

Gayathri Thaikkendiyil
Acting Executive Director

Patrick Ford
Director of Enforcement

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(415) 252-3100

BEFORE THE SAN FRANCISCO
ETHICS COMMISSION

In the Matter of)	SFEC Complaint Nos. 19-20-000217
)	
Michael Colbruno,)	
)	
Respondent.)	STIPULATION, DECISION, AND ORDER
)	
)	
_____)	

THE PARTIES STIPULATE AS FOLLOWS:

1. This Stipulation, Decision, and Order (Stipulation) is made and entered into by and between Michael Colbruno (hereinafter "Respondent") and the San Francisco Ethics Commission (the Commission).
2. Respondent and the Commission agree to settle and resolve all factual and legal issues in this matter and to reach a final disposition without an administrative hearing. Respondent represents that Respondent has accurately furnished to the Commission all information and documents that are relevant to the conduct described in Exhibit A. Upon approval of this Stipulation and full performance of the terms outlined in this Stipulation, the Commission will take no future action against Respondent regarding the violations of law described in Exhibit A, and this Stipulation shall constitute the complete resolution of all claims by the Commission against Respondent related to such violations. Respondent

understands and knowingly and voluntarily waives all rights to judicial review of this Stipulation and any action taken by the Commission or its staff on this matter.

3. Respondent acknowledges responsibility for and agrees to pay an administrative penalty as set forth in Exhibit A. Respondent agrees that the administrative penalty set forth in Exhibit A is a reasonable administrative penalty.

4. Within ten business days of the Commission's approval of this Stipulation, Respondent shall either pay the penalty through the City's online payment portal or otherwise deliver to the following address the sum as set forth in Exhibit A in the form of a check or money order made payable to the "City and County of San Francisco":

San Francisco Ethics Commission
Attn: Enforcement & Legal Affairs Division
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

5. If Respondent fails to comply with the terms of this Stipulation, then the Commission may reopen this matter and prosecute Respondents under Section C3.699-13 of the San Francisco Charter for any available relief.

6. Respondent understands, and hereby knowingly and voluntarily waives, any and all procedural rights under Section C3.699-13 of the San Francisco Charter and the Commission's Enforcement Regulations with respect to this matter. These include, but are not limited to, the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondent's expense, to confront and cross-examine all witnesses testifying at the hearing and to subpoena witnesses to testify at the hearing.

7. Respondent understands and acknowledges that this Stipulation is not binding on any other government agency with the authority to enforce the San Francisco Campaign & Governmental Conduct Code section 1.100 *et seq.*, and does not preclude the Commission or its staff from cooperating

with or assisting any other government agency in its prosecution of Respondent for any allegations set forth in Exhibit A, or any other matters related to those violations of law set forth in Exhibit A.

8. This Stipulation is subject to the Commission's approval. In the event the Commission declines to approve this Stipulation, the Stipulation shall become null and void, except Paragraph 9, which shall survive.

9. In the event the Commission rejects this Stipulation, and further administrative proceedings before the Commission are necessary, Respondent agrees that the Stipulation and all references to it are inadmissible. Respondent moreover agrees not to challenge, dispute, or object to the participation of any member of the Commission or its staff in any necessary administrative proceeding for reasons stemming from his or her prior consideration of this Stipulation.

10. This Stipulation, along with the attached Exhibit A, reflects the entire agreement between the parties hereto and supersedes any and all prior negotiations, understandings, and agreements with respect to the transactions contemplated herein. This Stipulation may not be amended orally. Any amendment or modification to this Stipulation must be in writing duly executed by all parties and approved by the Commission at a regular or special meeting.

11. This Stipulation shall be construed under, and interpreted in accordance with, the laws of the State of California. If any provision of the Stipulation is found to be unenforceable, the remaining provisions shall remain valid and enforceable.

12. The parties hereto may sign different copies of this Stipulation, which will be deemed to have the same effect as though all parties had signed the same document.

Dated: _____
04-24-2023 | 15:38:24 PDT

DocuSigned by:
Steven Massey
0267BF19279A4B2...

STEVEN MASSEY ON BEHALF OF
GAYATHRI THAIKKENDIYIL, ACTING EXECUTIVE DIRECTOR
SAN FRANCISCO ETHICS COMMISSION

Dated: _____
04-21-2023 | 18:41:27 PDT

DocuSigned by:
Michael Colbruno
2996455D9F104C9...

MICHAEL COLBRUNO

DECISION AND ORDER

The foregoing Stipulation of the parties in the matter of "Michael Colbruno, SFEC Complaint No. 1920-004," including the attached Exhibit A, is hereby accepted as the final Decision and Order of the San Francisco Ethics Commission, effective upon execution below by the Chairperson.

IT IS SO ORDERED.

Dated: _____

YVONNE LEE, CHAIRPERSON
SAN FRANCISCO ETHICS COMMISSION

Exhibit A

I. Introduction

Respondent Michael Colbruno (Respondent), a partner in the government affairs firm Milo Group of California, has filed as a contact lobbyist with the Ethics Commission since at least March 2010. Following discovery in November 2019 of unreported lobbyist activity from 2015 through 2021 and a subsequent investigation, Commission Investigators substantiated Respondent's filing obligations for that period, notified him, and Respondent subsequently filed and or amended the required disclosure statements. As detailed below, Respondent failed to disclose lobbyist contacts of City officers and failed to disclose payments that he received from clients, both in violation of San Francisco Campaign & Governmental Conduct Code section 2.110(c).

II. Applicable Law

The Lobbyist Ordinance within the San Francisco Campaign and Governmental Conduct Code requires lobbyists to register with the Commission within five business days of qualifying as a lobbyist. SF C&GCC § 2.110(a). After qualifying, lobbyists must register before making any additional contacts with an officer of the City and County of San Francisco. Id. The Lobbyist Ordinance defines "lobbyist" to mean either "a contact lobbyist or expenditure lobbyist." SF C&GCC § 2.105.

An individual who makes one or more contacts a month with City and County of San Francisco officers on behalf of any person who pays or who becomes obligated to pay the individual or the individual's employer for lobbyist services is a "contact lobbyist." SF C&GCC § 2.105.

The Lobbyist Ordinance defines a "contact" as "any communication, oral or written, including communication made through an agent, associate, or employee, for the purpose of influencing local legislative or administrative action." SF C&GCC § 2.106(a). Under City law "'[l]ocal legislative or administrative action' includes, but is not limited to, the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any officer of the City and County of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract." Id. § 2.105.

The Lobbyist Ordinance defines "Officer of the City and County" to mean any officer identified in section 3.203 of the Campaign & Governmental Conduct Code. Id. In turn, Section 3.203 defines "officer" to mean "any person holding City elective office; any member of a board or commission required by Article III, Chapter 1 of this Code to file statements of economic interests; any person appointed as the chief executive officer under any such board or commission; the head of each City department; the Controller; and the City Administrator." That section further defines "City elective officer" to include, "the office of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor and Public Defender."

By the 15th day of every month, lobbyists are required to publicly disclose on electronic reports to the Ethics Commission the lobbying activity they conducted during the prior calendar month. SF C&GCC § 2.110(c). Required disclosures include information about individuals or organizations who paid for the lobbying; lobbying contacts made; payments received for lobbyist services; "activity expenses" (including consulting fees and gifts) and political contributions of \$100 or more made or raised. Id.

A contact lobbyist is required to complete a lobbyist training session offered by the Ethics Commission within one year of the lobbyist's initial registration. SF C&GCC § 2.116(a). All information

that a lobbyist submits on their reports to the Ethics Commission is verified by the lobbyist, under the penalty of perjury, as accurate and complete. SF C&GCC § 2.135(a).

An administrative action alleging a violation of the Lobbyist Ordinance must be brought no more than four years from the date that the events constituting the basis of the complaint were discovered by the Ethics Commission. SF C&GCC § 2.150(b).

III. Summary of Material Facts

In 2010, Respondent joined as partner in The Milo Group of California, a government affairs firm providing public advocacy for the greater San Francisco Bay Area. For each of the years 2015 through 2021, Respondent qualified as a contact lobbyist and failed to publicly disclose on his monthly lobbyist reports the entirety of the lobbying activity that he undertook on behalf of his clients. The contacts and payments that occurred but were not reported are summarized in Table 1 below.

Type	2015	2016	2017	2018	2019	2020	2021	Total
Contacts	3	2	16	12	4	-	2	39
Payments (Value)	\$3,000	\$750	\$7,400	\$2,900	\$600	\$4,900	\$1,500	\$21,050
Payments (Number)	5	2	9	6	3	7	3	35

Respondent failed to report certain contacts with the Mayor's office and members of the Board of Supervisors on behalf of the following clients: Waymo, Apothecarium, and the Alameda County Water District. Unreported contacts covered a range of issues, including a proposed Traffic Congestion Mitigation Tax, a proposed moratorium on Medical Cannabis Dispensary permits in San Francisco, and an appeal with the San Francisco Public Utilities Commission. Respondent did list Waymo, Apothecarium, and the Alameda County Water District as clients, and reported some other contacts with City officers on behalf of these clients during the period in question.

As part of the resolution of this matter, Respondent filed his outstanding Lobbyist Registrations and Monthly Reports for 2015 through 2021. In total, Respondent reported 39 previously unreported contacts and \$21,050 previously unreported payments.

Respondent has, over the length of time that he has been registered and reporting with the Commission, reported making 138 contacts and receiving \$46,950 in payments. These numbers reflect Respondent's previously unreported lobbying activity. The previously unreported activity constituted 28% of Respondent's total contacts and 45% of Respondent's total payments for lobbying services.

IV. Violations of Law

The conduct at issue in this matter pertains to violations of the Lobbyist Ordinance within the Campaign & Governmental Conduct Code. Those provisions apply to Respondent, and this administrative action was brought within four years of discovery of the conduct at issue, thereby satisfying the statute of limitations provided by SF C&GCC section 2.150(b). The Commission's investigation substantiated Respondent's failure to publicly and timely disclose lobbyist activities, and Respondent acknowledges responsibility for the following violations of the City's lobbyist laws:

Counts 1 through 7
Failure to publicly disclosure lobbying contacts and payments on monthly lobbyist reports in violation of C&GCC section 2.110(c).

Count 1: Respondent failed to publicly disclose 3 contacts and 5 payments totaling \$3,000 on his monthly lobbyist disclosure reports in 2015 as required by SF C&GCC section 2.110(c).

Count 2: Respondent failed to publicly disclose 2 contacts and 2 payments totaling \$750 on his monthly lobbyist disclosure reports in 2016 as required by SF C&GCC section 2.110(c).

Count 3: Respondent failed to publicly disclose 16 contacts and 9 payments totaling \$7,400 on his monthly lobbyist disclosure reports in 2017 as required by SF C&GCC section 2.110(c).

Count 4: Respondent failed to publicly disclose 12 contacts and 6 payments totaling \$2,900 on his monthly lobbyist disclosure reports in 2018 as required by SF C&GCC section 2.110(c).

Count 5: Respondent failed to publicly disclose 4 contacts and 3 payments totaling \$600 on his monthly lobbyist disclosure reports in 2019 as required by SF C&GCC section 2.110(c).

Count 6: Respondent failed to publicly disclose 7 payments totaling \$4,900 on his monthly lobbyist disclosure reports in 2020 as required by SF C&GCC section 2.110(c).

Count 7: Respondent failed to publicly disclose 2 contacts and 3 payments totaling \$1,500 on his monthly lobbyist disclosure reports in 2021 as required by SF C&GCC section 2.110(c).

V. Penalty Assessment

This matter consists of multiple violations of the City's lobbying laws that are categorized into seven counts, with each count corresponding to the violations that occurred in a single calendar year. The violations occurred over a period of seven years and consisted of 35 unreported payments totaling \$21,050 and 39 unreported lobbying contacts.

The San Francisco Charter authorizes the Commission to assess a monetary penalty to the general fund of the City of up to \$5,000 for each violation, or three times the amount which the respondent failed to report properly. SF Charter § C3.699-13(c); see also SF C&GCC § 2.145(c).

Pursuant to its Enforcement Regulations, when determining penalties the Ethics Commission considers all of the relevant circumstances surrounding the case, including but not limited to: (1) the severity of the violation; (2) the presence or absence of any intention to conceal, deceive, or mislead; (3) whether the violation was willful; (4) whether the violation was an isolated incident or part of a pattern; (5) whether the respondent has a prior record of violations of law; (6) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations; and (7) the respondent's ability to pay. SF Ethics Commission Enforcement Regulations § 9(D).

Respondent's pattern of failing to publicly disclose the full extent of his lobbying activity each month over the extended period of time increases the severity of the violations at issue. It was the purpose and intent of the people of the City and County of San Francisco to impose reasonable registration and disclosure requirements on lobbyists in order to protect public confidence in governmental processes. Failure to disclose lobbyist services as the law requires, regardless of the interests those services represent, deprives the public of reasonable knowledge about compensated activities that are undertaken by organizations and interests in the City at the very time lobbyists are engaged in activities to influence

City decision making. In this instance, Respondent failed to disclose significant amounts of lobbyist activity over a period of seven years, which deprived the public of important information about the existence and scope of the lobbying efforts and who was paying for them. The unreported activity represented approximately one quarter of Respondent's lobbying contacts in San Francisco and one half of the payments that he received during that period.

The unreported contacts at issue in this case were not self-reported by Respondent, but rather were substantiated through investigation by the Enforcement Division. Respondent self-reported the previously unreported payments for lobbying services.

In mitigation, Respondent does not have a history of prior enforcement matters with the Commission, cooperated with the investigation, and filed all outstanding reports as soon as the Commission brought the issue to his attention. Although these corrective actions occurred after the time when the disclosures would have been most meaningful, they do indicate an effort on Respondent's part to remedy the violations and address the harm of the violations. Further, Respondent did list the relevant organizations as clients during the time period in question, demonstrating at least partial compliance and suggesting that the non-compliance at issue was not a purposeful attempt to keep information from the public. The information included on the Respondent's reports mitigates some of the harm done to the public. Finally, while Respondent is ultimately responsible for failures to disclose, Respondent's employee in charge of filings failed to make the proper disclosures, and Respondent has since retained a professional accounting firm to prepare lobbying reports in an attempt to prevent any future noncompliance.

In balancing the totality of factors described above, considering prior analogous enforcement cases resolved by the Ethics Commission, and to promote a future deterrent effect, the parties agree that a total penalty of \$8,600 is warranted. This total penalty corresponds to approximately \$175 in penalties for each unreported contact and \$10 in penalties for every \$100 of unreported payments. The penalties for each count are as follows:

- Count 1 (Failure to Disclose Lobbying Contacts and Payments): \$800
- Count 2 (Failure to Disclose Lobbying Contacts and Payments): \$400
- Count 3 (Failure to Disclose Lobbying Contacts and Payments): \$3,500
- Count 4 (Failure to Disclose Lobbying Contacts and Payments): \$2,300
- Count 5 (Failure to Disclose Lobbying Contacts and Payments): \$700
- Count 6 (Failure to Disclose Lobbying Payments): \$400
- Count 7 (Failure to Disclose Lobbying Contacts and Payments): \$500
- Total Penalties: \$8,600