

KENNETH C. HARDY, SBN 162181
Director of Enforcement
Los Angeles City Ethics Commission
200 North Spring Street
City Hall – 24th Floor
Los Angeles, California 90012
(213) 978-1963
kenneth.hardy@lacity.org

**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.

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.

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
Totals:			\$7,831.50	\$6,891.50

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