

**Administrative Hearing To Determine Whether Jason Somers
Violated the Beverly Hills Municipal Code, Section 1-9-101 Et Seq.**

Robert Klepa, Hearing Officer

Hearing Scheduled for October 2, 2019

STIPULATION AND ORDER

Jason Somers ("Somers") and the City of Beverly Hills (the "City") hereby agree to resolve the above referenced matter in accordance with the following terms and conditions, subject to the approval of the hearing officer, Robert Klepa (the "Hearing Officer"):

Applicable Law:

The City has enacted the Beverly Hills Municipal Legislative Advocacy Ordinance (the "Ordinance") for the purpose of governing the registration and activities of persons performing lobbyist services in the City. See Article 1, Section 1-9 of the Beverly Hills Municipal Code ("BHMC"), a copy of which is attached hereto as Exhibit 1.¹

In accordance with the Ordinance, as amended, paid legislative lobbyists were required to register with the City by submitting an official City form. The registration form, among other things, required the following information:

"Have you ever been sanctioned for a violation of the of the Beverly Hills Legislative Advocacy Ordinance or a violation of any law, regulation or ordinance of another jurisdiction governing Legislative Advocacy or lobbying?"

And,

"Has a firm at which you work, has (sic) worked, or for which (sic) you own or has (sic) owned an equity interest been sanctioned for a violation of the Beverly Hills Legislative Advocacy Ordinance or a violation of any law, regulation or ordinance of another jurisdiction governing Legislative Advocacy or lobbying?"

A person who is found to have knowingly and willfully violated any provision of the ordinance may be assessed an administrative penalty not to exceed five hundred dollars (\$500.00) per violation.

¹ The ordinance was amended on February 8, 2018 and the amended ordinance became effective February 18, 2018.

Additionally, the City Prosecutor was delegated the authority to investigate any charge that a person has knowingly and willfully violated this article. If the City Prosecutor makes a finding that there is probable cause to believe that a violation occurred, a Hearing Officer shall be retained, and an administrative hearing shall be conducted to determine if the violations for which the City Prosecutor found probable cause occurred.

If, after conducting a hearing pursuant to this section, a Hearing Officer determines that the legislative advocate has knowingly, willfully and materially violated the provisions of this article, then for the first violation of this article, the Hearing Officer shall prohibit the legislative advocate from engaging in legislative advocacy for a minimum period of six (6) months. Additionally, the City's website, for a period of one year, shall indicate that the legislative advocate has violated the City's regulations governing legislative advocacy. This would be in addition to a fine of \$500.²

Statement of Facts:

On February 23, 2018, Jason Somers filed Legislative Advocate Registration forms for activities related to projects located at the following locations:

1184 -1193 Loma Linda Drive	(First Alleged Violation) ³
1129 Miradero Road	(Fifth Alleged Violation)
385 Trousdale	(Nineteenth and Twenty-First Alleged Violation)
332 S. Oakhurst	(Twenty-Third Alleged Violation)
1157 N. Hillcrest	(Twenty-Fifth Alleged Violation)

In each of these forms, Somers answered "No" to each of the questions that requested disclosure of any prior sanctions being assessed under the City's Ordinance or any other similar ordinance in any other jurisdiction. Copies of these registration forms are attached hereto as Exhibits 2, 3, 4, 5 and 6, respectively.

In fact, on January 21, 2017, the Los Angeles Ethics Commission ordered Somers to pay a fine of \$15,000 in accordance with the terms of the stipulation between Somers and the City of Los Angeles. In the stipulations, Somers admits that he violated the Los Angeles Municipal Lobbying ordinance by failing to register as a lobbyist and by not fully and accurately disclosing his lobbying activities within the City. Concurrently, with the order against Somers, the Los Angeles Ethics Commission ordered Crest Realty also to pay a fine of \$15,000 for violating the Los Angeles Municipal Lobbyist ordinance based upon a separate stipulation with that entity and its admission it had failed to register and failed to properly report its activities. Copies of Somers and Crest Realty stipulations and orders are attached hereto as Exhibits 7 and 8, respectively.

² This fine is a civil penalty prescribed by the BHMC and is an additional ²⁰to the administrative penalty of suspension from performing lobbyist activities as defined in the BHMC.

³ Reference is made to the number designation of the specific alleged violation as set forth in the City Prosecutor's Report of August 2018 (Exhibit 9 to this stipulation)

Complaints were received by the City of Beverly Hills on February 25, 2018 alleging that Jason Somers violated the City's Compensated Legislative Advocates ordinance as set forth in Article 1, Section 1-9-101, et seq., of the Beverly Hills Municipal Code. These complaints asserted, among other things, that Somers and his company, Crest Realty, failed to disclose that they were sanctioned by the City of Los Angeles on their registration forms filed prior to March 2018.

On March 2, 2018 Crest and Somers amended their registration forms by filing new forms for each of the projects referenced above. In these amended forms, in lieu of the "No" answers previously given, Crest and Somers stated:

"Yes: Crest Real Estate was cited for failure to report lobbying activities to the City of Los Angeles for quarters 3/4 of 2015 and quarters 1/2 of 2016. The firm reached an agreement with the City, paid all fines, registered appropriate projects and has been reporting lobbying activity quarterly"

However, no mention or disclosure in these forms was made that Jason Somers had been personally sanctioned, nor provided any details regarding the sanctions against him by the City of Los Angeles. Therefore, Somers has willfully, knowingly and materially made misstatements in each of the registration forms he filed with the City for the above referenced projects.

These complaints against Somers were referred to the City Prosecutor for review and evaluation in accordance with BHMC Section 1-9-107. On August 20, 2018, the City Prosecutor issued his report finding that there was probable cause to proceed with a formal administrative hearing to determine whether Somers violated Chapter 9, title 2 of the BHMC. A copy of the report is attached as exhibit 9. The matter was then set for an administrative hearing on August 14, 2019. At the request of Somers, the hearing was rescheduled for October 2, 2019.

Stipulated Resolution

Somers having been presented with the allegations of violating the Lobbyist Ordinance, having been presented with the information supporting the allegations, having been given the opportunity to have a hearing before the Hearing Officer, which has been duly noticed for October 2, 2019, and wishing to accept responsibility and acknowledge the impropriety of his conduct and with the intent of demonstrating his commitment to comply with the Ordinance, Somers hereby agrees that the allegations are true and that the Hearing Officer shall impose sanctions as follows:

1. Somers will be suspended for a period of six (6) months from acting as a legislative lobbyist as defined by the BHMC in the City of Beverly Hills. He may not conduct any activities for which a registration is required. The suspension period shall commence on the date that the Hearing Officer issues his order, as set forth below.

2. Somers shall pay a fine of \$500.00 to the City of Beverly Hills within ten (10) days from the date that the Hearing Officer issues his order, as set forth below.
3. The City of Beverly Hills website shall reflect that Somers has been suspended and the basis for that suspension for a period of one year from the date that the Hearing Officer issues his order, as set forth below.
4. In exchange for Somers admissions and agreement to take responsibility for his actions, the charges shall be treated as a single event requiring only one suspension for 6 months. Good cause exists for treatment of the violations as a single violation in that all of the violations occurred at or about the same time during the initial period following implementation of the Ordinance. The registration filings were, in reality, part of single effort to file multiple registration forms.

In the future, Somers acknowledges and understands that each and every registration form or other act in violation of the Ordinance shall be treated as a separate and distinct violation.

Somers hereby waives each and all of the following:

1. Any right challenge the procedures set out in the Ordinance or the manner in which this Administrative hearing was noticed, or the procedures established by the Hearing Officer;
2. Any right to challenge the notice of violation, the notice of hearing or to assert any due process claim related to this matter;
3. Any right to personally appear at an administrative hearing,
4. Any right to confront and cross-examine^{at} witnesses at the hearing;
5. Any right to subpoena witnesses to testify;
6. Any right to seek judicial review of the order of the Hearing Officer or any other order or procedures related to this proceeding.

Somers agrees that the Hearing Officer has been duly appointed and has acted and is acting within his authority under the laws of the City and that he may enter the order set forth below without further hearing or argument.

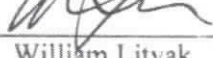
Somers acknowledges and agrees that the documents related to this proceeding are a matter of public record.

Somers agrees that this stipulation is contingent upon being accepted and approved by the Hearing Officer. If the Hearing Officer does not accept the stipulation then it shall be deemed null and void.


The recitals and statements of fact are made a part of this agreement. Somers agrees that the facts set forth herein are accurate, true and correct.

IT IS SO AGREED:

City of Beverly Hills

By: 
William Litvak
City Prosecutor

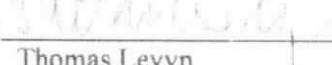
~~September~~ ^{OCTOBER 1}, 2019

By: 
Jason Somers

Dated: September ~~12~~, 2019

Approved as to form:

Glaser Weil

By: 
Thomas Levyn
Attorney for Jason Somers

Dated: September ~~12~~, 2019

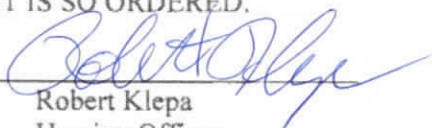
ORDER OF THE HEARING OFFICER

1. The Hearing Officer has reviewed the stipulation and all attachments thereto. He has also reviewed and considered the BHMC lobbying ordinances and its provisions.
2. The Hearing Officer hereby finds that the stipulation and proposed order are fair, reasonable and appropriate. Accordingly, the Hearing Officer finds as follows:

Somers intentionally, willfully and materially violated the Ordinance by failing to disclose in his lobbyist registration forms for the projects identified above that he had been sanctioned by the Los Angeles Ethics Commission for violations of that city's lobbyist ordinance on February 27, 2017.

3. Somers is ordered suspended from performing any legislative lobbyist services for a period of six (6) months from the date of this order.
4. Somers is ordered to pay a fine of \$500 to the City of Beverly Hills within ten (10) days of this order.
5. A violation of this order shall be deemed a violation of the Ordinance and may subject Somers to further sanctions in the form of a new administrative adjudication initiated by the City Prosecutor and/or through any other legal proceeding as permitted under the the BHMC.

IT IS SO ORDERED.


Robert Klepa
Hearing Officer

~~September~~ ^{OCTOBER 1}, 2019