

File No. 110400

Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 7/7/11

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
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- Legislative Digest
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- Introduction Form (for hearings)
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- Grant Information Form
- Grant Budget
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- Contract/Agreement
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- Application
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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date 7/1/11

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Campaign and Governmental Conduct Code – Modifying Registration and Disclosure
2 Requirements for Campaign Consultants]

3 **Motion ordering submitted to the voters an ordinance amending Article I, Chapter 5 of**
4 **the Campaign and Governmental Conduct Code to modify registration and disclosure**
5 **requirements for campaign consultants at an election to be held on November 8, 2011.**

6
7 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
8 voters of the City and County of San Francisco, at an election to be held on November 8,
9 2011.

10
11 **Ordinance amending Article I, Chapter 5 of the Campaign and Governmental Conduct**
12 **Code to modify registration and disclosure requirements for campaign consultants.**

13
14 NOTE: Additions are single-underline italics Times New Roman;
15 deletions are ~~strike-through italics Times New Roman~~.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
18 amended to read as follows:

19 Sec. 1.500. – Findings.

20 (a) The City and County of San Francisco has a paramount interest in protecting the
21 integrity and credibility of its electoral and government institutions. Election campaigns are
22 highly competitive in San Francisco, and candidates frequently contract for the services of
23 professional campaign consultants who specialize in guiding and managing campaigns.

24 (b) Decisions by elected officials in the City and County of San Francisco should be based on
25 the best interests of the people and should be free from the influence of electoral politics. Campaign

SUPERVISOR WIENER
BOARD OF SUPERVISORS

1 consultants play an influential role in local elections, and may use that influence to affect policy
2 decisions of City officials. The regulation of campaign consultants protects the integrity of the City's
3 decision making processes by informing the public about who is managing campaigns and what role
4 those individuals have in decisions made by local elected officials.

5 (b~~c~~) It is the purpose and intent of the people of the City and County of San Francisco
6 in enacting this Chapter to impose reasonable registration and disclosure requirements on
7 campaign consultants. Required registration and disclosure of information by campaign
8 consultants will assist the public in making informed decisions, and protect public confidence
9 in the electoral and governmental processes.

10 (d) The important goals advanced by this Chapter will be best served if campaign consultants
11 are encouraged to comply with registration and disclosure requirements through a user-friendly filing
12 system, and interested members of the public can conveniently review those filings. The Ethics
13 Commission should have the discretion to implement an electronic filing system for registered
14 campaign consultants to achieve these ends.

15 Sec. 1.505. – Amendment or Repeal of Chapter.

16 The voters may amend or repeal this Chapter. The Board of Supervisors may amend this
17 Chapter if all of the following conditions are met:

18 (a) The amendment furthers the purposes of this Chapter;

19 (b) The Ethics Commission approves the proposed amendment in advance by at least a four-
20 fifths vote of all its members;

21 (c) The proposed amendment is available for public review at least 30 days before the
22 amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors;

23 and

24 (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of
25 all its members.

1 Sec. ~~1.5051.510~~. – Definitions.

2 Whenever used in this Chapter, the following definitions shall apply:

3 (a) "Campaign consultant" means any ~~person~~individual or entity that receives or is
4 promised economic consideration equaling \$~~15~~,000 or more ~~in a calendar year~~within the past
5 twelve months for campaign consulting services. The term "campaign consultant" includes any
6 ~~person~~individual or entity that subcontracts with a campaign consultant to provide campaign
7 consulting services, and that receives or is promised economic consideration equaling
8 \$~~15~~,000 or more ~~in a calendar year~~within the past twelve months for providing campaign
9 consulting services. The term "campaign consultant" does not include ~~persons who are~~
10 employees of a campaign consultant, attorneys who provide only legal services, accountants
11 who provide only accounting services, pollsters who provide only polling services, and
12 treasurers who provide only those services which are required of treasurers by the Political
13 Reform Act, California Government Code Section 81000, et seq.

14 (b) "Campaign consulting services" means participating in campaign management or
15 developing or participating in the development of campaign strategy.

16 (c) "Campaign management" means conducting, coordinating or supervising a
17 campaign to elect, defeat, retain or recall a candidate, or adopt or defeat a measure, including
18 but not limited to hiring or authorizing the hiring of campaign staff and consultants, spending
19 or authorizing the expenditure of campaign funds, directing, supervising or conducting the
20 solicitation of contributions to the campaign, and selecting or recommending vendors or
21 subvendors of goods or services for the campaign.

22 (d) "Campaign strategy" means plans for the election, defeat, retention or recall of a
23 candidate, or for the adoption or defeat of a measure, including but not limited to producing or
24 authorizing the production of campaign literature and print and broadcast advertising, seeking
25

1 endorsements of organizations or individuals, seeking ~~financing~~campaign contributions, or
2 advising on public policy positions.

3 (e) "Candidate" means ~~a person~~an individual who has taken affirmative action to seek
4 nomination or election to ~~local office~~City elective office, ~~a local officeholder~~an individual holding
5 City elective office who has taken affirmative action to seek nomination or election to any local,
6 state or federal elective office, or ~~a local officeholder~~an individual holding City elective office who is
7 the subject of a recall election.

8 (f) "City elective office" shall be defined as set forth in section 1.104 of this Code.

9 (fg) "Economic consideration" means any payments, fees, commissions,
10 ~~reimbursements for expenses,~~ gifts, or anything else of value ~~provided in exchange for campaign~~
11 ~~consulting services.~~

12 (g) ~~"Lobby" means communicate with a local officeholder for the purpose of influencing local~~
13 ~~legislative or administrative action in exchange for economic consideration.~~

14 (h) ~~"Lobbyist" is defined in Article II of this Code.*~~

15 (i) ~~"Local office" means the following elective offices in the City and County of San Francisco:~~
16 ~~Mayor, Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public~~
17 ~~Defender, Board of Education of the San Francisco Unified School District, and Governing Board of~~
18 ~~the San Francisco Community College District.~~

19 (jh) "Measure" means ~~a local referendum or local ballot measure, whether or not it qualifies~~
20 ~~for the ballot~~shall be defined as set forth in section 1.104 of this Code.

21 (ki) "Vendor" means ~~an person~~an individual or entity ~~who~~that sells goods or services, other
22 than campaign consulting services, including but not limited to printing, catering, and
23 transportation services. ~~The term "vendor" does not include attorneys who provide only legal~~
24 ~~services, accountants who provide only accounting services, pollsters who provide only polling~~
25

1 ~~services, and treasurers who provide only those services which are required of treasurers by the~~
2 ~~Political Reform Act, California Government Code Section 81000 et seq.~~

3 ~~Sec. 1.510.— Prohibitions.~~

4 ~~It shall be unlawful for any campaign consultant to provide campaign consulting services, or~~
5 ~~accept any economic consideration for the provision of campaign consulting services, without first~~
6 ~~registering with the Ethics Commission and complying with the reporting requirements specified in~~
7 ~~Section 1.515.~~

8 Sec. 1.515. – Registration Requirements, Reregistration Disclosures, Reporting, and Fees,
9 and Termination.

10 (a) REGISTRATION REPORTS REQUIREMENTS. Campaign consultants shall register with
11 the Ethics Commission and comply with the other requirements imposed by this Chapter. Such
12 registration shall occur no later than five business days of qualifying as a campaign consultant.

13 At the time of initial registration, each campaign consultant shall ~~report~~provide the
14 following information to the Ethics Commission ~~the following information~~:

15 (1) The name, business address, e-mail address, and business telephone number, and
16 website address, if any, of the campaign consultant;

17 (2) If the campaign consultant is an individual, the name of the campaign consultant's
18 employer and a description of the business activity engaged in by the employer;

19 (3) The names of any individuals employed by the campaign consultant to assist in
20 providing the provision of campaign consulting services;

21 (4) A statement of whether the campaign consultant or any employee of the campaign
22 consultant is required to register with the Ethics Commission as a lobbyist pursuant to the
23 Regulation of Lobbyists Ordinance, San Francisco Campaign and Governmental Conduct
24 Code, Article II;* and

1 (5) A statement of whether the campaign consultant is required to register with the Tax
2 Collector pursuant to the Business Tax Ordinance, San Francisco Municipal Code, Part III, Section
3 1001, et. seq.; Any other information required by the Ethics Commission consistent with the purposes
4 and provisions of this Chapter.

5 (b) CAMPAIGN CONSULTANT DISCLOSURES.

6 Campaign consultants shall submit disclosures regarding their activities on a monthly basis.
7 No later than the fifteenth calendar day of each month, each campaign consultant shall submit the
8 following information for the previous month.

9 (61) The name, and business address, e-mail address and telephone number of each
10 client to whom the campaign consultant provided campaign consulting services during the
11 preceding three months reporting period, and the date on which the client retained the campaign
12 consultant;

13 (72) For each client, the total economic consideration promised by or received from the
14 client in exchange for the provision of campaign consulting services during the preceding three
15 months, provided that the total is \$500 or more reporting period;

16 (3) For each client, a list of the responsibilities that the campaign consultant will perform for
17 the client;

18 (4) The name of each client who terminated the services of the campaign consultant during the
19 reporting period and the date on which the client terminated the consultant's services;

20 (85) Each political campaign contribution of \$100 or more made or delivered by the
21 campaign consultant, or made by a client at the behest of the campaign consultant, or for
22 which the campaign consultant acted as an agent or intermediary, during the preceding three months
23 in support of or in opposition to a candidate or measure during the reporting period to a person
24 holding City elective office, a candidate for such office, a committee controlled by such officer or
25 candidate, or a committee primarily formed to support or oppose a local ballot measure;

1 The following information regarding each campaign contribution shall be submitted to the
2 Ethics Commission:

3 (A) The amount of the contribution;

4 (B) The name of the contributor;

5 (C) The date on which the contribution was made;

6 (D) The contributor's occupation;

7 (E) The contributor's employer, or if self-employed, the name of the contributor's business; and

8 (F) The committee to which the contribution was made.

9 (6) Economic consideration promised to or received by the campaign consultant during the
10 reporting period from vendors and subvendors who provided campaign-related goods or services to a
11 current client of the campaign consultant;

12 (7) The name of each City employee or City elective officer who is employed by the campaign
13 consultant, or by a client of the campaign consultant at the behest of the campaign consultant, during
14 the reporting period;

15 (8) Each City contract obtained by the campaign consultant during the reporting period,
16 provided that the contract is approved by a City elective officer who is a client of the campaign
17 consultant;

18 (9) Each appointment to public office received by the campaign consultant during the reporting
19 period, provided that the appointment is made by a City elective officer who is a client of the campaign
20 consultant;

21 (9) The cumulative total of all political contributions made or delivered by the campaign
22 consultant, or which is made by a client at the behest of the campaign consultant, or for which the
23 campaign consultant acted as an agent or intermediary, during the preceding three months in support
24 of or in opposition to each individual candidate or measure, provided that the cumulative total is \$500
25 or more;

1 ~~(10) Any gifts promised or made by the campaign consultant to a local officeholder during the~~
2 ~~preceding three months which in the aggregate total \$50 or more; and~~

3 ~~(10) Any amendments to the campaign consultant's registration information as required by~~
4 ~~Subsection (a); and~~

5 ~~(1011) Any other information required by the Ethics Commission consistent with the~~
6 ~~purposes and provisions of this Chapter.~~

7 ~~(b) REREGISTRATION REPORTS. Each campaign consultant shall reregister annually no~~
8 ~~later January 1st.~~

9 ~~(c) INITIAL DISCLOSURE REPORT. At the time of the first disclosure report submitted~~
10 ~~following the campaign consultant's registration, the reporting period for Subsections (b)(1)-(b)(4)~~
11 ~~shall be the preceding twelve months.~~

12 ~~(ed) FEES. At the time of initial registration and reregistration each subsequent calendar~~
13 ~~year on or before February 1, each campaign consultant shall pay to the Ethics Commission a~~
14 ~~registration fee and an additional fee for each client of the campaign consultant. The amount of the~~
15 ~~fee shall be: Campaign consultants earning no more than \$10,000 in a twelve-month period shall pay~~
16 ~~a registration fee of \$200. Campaign consultants earning more than \$10,000 in a twelve-month period~~
17 ~~shall pay a registration fee of \$500. Registration shall not be complete until the Ethics Commission~~
18 ~~has received full payment of the fee.~~

19 ~~(i) Campaign consultants earning at least \$1,000 but not more than \$5,000 per calendar year~~
20 ~~shall pay a registration fee of \$50 and shall pay a client fee of \$50 per client;~~

21 ~~(ii) Campaign consultants earning more than \$5,000 but not more than \$20,000 per calendar~~
22 ~~year shall pay a registration fee of \$200 and a client fee of \$50 per client;~~

23 ~~(iii) Campaign consultants earning more than \$20,000 per calendar year shall pay a~~
24 ~~registration fee of \$400 and a client fee of \$50 per client.~~

1 ~~When a client is acquired subsequent to initial registration or reregistration, the per client fee~~
2 ~~shall be paid at the time of filing the information required by Subsection (d). The Ethics Commission~~
3 ~~shall deposit fees collected pursuant to this Section in the General Fund of the City and County of San~~
4 ~~Francisco. On or after July 1, 1999, the Ethics Commission shall evaluate the fees set by this Section~~
5 ~~and propose any amendments for approval by the Board of Supervisors no later than December 1,~~
6 ~~1999. If the Ethics Commission or the Board of Supervisors takes no action, the fees set by this Section~~
7 ~~shall remain in effect.~~

8 ~~(d) CLIENT AUTHORIZATION STATEMENTS. At the time of initial registration, the~~
9 ~~campaign consultant shall submit to the Ethics Commission a written authorization from each client~~
10 ~~that contracts with the campaign consultant for campaign consulting services.~~

11 ~~If the campaign consultant is retained by a client after the date of initial registration, the~~
12 ~~campaign consultant must file a Client Authorization Statement before providing any campaign~~
13 ~~consulting services to the client and before receiving any economic consideration from the client in~~
14 ~~exchange for campaign consulting services, and in any event no later than 15 days after being retained~~
15 ~~to provide campaign consulting services to the client.~~

16 ~~(e) QUARTERLY REPORTS. Each campaign consultant shall file with the Ethics Commission~~
17 ~~quarterly reports containing the following information:~~

18 ~~(1) For each client, the total economic consideration promised by or received from the client~~
19 ~~during the reporting period for campaign consulting services, provided that the total is \$500 or more;~~

20 ~~(2) The total economic consideration promised by or received from all clients during the~~
21 ~~reporting period for campaign consulting services;~~

22 ~~(3) Political contributions of \$100 or more made or delivered by the campaign consultant, or~~
23 ~~made by a client at the behest of the campaign consultant, or for which the campaign consultant acted~~
24 ~~as an agent or intermediary, during the reporting period in support of or in opposition to a candidate~~
25 ~~or measure;~~

1 ~~(4) The cumulative total of all political contributions made or delivered by the campaign~~
2 ~~consultant, or made by a client at the behest of the campaign consultant, or for which the campaign~~
3 ~~consultant acted as an agent or intermediary, during the reporting period in support of or in opposition~~
4 ~~to each individual candidate or measure, provided that the cumulative total is \$500 or more;~~

5 ~~(5) Any gifts promised or made by the campaign consultant to a local officeholder during the~~
6 ~~reporting period which in the aggregate total \$50 or more;~~

7 ~~(6) Economic consideration promised to or received by the campaign consultant during the~~
8 ~~reporting period from vendors and subvendors who provided campaign-related goods or services to a~~
9 ~~current client of the campaign consultant;~~

10 ~~(7) The name of each local officeholder and City employee who is employed by the campaign~~
11 ~~consultant, or by a client of the campaign consultant at the behest of the campaign consultant, during~~
12 ~~the reporting period;~~

13 ~~(8) Each City contract obtained by the campaign consultant during the reporting period,~~
14 ~~provided that the contract is approved by a local officeholder who is a client of the campaign~~
15 ~~consultant;~~

16 ~~(9) Each appointment to public office received by the campaign consultant during the reporting~~
17 ~~period, provided that the appointment is made by a local office holder who is a client of the campaign~~
18 ~~consultant;~~

19 ~~(10) Any other information required by the Ethics Commission consistent with the purposes~~
20 ~~and provisions of this Chapter.~~

21 ~~Quarterly reports are due as follows: The report for the period starting December 1st and~~
22 ~~ending February 28th is due March 15th; the report for the period starting March 1st and ending May~~
23 ~~31st is due June 15th; the report for the period starting June 1st and ending August 31st is due~~
24 ~~September 15th; and the report for the period starting September 1st and ending November 30th is due~~
25 ~~December 15th.~~

1 ~~(f) CLIENT TERMINATION STATEMENTS. Within 30 days after a client terminates the~~
2 ~~services of a campaign consultant, the campaign consultant shall submit to the Ethics Commission a~~
3 ~~statement that the client has terminated the services of the campaign consultant. A campaign~~
4 ~~consultant may not provide campaign consulting services to a client or accept economic consideration~~
5 ~~for the provision of campaign consulting services after a client termination statement is filed, until a~~
6 ~~new client authorization statement has been filed pursuant to Section 1.515(d).~~

7 ~~(g) CAMPAIGN CONSULTANT TERMINATION STATEMENTS. A campaign consultant shall~~
8 ~~comply with all requirements of this Chapter until the campaign consultant ceases all activity as a~~
9 ~~campaign consultant and files a statement of termination with the Ethics Commission. A statement of~~
10 ~~termination must include all information required by Subsection (e) for the period since the campaign~~
11 ~~consultant's last quarterly report.~~

12 ~~(h) Each campaign consultant shall verify, under penalty of perjury, the accuracy and~~
13 ~~completeness of the information provided under Sections 1.515 and 1.520(e).~~

14 ~~(i) Each campaign consultant shall retain for a period of five years all books, papers and~~
15 ~~documents necessary to substantiate the reports and statements required under this Chapter.~~

16 (e) TERMINATION OF REGISTRATION.

17 (1) Failure to pay the annual registration fee by February 1 shall constitute termination of the
18 campaign consultant's registration with the Ethics Commission.

19 (2) The Ethics Commission may establish additional processes for the termination of a
20 campaign consultant's registration consistent with the purposes and provisions of this Chapter.

21 Sec. 1.520. – FILING UNDER PENALTY OF PERJURY; DOCUMENT RETENTION; AUDITS.

22 (a) All information required by this Chapter shall be submitted in a format designated by the
23 Ethics Commission. The campaign consultant shall verify, under penalty of perjury, the accuracy and
24 completeness of the information provided under this Chapter.

1 (b) Each campaign consultant shall retain for a period of five years all books, papers and
2 documents necessary to substantiate the information included in the registration and disclosure reports
3 required by this Chapter. This includes, but is not limited to, invoices and written contracts between
4 the campaign consultant and all clients.

5 (c) At the Executive Director's discretion, the Ethics Commission may perform audits of
6 registration and disclosure reports filed by campaign consultants under this Chapter. The Ethics
7 Commission, including its Executive Director, may issue subpoenas in furtherance of its duties under
8 this section.

9 Sec. 1.525. – PROHIBITIONS.

10 (a) GENERAL RULE. It shall be unlawful for any campaign consultant to provide campaign
11 consulting services, or to accept any economic consideration for the provision of campaign consulting
12 services, without first registering with the Ethics Commission, paying the annual fee, and complying
13 with the reporting requirements specified in section 1.510.

14 (b) EVASION OF OBLIGATIONS. No campaign consultant shall attempt to evade the
15 obligations imposed by this Chapter through the use of agents, associates or employees.

16 Sec. 1.530. – TRAINING.

17 Each campaign consultant must complete a campaign consultant training session offered by the
18 Ethics Commission within 60 days of the campaign consultant's initial registration. Thereafter,
19 campaign consultants shall complete additional training sessions as required by the Executive
20 Director, at his or her discretion. The Executive Director shall report any such additional training
21 sessions to the Ethics Commission.

22 Sec. 1.520/1.535. – POWERS AND DUTIES OF THE ETHICS COMMISSION.

23 (a) The Ethics Commission shall provide forms for the reporting of
24 prescribe the format for
25 the submission of all information required by this Chapter.

1 ~~(b) The Ethics Commission shall issue a registration number to each registered campaign~~
2 ~~consultant.~~

3 ~~(c) At the time of initial registration and reregistration, the Ethics Commission shall provide~~
4 ~~the campaign consultant with a copy of the City's campaign and lobbyist laws, the Code of Conduct~~
5 ~~specified in Section 1.530, and any related material which the Commission determines will serve the~~
6 ~~purposes of this Chapter. Each campaign consultant must sign a statement acknowledging receipt of~~
7 ~~these materials.~~

8 (db) The Ethics Commission shall compile the information provided in registration and
9 ~~quarterly~~ reports filed pursuant to this Chapter as soon as practicable ~~after the close of each~~
10 ~~quarter and shall forward a report of the compiled information to the Board of Supervisors and the~~
11 ~~Mayor and make such information available on its website.~~

12 (ec) The Ethics Commission shall preserve all original reports, statements, and other
13 records required to be kept or filed under this Chapter for a period of five years. Such reports,
14 statements, and records shall constitute a part of the public records of the Ethics Commission
15 and shall be open to public inspection.

16 (fd) The Ethics Commission shall provide formal and informal advice regarding the
17 duties under this Chapter of an person individual or entity pursuant to the procedures specified
18 in San Francisco; Charter Section C3.699-12.

19 (ge) The Ethics Commission shall have the power to adopt all reasonable and
20 necessary rules and regulations for the implementation of this Chapter pursuant to the
21 procedure specified in San Francisco Charter Section 15.102.*

22 (f) At least once a year, the Ethics Commission shall provide a workshop or training session
23 concerning this Chapter.

24 Sec. ~~1.525~~1.540. - ADMINISTRATIVE AND CIVIL ENFORCEMENT, AND PENALTIES.
25

1 (a) LATE FINES. If any campaign consultant ~~files an original statement or report after any~~
2 ~~deadline imposed~~ fails to submit any information required by this Chapter, the Ethics Commission
3 shall, in addition to any other penalties or remedies established in this Chapter, ~~fine the~~
4 ~~campaign consultant~~ impose a late filing fee of \$50 per day after the deadline until the ~~statement or~~
5 ~~report information~~ is received by the Ethics Commission. ~~If any campaign consultant files an~~
6 ~~original statement or report after any deadline imposed by this Chapter, when the deadline is fewer~~
7 ~~than 30 days before or after an election, the Ethics Commission shall, in addition to any other penalties~~
8 ~~or remedies established in this Chapter, fine the campaign consultant \$100 per day after the deadline~~
9 ~~until the statement or report is received by the Ethics Commission.~~ The Ethics Commission may
10 reduce or waive a fine if the Ethics Commission determines that the late filing was not willful
11 and that enforcement will not further the purposes of this Chapter. ~~The Ethics Commission shall~~
12 ~~deposit funds collected under this Section in the General Fund of the City and County of San~~
13 ~~Francisco.~~

14 (b) ENFORCEMENT PROCEEDINGS. Any person who believes that Section 1.510 ~~this~~
15 Chapter has been violated may file a complaint with the Ethics Commission. Upon receipt of a
16 complaint, or upon its own initiative, the Ethics Commission may investigate allegations of a
17 violation of Section 1.510 ~~this Chapter~~ and enforce the provisions of Section 1.510 ~~this Chapter~~
18 pursuant to the procedures established in San Francisco Charter Section C3.699-13, and the
19 Ethics Commission's ~~rules and~~ Regulations for Investigations and Enforcement Proceedings
20 adopted pursuant to San Francisco Charter Section 15.102.*

21 (c) ADMINISTRATIVE PENALTIES. When the Ethics Commission, pursuant to the
22 procedures specified in San Francisco Charter Section C3.699-13 and the Ethics Commission's
23 Regulations for Investigations and Enforcement Proceedings, determines ~~on the basis of substantial~~
24 ~~on a preponderance of the~~ evidence that ~~an~~ person ~~individual~~ or entity has intentionally or
25 negligently violated Section 1.510 ~~this Chapter~~, the Commission may require the ~~person~~ individual

1 or entity to: (1) cease and desist the violation; (2) ~~file any reports or statements or pay any~~
2 ~~fees~~ submit any information required by this Chapter, and/or (3) pay a monetary penalty of up to
3 \$5,000 for each violation, or three times the amount not properly reported, whichever is
4 greater. The Commission may cancel for up to one year the registration of any campaign
5 consultant who has violated Section 1.510. A campaign consultant whose registration has
6 been canceled pursuant to this Section may not provide campaign consulting services in
7 exchange for economic consideration for the period that the registration is canceled. When
8 the period of cancellation ends, the campaign consultant may reregister pursuant to Section
9 1.515(a) and (c). In addition to the administrative penalties set forth in this Section, the Ethics
10 Commission may issue warning letters regarding violations and potential violations of this Chapter.

11 (d) CIVIL PENALTIES. Any ~~person~~ individual or entity ~~which knowingly that intentionally~~ or
12 negligently violates ~~or who causes any other person to violate Section 1.510~~ this Chapter may be
13 liable in a civil action brought by the City Attorney for an amount up to \$5,000 per violation, or
14 three times the amount not properly reported, whichever is greater.

15 (e) ~~Any person or entity which intentionally or negligently violates Section 1.510 is guilty of a~~
16 ~~misdemeanor.~~

17 (e) JOINT AND SEVERAL LIABILITY. Should two or more individuals or entities be
18 responsible for any violation under this Chapter, they shall be jointly and severally liable.

19 (f) LIMITATIONS PERIOD FOR CIVIL AND ADMINISTRATIVE ENFORCEMENT. No
20 administrative, ~~or civil, or criminal~~ action shall be maintained to enforce ~~Section 1.510~~ this
21 Chapter unless ~~brought~~ commenced within four years after the date the cause of action accrued
22 or the date that the facts constituting the cause of action were discovered by the Ethics
23 Commission, ~~or City Attorney, or District Attorney,~~ whichever is later. For the purposes of this
24 section, an administrative action is commenced on the date on which the Ethics Commission serves a
25

1 probable cause report on the respondent pursuant to the Ethics Commission's Regulations for
2 Investigations and Enforcement Proceedings.

3 (g) LIMITATIONS PERIOD FOR COLLECTION OF FINES AND PENALTIES. A civil action
4 brought to collect fines or penalties imposed under this Chapter shall be commenced within four years
5 after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine
6 or penalty is imposed when a court or administrative agency has issued a final decision in an
7 enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director
8 has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter.
9 The Executive Director does not make a final decision regarding the amount of a late fine imposed
10 under this Chapter until the Executive Director has made a determination to accept or not accept any
11 request to waive a late fine where such waiver is expressly authorized by this Chapter or a regulation
12 adopted thereunder.

13 (gh) In investigating any alleged violation of ~~Section 1.510~~this Chapter, the Ethics
14 Commission, including its Executive Director, and City Attorney shall have the power to inspect,
15 upon reasonable notice, all documents required to be maintained under ~~Section 1.515(i)~~this
16 Chapter. This power to inspect documents is in addition to other powers conferred on the
17 Ethics Commission and City Attorney by the Charter, or by ordinance, including the power of
18 subpoena.

19 ~~SEC. 1.540. ELECTRONIC FILING OF STATEMENTS AND REPORTS.~~

20 ~~(a) ELECTRONIC FILLING REQUIRED. Whenever campaign consultants are required by~~
21 ~~this Chapter to file an original statement or report, the Ethics Commission may require the consultants~~
22 ~~to file an electronic copy of the statement or report. The electronic copy shall be due no later than the~~
23 ~~deadline imposed by this Chapter for filing the original statement or report.~~

24 ~~(b) POWERS AND DUTIES OF THE ETHICS COMMISSION.~~

1 ~~(i) Pursuant to San Francisco Charter Section 15.102, the Ethics Commission shall adopt~~
2 ~~regulations specifying the electronic filing requirements applicable to campaign consultants. The~~
3 ~~Ethics Commission shall adopt these regulations no fewer than 120 days before the electronic filing~~
4 ~~requirements are effective.~~

5 ~~(ii) The Ethics Commission shall prescribe the format for electronic copies of statements and~~
6 ~~reports no fewer than 90 days before the statements and reports are due to be filed.~~

7 ~~(c) PENALTIES. If any campaign consultant files an electronic copy of a statement or report~~
8 ~~after the deadline imposed by this Section, the Ethics Commission shall, in addition to any other~~
9 ~~penalties or remedies established in this Chapter, fine the campaign consultant \$10 per day after the~~
10 ~~deadline until the electronic copy is received by the Ethics Commission. The Ethics Commission may~~
11 ~~reduce or waive a fine if the Commission determines that the late filing was not willful and that~~
12 ~~enforcement will not further the purposes of this Chapter. The Ethics Commission shall deposit funds~~
13 ~~collected under this Section in the General Fund of the City and County of San Francisco.~~

14 SEC. 1.545. - PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS
15 COMMISSION; WITHHOLDING OF INFORMATION.

16 Any individual or entity that knowingly or willfully furnishes false or fraudulent evidence,
17 documents, or information to the Ethics Commission under this Chapter, or misrepresents any material
18 fact, or conceals any evidence, documents, or information, or fails to furnish to the Ethics Commission
19 any records, documents, or other information required to be provided under this Chapter shall be
20 subject to the penalties provided in Section 1.540.

21 SEC. 1.550. - DEPOSIT OF FUNDS.

22 The Ethics Commission shall deposit all funds collected under this Chapter, including payments
23 for registration fees, late fines, and administrative penalties, in the General Fund of the City and
24 County of San Francisco.

25 SEC. 1.5301.555. - CODE OF CONDUCT.

1 At the time of initial registration and ~~reregistration~~ annually thereafter no later than February
2 1, each campaign consultant must elect whether to voluntarily comply with the following Code
3 of Conduct:

4 "I am familiar with all the laws, rules and regulations applicable to local campaigns;

5 "I will not knowingly make false statements about the qualifications or positions of any
6 candidate, or about the scope and effect of any measure;

7 "I will not knowingly make false statements that any real or fictitious person supports or
8 opposes a candidate or measure;

9 "In the event that I make inadvertent false statements about the qualifications or
10 positions of any candidate or about the scope and effect of any measure, I will endeavor to
11 provide corrected information in written form to the Ethics Commission within five days;

12 "I will refrain from appealing to prejudice in the conduct of a campaign, and from
13 conducting, managing or advising a campaign, which appeals to prejudice based on race,
14 gender, ethnic background, religious affiliation or nonaffiliation, sexual orientation, age,
15 disability, or economic status;

16 "I will refrain from seeking to obtain the support of or opposition to any candidate or
17 measure by the use of financial inducements or by the use of threats or coercion;

18 "I will refrain from influencing the submission of a measure to the San Francisco voters
19 for the sole purpose of obtaining economic consideration for campaign consulting services;

20 "I will disclose through a filing at the San Francisco Ethics Commission any
21 agreements that would result in a campaign consulting contract resulting from my efforts to
22 influence the submission of a measure to the San Francisco voters at the time that I seek
23 submission of any such measure;

24 "I will refrain from seeking to evade, or participating in efforts of others to evade, the
25 legal requirements in laws pertaining to political campaigns;

1 "I will not knowingly participate in the preparation, dissemination, or broadcast of paid
2 political advertising or campaign materials that contain false information; and

3 "I will refrain from accepting clients whose interests are adverse to each other."

4 SEC. ~~1.535~~1.560. - SEVERABILITY.

5 ~~If any Section, subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or~~
6 ~~the application thereof to any person or entity is for any reason held to be invalid or unconstitutional~~
7 ~~by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the~~
8 ~~remaining portions of this Chapter or its application to other persons, business entities, or~~
9 ~~organizations. The Board of Supervisors hereby declares that it would have adopted this Chapter, and~~
10 ~~each Section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the~~
11 ~~fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions,~~
12 ~~or the application thereof to any person or entity, to be declared invalid or unconstitutional.~~

13 If any provision of this Chapter, or the application thereof to any person or circumstance, is
14 held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to
15 other persons and circumstances shall not be affected thereby.

16 SEC. ~~1.545~~1.565. - CONSTRUCTION WITH OTHER LAWS.

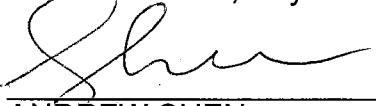
17 Lobbying by campaign consultants and employees of campaign consultants is
18 governed by the applicable provisions of Article II, Chapter 1 of this Code, including Section
19 2.117, which ~~prohibits campaign consultants and employees of campaign consultants from~~
20 ~~communicating with current and former clients on behalf of another person or entity for the purpose of~~
21 ~~influencing local legislative or administrative action in exchange for economic~~
22 ~~considerations~~specifically regulates lobbying by campaign consultants.

23 Section 2. The operative date of this ordinance shall be January 1, 2013, unless the
24 Ethics Commission approves a resolution establishing a later operative date for the ordinance.
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The Ethics Commission shall not establish an operative date for the ordinance less than 60 days from the date of the resolution's adoption.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 

ANDREW SHEN
Deputy City Attorney

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code – Modifying Registration and Disclosure Requirements for Campaign Consultants]

Ordinance amending Article I, Chapter 5 of the Campaign and Governmental Conduct Code to modify registration and disclosure requirements for campaign consultants.

Existing Law

The City's Campaign Consultant Ordinance (hereinafter the "Ordinance"), adopted by the voters in 1997, consists of the following substantive provisions:

1. Findings. Section 1.500 makes findings concerning the role that campaign consultants play in San Francisco elections, and the voters' desire to impose reasonable registration and disclosure requirements regarding their activities.
2. Definitions. Section 1.505 defines various terms used in the Ordinance. It defines "campaign consultant" as any person or entity that earns \$1,000 or more in a calendar year for campaign consulting services.
3. Registration, Reporting, and Fees. Section 1.515 enacts the following:
 - a. Registration. Upon initial registration with the Ethics Commission, campaign consultants must disclose certain information such as their contact information, their employers and/or employees, their clients, their fees, campaign contributions made by them or their clients, and gifts provided to officeholders.
 - b. Reporting. Campaign consultants must file quarterly reports that disclose their compensation, their campaign contributions, gifts they have provided to officeholders, City contracts that they have obtained, and whether they have been appointed to any public office. They must also provide the Ethics Commission with copies of client authorization and client termination statements.
 - c. Fees. The Ordinance establishes a sliding-scale for fees. Campaign consultants earning between \$1,000 and \$5,000 per calendar year must pay \$50, those earning between \$5,000 and \$20,000 must pay \$200, and those earning more than \$20,000 must pay \$400. All campaign consultants must also pay an additional fee of \$50 per client.

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4. The Ethics Commission's Duties. Section 1.520 establishes that the Ethics Commission must: (a) provide campaign consultants with the required forms, registration numbers, copies of pertinent ethics laws; (b) compile the disclosures filed by consultants and provide the Board of Supervisors ("Board") and the Mayor with a report summarizing that information; (c) maintain copies of these disclosures and reports; (d) provide advice regarding the Ordinance; and (e) adopt regulations implementing the Ordinance's provisions.
5. Enforcement and Penalties. Section 1.525 authorizes the Ethics Commission to impose fines if campaign consultants do not file required reports or statements on a timely basis, and to enforce the Ordinance by imposing penalties for violations. The Ordinance permits three City agencies to enforce its provisions: the City Attorney, the District Attorney, and the Ethics Commission.
6. Electronic Filing. All statements and disclosures must be submitted in hard copy form, but the Ordinance allows the Ethics Commission to require electronic copies as well.

Amendments to Current Law

1. Findings. The proposed amendments would add two findings. The first addresses the potential influence of campaign consultants over decisions made by elected officials. The second explains the advantages of electronic filing for those regulated by the Ordinance and members of the public seeking information about their activities.
2. Future Amendments. Proposed section 1.505 would permit the Board to make later amendments to the Ordinance, without voter approval, if the amendments further the purposes of the Ordinance, the Ethics Commission approves the amendments by a four-fifths vote of its members, and the Board approves them by a two-thirds vote. This is identical to provisions set forth in the voter-approved Campaign Finance Reform Ordinance and Government Ethics Ordinance.
3. Definitions. The proposal amends the definitions of several terms in the Ordinance. It also amends the definition of "campaign consultant" to mean an individual or entity that earns at least \$5,000 in compensation for campaign consulting services within the past twelve months.
4. Registration, Reporting, and Fees. The proposal makes several changes to these provisions.
 - a. Registration. The amendments clarify that registration is required within five business days of an individual or entity qualifying as a campaign consultant and modifies the information that must be disclosed upon registration.

- b. Reporting. The proposal would require that campaign consultants file disclosures on a monthly, instead of quarterly, basis. It would also clarify reporting requirements for campaign contributions and eliminate unnecessary reporting of gifts.
 - c. Fees. The proposed amendments establish a different sliding-scale for fees. Campaign consultants earning up to \$10,000 in a twelve-month period would pay a \$200 fee, and those earning more than \$10,000 would pay a \$500 fee. Additional client fees would no longer be required.
5. Filing under Penalty of Perjury, Document Retention, and Audits. Proposed section 1.520 would require campaign consultants to provide any information required by the Ordinance under penalty of perjury and to retain all documents necessary to substantiate that information for five years. It would also authorize the Ethics Commission to audit campaign consultants and issue subpoenas.
 6. Training. Proposed section 1.530 would require campaign consultants to complete a training session within sixty days of registration and additional training sessions, as required by the Executive Director.
 7. The Ethics Commission's Duties. The amendments would authorize the Ethics Commission to prescribe the format of all submissions under the Ordinance, including requiring electronic filing of all required information. Also, instead of providing reports to the Board and the Mayor regarding campaign consultants' activities, the amendments would require the Ethics Commission to post such information on its website. The amendments would also require the Ethics Commission to provide a workshop or training session at least once a year.
 8. Enforcement and Penalties. The amendments propose several changes, such as clarifying the evidentiary and intent standards required to establish violations of the Ordinance and establishing joint and several liability. Mirroring the City's Lobbyist Ordinance, the Ordinance designates the City Attorney and the Ethics Commission - not the District Attorney - as the agencies with the responsibility of enforcing its provisions.
 9. Provision of False or Misleading, or Withholding of, Information. Proposed section 1.545 would make it unlawful for any individual or entity to knowingly or willfully furnish false or inaccurate information or refuse to provide information required by the Ordinance.
 10. Operative Date: The amendments provide that the operative date of the ordinance will be January 1, 2013, unless the Ethics Commission approves a resolution establishing a later date. The Ethics Commission may not establish an operative date for the Ordinance less than 60 days from the date of the resolution's adoption.

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Background Information

The voters enacted the Ordinance via Proposition G on the November 4, 1997 ballot. The voters have not amended the Ordinance since its adoption.