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February 20, 2017

VIA E-MAIL

Jessica A. Levinson
President
Los Angeles City Ethics Commission
200 North Spring Street
City Hall, 24th Floor
Los Angeles, California 90012

Re: February 21, 2017 Meeting – Agenda Item #8: Proposed Enforcement Regulations

Dear President Levinson and Commissioners:

We are writing to express our concerns regarding the Proposed Amendments to the Commission's Enforcement Regulations (Los Angeles Administrative Code (LAAC) §§ 24.21 et seq.), which are set to be considered at the Commission's February 21, 2017 meeting.

Initially, we wish to point out that we were unaware the Commission was even considering changes to the enforcement regulations until the meeting agenda was posted by the Commission on Wednesday afternoon, February 15. To our knowledge, the Commission's staff did not solicit any input or comment from the public or the regulated community on this issue prior to posting the agenda – and they certainly did not seek input from our firm or other members of the California Political Attorneys Association who regularly practice before the Ethics Commission.

This past Friday evening February 17, at approximately 5:00 p.m. (the beginning of the President's Day weekend), I received an email from the Commission with the subject heading "Policy Update – February 2017," which stated:

The Ethics Commission would like to hear from you! As with all of the laws within the jurisdiction of the Ethics Commission, the enforcement regulations are periodically reviewed to evaluate where improvements should be made. We are beginning this process at the next Commission meeting on Tuesday, February 21, 2017, at 1:30 p.m. We would like to hear your perspective on these updates, which can be found by clicking here. Your comments are valuable to the Commission and can be emailed to ethics.policy@lacity.org. We also encourage you to provide public comment at the meeting.

While we appreciate the Ethics Commission seeking input from members of the public, the timing of the Commission's notification and subsequent request for input has made it difficult for those wishing to comment to present their substantive comments in any meaningful way. The proposed amendments raise some serious policy implications, and we believe the Commission

should conduct a full and thorough review of the issues before acting on the recommendations proposed by the staff. Thus, we urge you to refrain from taking action on the proposed recommendations at the February 21 meeting, and instead continue the discussion until such time as the Commission has received proper input from the public and fully considered the issues.

While we have not, at this point, had an opportunity to fully analyze the proposed changes to the enforcement regulations, our brief review thus far suggests that some of the proposed amendments may have significant ramifications. Specifically, the proposed tolling of the 4-year statute of limitations while a respondent is "in negotiations" with the Commission's Enforcement Director raises serious public policy and due process concerns. Contrary to the statements made in the report, the way to avoid "unnecessary strain" on the enforcement staff is not to extend the period of the statute; rather, it is for staff to diligently proceed with an investigation so as to bring the matter to closure or begin enforcement proceedings within the 4-year statutory period.

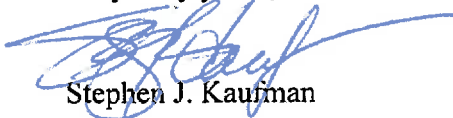
Moreover, allowing the statute to be tolled during some ambiguous period when negotiations are "initiated" until one party provides the other with written notice that "further negotiations will be unproductive," seems subject to manipulation and susceptible to multiple interpretations. Finally, the proposed tolling provision also differs substantially from the tolling provisions of the Political Reform Act and, to our knowledge, would be unlike those contained in other local enforcement statutes.

Thus, should the Commission choose to consider these proposed amendments, we specifically urge you to reject the proposed extension of the tolling provision contained in LAAC Section 24.26(a)(2).

We anticipate providing additional comments regarding the proposed changes once we have had additional time to consider them. We therefore urge the Commission to continue the discussion of the proposed regulatory changes to a future meeting at which all viewpoints may be considered.

We thank you for considering our comments on this important matter.

Very truly yours,



Stephen J. Kaufman

cc: Vice President Serena Oberstein (via email)
Commissioner Araceli Campos (via email)
Commissioner Melinda Murray (via email)
Commissioner Andrea Sheridan Ordin (via email)
Heather Holt, Executive Director (via email)
Arman David Tarzi, Director of Policy (via email)
Sergio Perez, Director of Enforcement (via email)