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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHN LEE)	CASE NO. 23STCP03827
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)	
Petitioner)	VERIFIED PETITION FOR WRIT OF
)	MANDATE
v.)	
)	
LOS ANGELES CITY ETHICS)	
COMMISSION)	
)	
Respondent)	

INTRODUCTION

1. This Petition stems from Respondent's unlawful actions of pursuing administrative enforcement against Petitioner by filing a Probable Cause Report after the statute of limitation of four years from the alleged incidents in this matter had run.

PARTIES

2. Petitioner, John Lee, is a resident of the City of Los Angeles. He is the City Councilor for CD 12.

1 3. Respondent, Los Angeles City Ethics Commission, is an agency of the City of Los
2 Angeles, tasked with the monitoring and enforcement of issues dealing with
3 Campaign Finance.
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5 JURISDICTION AND VENUE
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- 7 4. Jurisdiction is proper pursuant to California Code Civ. Proc. § 1085.
8 5. Venue is proper as Respondent is located within the City of Los Angeles and any
9 actions on which this Petition is based occurred within the City of Los Angeles.

10 STATEMENT OF FACTS

- 11 6. On June 6, 2023, the Director of Enforcement submitted a Probable Cause Report
12 against Petitioner Lee stemming from alleged incidents that took place in 2016 and
13 2017 which they alleged to have found from the unsealing of the indictment against
14 Mitch Englander on March 9, 2020.
15
16 7. In the Probable Cause Report, in Count 1, the Director of Enforcement alleged that
17 Petitioner Lee violated LAMC Section 49.5.8(B) by accepting gifts from Business
18 Person A in 2017 which exceed the gift limits allowed for elected officials.
19
20 8. Further, in Count 2, the Director of Enforcement alleged that Petitioner Lee violated
21 LAMC Section 49.5.8(B) by accepting gifts from Developer A in 2017 which exceed
22 the gift limits allowed for elected officials.
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24 9. The Director of Enforcement further alleged in Count 3 that Petitioner Lee violated
25 LAMC Section 49.5.9(A) by failing to disclose gifts on his 2016 Form 700 which he
26 allegedly received from Business Person A in 2016.
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- 1 10. In Count 4, the Director of Enforcement further alleged that Petitioner Lee violated
2 LAMC Section 49.5.9(A) by failing to disclose gifts on his leaving office Form 700
3 which he allegedly received from Business Person A in 2017.
4
- 5 11. The Director of Enforcement further alleged in Count 5 that Petitioner Lee violated
6 LAMC Section 49.5.9(A) by failing to disclose gifts on his leaving office Form 700
7 which he allegedly received from Developer A in 2017.
8
- 9 12. Further, in Count 6, the Director of Enforcement alleged that Petitioner Lee misused
10 his position as Chief of Staff to City Councilmember Englander as a vehicle to
11 knowingly obtain multiple gifts in 2016 and 2017 from persons (Businessperson A
12 and Developer A) whom Lee knew had business interests in Los Angeles and who
13 desired to reach out to high-level City officials, and to keep such gifts out of the
14 public eye.
15
- 16 13. The Director of Enforcement further alleged in Count 7 that Petitioner Lee misused
17 his position as a candidate for City Council, in violation of LAMC section 49.5.5(A),
18 by failing to amend his 2017 leaving office Form 700 to reflect the gifts that he had
19 received during the reporting period in order to create or attempt to create an
20 advantage for himself and a disadvantage for his opponent during the special primary
21 election on June 4, 2019.
22
- 23 14. The Director of Enforcement further alleged in Count 8 that Petitioner Lee misused
24 his position as a candidate for City Council, in violation of LAMC section 49.5.5(A),
25 by failing to amend his 2017 leaving office Form 700 to reflect the gifts that he had
26 received during the reporting period to create or attempt to create an advantage for
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1 himself and a disadvantage for his opponent during the special general election on
2 August 13, 2019.

3 15. Further, in Count 9, the Director of Enforcement alleged that Petitioner Lee misused
4 his position as an incumbent City Councilmember and a candidate for City Council,
5 in violation of LAMC section 49.5.5(A), by failing to amend his 2017 leaving office
6 Form 700 to reflect the gifts that he had received during the reporting period in order
7 to create or attempt to create an advantage for himself and a disadvantage for his
8 opponent during the primary election on March 3, 2020.

9 16. Further, in Count 11, the Director of Enforcement alleged that Petitioner Lee violated
10 Charter section 706 by aiding and abetting Englander in Englander's misuse of his
11 position as a City Councilmember to create or attempt to create an advantage to
12 Englander and Lee in violation of LAMC section 49.5.5(A), by participating with
13 Englander in an effort involving the sending of back-dated checks to make it appear
14 that Englander and Lee had reimbursed Businessperson A for the gifts they had
15 received in Las Vegas prior to the FBI asking to interview Englander and prior to the
16 FBI interviewing Lee.

17 17. Under LAAC section 24.26(a)(2), "[a] Probable Cause Report may not be served to
18 commence administrative enforcement proceedings more than four years after the
19 date of an alleged violation."

20 18. Petitioner Lee argued that the Probable Cause Report was filed untimely and the
21 enforcement was barred by the Statute of Limitations.
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1 19. The Director of Enforcement argued that the statute of limitations was tolled,
2 pursuant to LAAC section 24.26(a)(2)(A), because they alleged Petitioner Lee
3 engaged in concealment or deceit.
4

5 20. In regards to Counts 1 and 4, the Director of Enforcement failed to allege in the
6 Probable Cause Report that Councilman Lee knew he was not going to reimburse
7 Business Person A when he did not include the alleged gift in his “leaving office”
8 Form 700 on June 12, 2017. At this time, it is clear that Councilman Lee was within
9 the window to be able to reimburse Business Person A. Further, as stated in the
10 Probable Cause Determination, a reasonable person would find that Councilman Lee
11 wrote the check and delivered it to Mr. Englander within the thirty day
12 reimbursement window. There is no evidence to show that Councilman Lee knew the
13 check to (1) not cover the value of the alleged gifts and (2) not be received by
14 Business Person A within the thirty day reimbursement window. Given this, the
15 Director of Enforcement failed to allege or provide evidence to show that (1)
16 Councilman Lee was required to report the gift under the applicable laws, (2) that
17 Councilman Lee intentionally failed to disclose this information, and that (3)
18 Councilman Lee knew the nondisclosure to be false. Thus, the doctrine of fraudulent
19 concealment does not apply to Counts 1 and 4 of the Probable Cause Report.
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23 21. In regards to Counts 2 and 5, the Director of Enforcement fails to allege that
24 Councilman Lee knew that Developer A paid for the bottle service in the amount of
25 \$10,000.00. They have provided no evidence to show that Councilman Lee knew
26 about the alleged gift. Thus, the Director of Enforcement failed to establish fraudulent
27 concealment under Counts 2 and 5 in that they have failed to allege and establish any
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1 fact to support (1) that Councilman Lee intentionally failed to disclose this
2 information, and that (2) Councilman Lee knew the nondisclosure to be false. Thus,
3 the doctrine of fraudulent concealment does not apply to Counts 2 and 5 of the
4 Probable Cause Report.
5

6 22. In regard to Count 3, the Director of Enforcement failed to establish a monetary value
7 for the meals which they allege were gifted to Councilman Lee in 2016 by Business
8 Person A, only stating that it was estimated to be over \$50. Given the fact that there is
9 no information alleged by the Director of Enforcement to establish that this was in
10 fact a reportable gift, they have not established that (1) Councilman Lee was required
11 to report the gift under the applicable laws, (2) that Councilman Lee intentionally
12 failed to disclose this information, and that (3) Councilman Lee knew the
13 nondisclosure to be false. The Director of Enforcement further fails to state that
14 Councilman Lee intentionally withheld the information in order to induce reliance by
15 the Ethics Commission. Thus, the doctrine of fraudulent concealment does not apply
16 to Count 3 of the Probable Cause Report.
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19 23. In regards to Count 6, for the same reasons as explained above for Counts 1 through
20 5, the Director of Enforcement failed to establish fraudulent concealment which
21 would toll the statute of limitations for Count 6. Thus, the doctrine of fraudulent
22 concealment does not apply to Count 6 of the Probable Cause Report.
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24 24. In regards to Count 7, for the same reasons as explained above for Counts 1 through
25 5, the Director of Enforcement failed to establish fraudulent concealment which
26 would toll the statute of limitations for Count 7, and the statute of limitations ran in
27 2021. Further, for the reasons stated above, the Director of Enforcement failed to
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1 allege or establish the required intent to misuse his position, as they failed to allege
2 that he knew the alleged 2016 gifts to be reportable gifts, that he knew the alleged
3 2017 gifts had not been reimbursed, and that he knew of the alleged gifts from
4 Developer A in 2017 in order to intentionally fail to disclose the alleged gifts. Thus,
5 the doctrine of fraudulent concealment does not apply to Count 7 of the Probable
6 Cause Report.
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8 25. In regards to Count 8, for the same reasons as explained above for Counts 1 through
9 5, the Director of Enforcement failed to establish fraudulent concealment which
10 would toll the statute of limitations for Count 8, and the statute of limitations ran in
11 2021. Further, for the reasons stated above, the Director of Enforcement failed to
12 allege or establish the required intent to misuse his position, as they failed to allege
13 that he knew the alleged 2016 gifts to be reportable gifts, or that they actually were
14 reportable gifts, that he knew the alleged 2017 gifts had not been reimbursed, and that
15 he knew of the alleged gifts from Developer A in 2017 in order to intentionally fail to
16 disclose the alleged gifts. They failed to establish that Councilman Lee's knowledge
17 changed at the time of the general election on August 19, 2019. Thus, the doctrine of
18 fraudulent concealment does not apply to Count 8 of the Probable Cause Report.
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22 26. In regards to Count 9, for the reasons stated above, the Director of Enforcement failed
23 to allege or establish the required intent to misuse his position, as they failed to allege
24 that he knew the alleged 2016 gifts to be reportable gifts, or that they actually were
25 reportable gifts, that he knew the alleged 2017 gifts had not been reimbursed, and that
26 he knew of the alleged gifts from Developer A in 2017 in order to intentionally fail to
27 disclose the alleged gifts. They failed to establish that Councilman Lee's knowledge
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1 changed at the time of the election on March 3, 2020. Thus, the Director of
2 Enforcement failed to establish facts to support a probable cause finding in Count 9 of
3 the Probable Cause Report.
4

5 27. In regards to Count 11, as stated in the Probable Cause Determination, the Hearing
6 Officer found that a reasonable person would find that Petitioner Lee wrote the check
7 within the thirty day reimbursement window. The Director of Enforcement did not
8 provide evidence that Petitioner Lee told Mr. Englander to write a backdated check to
9 Business Person A. Further, as stated in the Probable Cause Determination, any
10 conversation between Petitioner Lee and Mr. Englander prior to Mr. Englander's FBI
11 interview was not expressly prohibited. As such, the Director of Enforcement failed
12 to establish that Lee committed fraudulent concealment and thus the statute of
13 limitations is not tolled as to Count 11 of the Probable Cause Report.
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15 28. A probable cause conference was held on August 31, 2023.
16

17 29. Then, on September 22, 2023, the Hearing Officer made a Probable Cause
18 Determination.

19 30. In their Probable Cause Determination, the Hearing Officer found Probable Cause for
20 Counts 1-9 and 11.
21

22 31. Specifically, the Hearing Officer found that the Director of Enforcement sufficiently
23 alleged concealment such that it tolled the Statute of Limitations until March 9, 2020,
24 the date Mitch Englander's indictment was unsealed.
25

26 FIRST CAUSE OF ACTION
27 ORDINARY MANDAMUS (California Code of Civil Proc. § 1085)
28 Statute of Limitations of Probable Cause Enforcement (LAAC 24.26(a)(2))

1 32. Petitioner realleges and incorporates herein each and every allegation contained in the
2 preceding paragraphs in this Petition.

3 33. Under LAAC section 24.26(a)(2), “[a] Probable Cause Report may not be served to
4 commence administrative enforcement proceedings more than four years after the
5 date of an alleged violation.”
6

7 34. In this matter, Respondent served a Probable Cause Report to commence
8 administrative enforcement proceedings more than four years after the date of the
9 alleged violations.
10

11 35. As such, Respondent does not have jurisdiction to further commence enforcement
12 proceedings in this matter.

13 SECOND CAUSE OF ACTION

14 WRIT OF MANDATE (California Code of Civil Proc. §§ 1094.5, 1094.6)
15 Statute of Limitations of Probable Cause Enforcement (LAAC 24.26(a)(2))

16 36. Petitioner realleges and incorporates herein each and every allegation contained in the
17 preceding paragraphs in this Petition.

18 37. Under LAAC section 24.26(a)(2), “[a] Probable Cause Report may not be served to
19 commence administrative enforcement proceedings more than four years after the
20 date of an alleged violation.”
21

22 38. In this matter, Respondent served a Probable Cause Report to commence
23 administrative enforcement proceedings more than four years after the date of the
24 alleged violations.

25 39. As such, Respondent does not have jurisdiction to further commence enforcement
26 proceedings in this matter.
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1 40. Petitioner is entitled to a writ of mandate under the Code of Civil Procedure § 1094.5
2 commanding respondents to set aside the hearing decision finding probable cause in
3 this matter.
4

5 INJUNCTIVE RELIEF

6 41. Respondents' above-described actions have caused Petitioner irreparable injury for
7 which they have no adequate remedy at law because unless this Court grants
8 equitable relief, Respondent will continue forward with an administrative hearing for
9 which they have no jurisdiction to do so.
10

11 42. There is an actual and present controversy between Petitioner and Respondent in that
12 Petitioner contends that Respondent has no jurisdiction to continue enforcement
13 proceedings against him. This controversy is in need of immediate resolution.
14

15 PRAYER FOR RELIEF

16 Therefore, Petitioners respectfully request that this Court:

- 17 1. Issue a peremptory writ of mandate and preliminary and permanent injunctive relief
18 prohibiting Respondents from continuing enforcement proceedings against Petitioner.
19
20 2. Issue a writ of mandate pursuant to Code of Civil Procedure § 1094.5 and § 1094.6
21 ordering Respondent to set aside their Probable Cause Determination.

22 DATED:

Respectfully submitted,

23
24
25 _____
Faisal Gill
26 Attorney for Respondent Lee
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1 VERIFICATION

2 I, John Lee, declare as follows:

3 I am the petitioner in this action. I have read the verified petition for writ of mandate. The facts
4 stated in the Petition are either true and correct of my own personal knowledge, or I am informed
5 and believe that such facts are true and correct, and on that basis, I allege them to be true and
6 correct.
7

8 This verification was executed on _____, in Los Angeles, California.

9 I declare under penalty of perjury that the foregoing is true and correct.
10

11
12 _____
13 John Lee
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