director of Enforcement shall present to the members of the Commission the following options from which the members must select an administrative hearing officer:
  - (A) The members of the Commission may sit as the hearing officer, either with or without an individual hearing officer presiding;
  - (B) The members of the Commission may select an individual, who may be one member of the Commission, to sit as the hearing officer.
- (2) If they elect to use an individual hearing officer, the members of the Commission shall appoint the individual. However, if they elect to use an individual hearing officer provided by an outside entity, that entity shall appoint the individual.
- (3) The members of the Commission shall appoint an individual, who may be the individual hearing officer or a member of the Commission, to decide preliminary hearing matters and requests for reconsideration under Subsection (e). However, if the

individual hearing officer is provided by an outside entity, that entity shall appoint the individual. The same individual may be appointed to decide both preliminary hearing matters and requests for reconsideration.

**(b) Scheduling and Notice.**

- (1) The hearing officer shall schedule the administrative hearing and shall serve notice of the hearing on all respondents at least 21 calendar days prior to the scheduled hearing. If the hearing officer is one or more members of the Commission, the Executive Director may provide notice.
- (2) The notice shall be in substantially the following form, but may contain additional information:

“A hearing regarding the charges made in the accusation against you will be held before the Los Angeles City Ethics Commission (or [name of individual hearing officer]) at [time] on [date], at [location]. You may be present at the hearing, may be represented by counsel, may present any relevant evidence, and will be given a full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses or the production of documents and records by applying in writing to the Ethics Commission (or [name of individual hearing officer]).”

**(c) Discovery.**

- (1) The parties shall be entitled to pre-hearing discovery of relevant, non-privileged records that are not

confidential pursuant to City Charter Section 706.

- (2) The person designated by the members of the Commission to resolve preliminary hearing matters shall resolve discovery disputes.
- (3) The hearing officer may issue subpoenas and *subpoenas duces tecum* upon the request of any party.

(A) A party seeking a subpoena shall file a written request with the Executive Director, who shall promptly forward the request to the hearing officer.

(B) A request for a subpoena shall be accompanied by a declaration specifying the name and address of the witness and setting forth the materiality of the witness's testimony.

(C) A request for a *subpoena duces tecum* shall identify the requested documents or records with specificity, set forth the materiality of the items, and state that the witness possesses or controls the items.

(D) The hearing officer may deny a request after considering the relevancy of the evidence, privileges and confidentiality, the potential for the request to be unduly burdensome, and the overall interests of justice.

(E) The provisions of Section 24.24 apply, except that the Director of Enforcement's role shall be conducted by the hearing officer.

(F) The costs of a subpoena or *subpoena duces tecum* shall be borne by the party requesting it.

(C) The disqualification of a member of the Commission from participating as a hearing officer;

**(d) Administrative Hearing Brief.**

(D) Discovery; and

(1) The Director of Enforcement shall and any respondent may file with the hearing officer an administrative hearing brief that outlines significant legal arguments and evidence to be presented at the hearing.

(E) Any other matter not related to the truth or falsity of the factual allegations in the accusation or to a possible penalty.

(2) Briefs shall not exceed 25 pages in length, except by permission of the hearing officer and by a showing of good cause.

(2) Motions requesting a hearing on preliminary matters and on the matters themselves shall be filed at least 14 calendar days prior to the hearing on the merits. The preliminary hearing shall be conducted by the individual appointed to decide preliminary hearing matters under Subsection (a)(3).

(3) A brief shall be filed with the hearing officer and all other parties to the administrative hearing at least seven calendar days prior to the hearing.

(3) Any party may file a written request for reconsideration regarding any decision on preliminary matters with the individual appointed to decide requests for reconsideration under Subsection (a)(3).

(4) An opposing party may file a written response to a brief. The response may not exceed ten pages in length except by permission of the hearing officer and by a showing of good cause. The response must be filed with the hearing officer and all other parties to the administrative hearing at least two calendar days prior to the hearing.

(A) The request shall set forth the reasons for the request and any supporting legal arguments and affidavits.

**(e) Hearing on Preliminary Matters.**

(B) The request shall be filed at least seven calendar days prior to the administrative hearing on the merits.

(1) The Director of Enforcement or any respondent may request a hearing on preliminary matters prior to the hearing on the merits. Preliminary matters may include, but are not limited to, the following:

(C) The individual appointed to decide the request for reconsideration, in the individual's discretion, may either reconsider a decision regarding a preliminary matter on its merits or deny a request for reconsideration. The individual need not determine whether a

(A) Procedural questions;

(B) The validity or interpretation of the applicable laws;

decision on preliminary matters was correct and need not give reasons for denying a request. The individual shall make a ruling and serve notice of the ruling on all parties within five calendar days of making the ruling.

**(f) Procedural Issues.**

- (1) Any member of the Commission, the Executive Director, the secretary of the Commission, or an individual hearing officer may administer oaths and affirmations for an administrative hearing.
- (2) All relevant, non-privileged evidence may be admissible in the administrative hearing.
  - (A) Each party shall have the right to call and examine all witnesses under oath or affirmation, to introduce exhibits, to cross-examine opposing witnesses on any relevant matter even if that matter was not covered in direct examination, to impeach any witness, and to rebut evidence presented against the party.
  - (B) Evidence may be excluded if its probative value is substantially outweighed by the probability that it will result in the undue consumption of time.
  - (C) The hearing officer shall rule on procedural matters and on the admission and exclusion of evidence.
- (3) The hearing shall be recorded, and the recording shall be provided to the Commission. The Commission shall

retain the recording and provide a copy to each respondent.

- (4) Each respondent may ask that a certified court reporter or translator attend and record the hearing. The costs of such services shall be borne by the respondent requesting them. A respondent who uses a court reporter shall provide copies of the transcript to the Commission and all other parties.
- (5) Each party shall be allowed oral argument of no more than 20 minutes.
- (6) The hearing officer may extend the time limits in this section for good cause.

**(g) Findings.**

- (1) A determination regarding findings shall be made only by a quorum of the Commission based on a preponderance of the evidence.
  - (A) The votes of at least three members are required to find a violation or remand the case to an individual hearing officer.
  - (B) Each member who participates in the determination shall certify that he or she either heard the testimony in person or reviewed the entire record of the proceedings.
- (2) When an individual hearing officer alone hears a case, he or she shall make a recommendation regarding whether a violation occurred.
  - (A) The individual hearing officer shall provide a written report containing proposed findings of fact, conclusions of law, and a summary

of the evidence supporting each proposed finding. A copy of the hearing officer's report shall be filed with the Executive Director and each respondent. The Executive Director shall provide copies to the members of the Commission.

- (B) Within seven calendar days of the date the report is filed with the Executive Director, any party may file with the Executive Director a brief of no more than 15 pages in response to the report. The Executive Director shall provide copies to the members of the Commission.
  - (C) Based on the record of the proceedings, a quorum of the Commission shall make a final determination concerning whether a violation has occurred and may do so without further oral argument by the parties.
  - (D) If a quorum of the Commission determines that the individual hearing officer's report and the record of the proceedings are not sufficient to enable it to make a determination concerning whether a violation has occurred, it may remand the case to the individual hearing officer who heard the case or to a new hearing officer, with instructions for further proceedings.
- (3) A determination by the Commission that a violation occurred shall be supported by the relevant facts and laws, shall be based on the entire record of the proceedings, and shall be incorporated into the order required by Subsection (i).

- (4) If a quorum of the Commission determines that no violation occurred, staff shall publish a statement to that effect, in substantially the following form:

"On [date], the Los Angeles City Ethics Commission considered whether [name of respondent or respondents] had violated City law by [summary of allegations]. The Ethics Commission determined that no violation occurred."

**(h) Penalties.**

- (1) Penalties may be imposed only by a quorum of the Commission, based on its determination under Subsection (g) regarding whether a violation occurred and on the arguments and evidence submitted by the parties regarding penalties.
  - (A) The votes of at least three members are required to impose a penalty.
  - (B) The parties may submit arguments and evidence regarding penalties.
    - (i) Each party may file a brief that is no more than ten pages in length. The brief shall be filed with the Executive Director and all opposing parties at least 15 calendar days prior to the date the Commission will consider penalties. The Executive Director shall provide copies of any brief to the members of the Commission.
    - (ii) The members of the Commission may permit the parties to provide oral argument

of no more than ten minutes each.

- (2) In framing a penalty, the Commission shall consider the relevant circumstances surrounding the case, including but not limited to the following:
  - (A) The severity of the violation;
  - (B) Whether the violation was deliberate and whether the violator intended to conceal or deceive;
  - (C) Whether the violator demonstrated good faith by consulting the Commission staff in a manner not constituting a complete defense under Charter Section 705;
  - (D) Whether the violation was an isolated incident or part of a pattern, and whether the violator has a prior record of violations of the laws within the Commission's jurisdiction;
  - (E) The degree to which the violator cooperated with Commission staff in order to provide full disclosure, remedy a violation, or cooperate voluntarily with an investigation; and
  - (F) The overall interests of justice.
- (3) If a quorum of the Commission imposes monetary penalties, the penalties must be paid in full within 21 calendar days after the date the order imposing the penalties is issued under Subsection (i).
  - (A) If a party who is ordered to pay the penalties can demonstrate through

documentary evidence that paying the total amount of penalties within 21 calendar days poses a significant financial hardship, staff may recommend that a payment schedule be established by a quorum of the Commission. Any payment schedule must require payment in full within 12 calendar months after the date the order imposing the penalties is issued.

- (B) If a party fails to pay penalties within 21 calendar days or, if a payment plan is established, fails to make a scheduled payment, the entire amount outstanding on the penalty shall become immediately due and payable in full.
- (C) The Commission may pursue all available remedies to collect a penalty.

(i) **Orders.**

- (1) Following the finding of a violation, the Commission shall issue a final verbal order that includes a summary of facts and the conclusions of law and, after considering the relevant circumstances in Subsection (h)(2), may impose penalties consistent with Charter Section 706(c). Staff shall prepare a written statement that is consistent with the order and signed by the president of the Commission or, if the president is required to be recused from the matter, by the vice president or another member in order of seniority.
- (2) At any time before or during an administrative hearing or in lieu of such a hearing, the Director of Enforcement and any respondent may stipulate to the entry of an order.

- (A) A stipulated order shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by a quorum of the Commission.
- (B) A stipulated order may resolve the violation only or both the violation and the penalty.
- (C) A stipulated order has the full force of an order issued under paragraph (B) when it is approved by a quorum of the Commission.
- (D) An agreement regarding a stipulated order suspends further procedural requirements regarding a probable cause hearing or an administrative hearing for that enforcement matter and tolls the statute of limitations.

(3) Enforcement orders shall be announced publicly.

**SEC. 24.28. DEFAULT PROCEEDINGS.**

- (a) If a respondent fails to timely respond or file a defense to a probable cause report or pleadings in an administrative hearing, the Director of Enforcement may pursue a default order.
  - (1) The Director of Enforcement shall serve the respondent with notice and a copy of the proposed default order, which must include a summary of facts and evidence and the conclusions of law, at least 15 calendar days before the proposed order is heard by the members of the Commission.
  - (2) The Director of Enforcement shall serve a copy of the proposed default order on the members of the

Commission at least six calendar days before the proposed order is heard.

- (b) The respondent may file a written response to the proposed default order at least three calendar days before the proposed order is heard.
- (c) If a quorum of the Commission approves the default order, the Director of Enforcement shall make a reasonable effort to serve the respondent with notice and a copy of the signed order within seven calendar days of the date the default order is signed.
- (d) The respondent may file a written motion requesting that a default order be vacated and stating the reasons relief should be granted. The motion must be filed with the Executive Director within 15 calendar days after the default order is signed.

(1) On a showing of good cause, the members of the Commission, in their discretion, may vacate the default order and either grant an administrative hearing or approve a stipulated order.

(2) A motion to vacate a default order is the only administrative remedy available to a respondent after entry of a default order.

**SEC. 24.29. GENERAL PROVISIONS.**

(a) **Service.**

(1) Service may be made in the following ways:

(A) Personally, by any individual who is not a party to the matter and is at least 18 years of age, including any

Commission employee other than the Executive Director or the Director of Enforcement;

(B) By first-class, certified, registered, or overnight mail; or

(C) By another method agreed upon by the parties, such as electronic mail.

(2) Service is completed in the following ways:

(A) Personal service is complete when a copy of the document is delivered to the named person at the named person's residence or office, the office of the named person's attorney, or the office of the named person's designated agent for service of process.

(i) When delivered to an office, the document must be left with a clerk, with an individual in charge of the office, or in a conspicuous place in the office.

(ii) When delivered to the named person's residence, the document must be left with an individual of suitable age and discretion who resides there.

(B) Service by mail is complete upon mailing.

(C) Service by another method is complete when the criteria agreed upon by the parties have been met.

(b) **Filings.** A filing is complete when the document or complaint is received by the party to whom it must be submitted.

(c) **Confidentiality.**

(1) Unless they are deemed public by another provision of these regulations, records and information relating to an enforcement matter are confidential and not subject to disclosure as required to preserve the confidentiality mandated by Charter Section 706.

(2) Records and information may be disclosed to a respondent, an individual designated in writing by a respondent as the respondent's counsel or representative, a witness, a court, a prosecution or law enforcement agency, or otherwise as necessary to conduct an investigation.

(3) Commission staff may periodically report the number and types of enforcement cases, as well as other statistical enforcement data, to the members of the Commission.

(d) **Cooperation.** All persons shall timely cooperate with Commission investigations. Examples of what may constitute cooperation include the following:

(1) Complying with a request for information, a request for interviews, a subpoena, and a *subpoenas duces tecum* in accordance with applicable law.

(2) Providing complete, truthful and, during investigations and formal proceedings, sworn statements.

(e) **Reporting.** As required by Section 20.60.4, all City departments and appointed offices shall report to the Commission on matters involving potential fraud, waste, or abuse within ten days after discovery. All City departments and



appointed offices shall also report to the Commission on matters involving potential violations of the campaign finance, governmental ethics, conflict of interests, or lobbying laws within ten days after discovery, except as prohibited by applicable law.

(f) **Sanctions.**

(1) A person is subject to contempt sanctions for any of the following:

- (A) Disobeying or resisting a lawful order of the Commission or the hearing officer without substantial justification.
- (B) Failing or refusing to timely comply with a lawful discovery order, subpoena, or *subpoena duces tecum* without substantial justification.
- (C) Refusing to take the oath or affirmation as a witness or, after doing so, refusing to be examined.
- (D) Engaging in disorderly, contemptuous, or insolent behavior toward the hearing officer during the hearing.
- (E) Breaching the peace or engaging in boisterous or violent conduct during the hearing.
- (F) Unlawfully obstructing, interrupting, or interfering with the hearing or investigation.

(2) The hearing officer or Director of Enforcement may request that the superior court impose contempt sanctions.

- (A) The hearing officer or Director of Enforcement shall certify the facts that justify a contempt sanction.
- (B) The superior court may issue an order directing the person to appear at a specified time and place and show cause why the person should not be punished for contempt.
- (C) The court order and the certified statement shall be served on the person. Upon service, the superior court has jurisdiction over the contempt matter.
- (D) The same procedures apply and the same penalties may be imposed as if the person had committed contempt in the trial of a civil action before the superior court.

(g) **Deadlines.** If a deadline identified in this chapter falls on a City holiday, a Saturday, or a Sunday, the deadline shall be moved to the next business day.

(h) **Public Meetings.** When the members of the Commission must act as a body, the action must be taken at a public meeting.