

April 19, 2016

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
Via email to: ethics.commission@sfgov.org

Dear Commissioners:

We are a group of San Francisco voters concerned about the improper role of lobbyists in city campaign financing as well as the ability of lobbyists to make gifts to our elected officials. These are demonstrated problems in San Francisco that rightfully anger voters and reduce their confidence in our city's system of electoral politics. We write to ask you to vote to place on the November 2016 ballot the below proposed changes to Section 2.115 of Article II, Chapter 1 of the Campaign and Governmental Conduct Code, amending section (a) and adding new sections (e), (f), and (g):

(a) GIFT LIMIT. No lobbyist shall make gifts to an officer *or parent, spouse, or child of an officer* of the City and County. *This prohibition shall include gifts of travel and ~~that have a fair market value of more than \$25, except for~~ those gifts that would otherwise qualify for one of the exemptions under Section 3.216(b) of this Code and its implementing regulations.*

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(e) LIMIT ON CAMPAIGN CONTRIBUTIONS. No lobbyist shall make political campaign contributions exceeding \$50 in the aggregate in an election to any officer of the City and County, a candidate for such office, or a committee controlled by such officer or candidate.

(f) BUNDLING PROHIBITION: No lobbyist shall deliver, bundle, arrange, or otherwise transmit political campaign contributions, other than contributions made by the lobbyist, to any officer of the City and County, a candidate for such office, or a committee controlled by such officer or candidate.

(g) REGULATIONS TO PREVENT CIRCUMVENTION. The Ethics Commission may adopt regulations to prevent circumvention of the provisions of this Section.

Discussion

In 2000, California Proposition 34 created a prohibition on lobbyist contributions to state officers and candidates.¹ This prohibition was upheld in court,² and similar prohibitions have more recently been upheld or viewed favorably by federal circuit courts.³ However, no prohibition exists in San Francisco.

While San Francisco's \$500 contribution limit does much to diffuse the direct monetary influence any one individual may have in our elections, SF OpenData shows that registered lobbyists do routinely make maximum contributions to elected officials and candidates.⁴ But what is more concerning is that these lobbyists bundle maximum contributions in such numbers that city residents may reasonably assume that

¹ Cal. Govt. Code § 85702.

² *Inst. of Governmental Advocates v. Fair Political Practices Comm'n*, 164 F. Supp. 2d 1183 (E.D. Cal. 2001).

³ *Preston v. Leake*, 660 F.3d 726 (4th Cir. 2011); *Green Party of Connecticut v. Garfield*, 616 F.3d 189, 207 (2d Cir. 2010).

⁴ "Lobbyist Activity - Political Contributions." SF OpenData. Accessed April 4, 2016. <https://data.sfgov.org/City-Management-and-Ethics/Lobbyist-Activity-Political-Contributions/sa8r-purn>.

there exists a quid pro quo arrangement between some candidates and lobbyists seeking specific outcomes. When this appearance arises, confidence in our city's governmental process withers. And where an actual such relationship exists, the process is materially harmed.

Our research shows that lobbyist bundling is a significant problem.⁵ In total, candidates for city office have taken well over \$250,000 in bundled contributions from lobbyists over the last 5 years. Moreover, just four lobbyists – bundling an average of \$32,500 each – transmitted \$130,000 to a 2015 mayoral campaign. And one lobbyist alone bundled \$80,000 for just two recipients in the 2015 election.

Limiting the amount lobbyists can contribute to \$50 per candidate per election preserves the associational freedoms at the core of political contributions, but subjects the class to a lower limit than the general public because of the corruption risk inherent to their profession. And prohibiting lobbyist bundling does nothing to limit the key contribution rights of those persons whose contributions are being bundled by the lobbyist. Instead, it simply requires that contributors send their checks directly to candidates instead of allowing lobbyists to peddle such contributions for influence and outcomes.

In addition, we believe that lobbyists should not be able to give gifts to officers of the City. While the current gift prohibition stands at \$25 for non-exempted gifts, the notion that lobbyists may give gifts to those they are lobbying is harmful to the public's conception of the integrity of our governmental process. Changing this already low limit to a prohibition will not significantly alter the value of non-exempted gifts currently allowed, and a prohibition instills far more confidence in the electorate than does a limit. Moreover, that lobbyists may currently give unlimited gifts to public officials – including gifts of travel – is an affront to a clean governmental process. The gift limit or ban should apply to all types of gifts.

The reasonable and narrowly tailored restrictions suggested above burden only lobbyists, and not significantly. Lobbying is an important and valuable part of our policymaking process, but San Francisco voters should be able to feel confident that such persons employed to influence the decisions of our elected officials and City officers are not mixing the business of information expertise with large campaign contributions and gifts. As you so commendably did with Proposition C in 2015, we urge you to vote to place the proposed language on the November 2016 ballot so voters may have their say.

Respectfully,

Friends of Ethics members

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CC: LeeAnn Pelham, Executive Director, San Francisco Ethics Commission

⁵ You can view our research spreadsheet on lobbyist contributions and bundling at: bit.ly/1SI0xpi