IN THE MATTER OF Bolton-St. Johns, LLC,

Respondent.

______________________________________________
SUBSTANTIAL BASIS INVESTIGATION REPORT
AND SETTLEMENT AGREEMENT
Case No. 22-028

WHEREAS, the Joint Commission on Public Ethics ("Commission") is authorized by Executive Law §94 to conduct an investigation to determine whether a substantial basis exists to conclude that any violations of Article I-A of the New York State Legislative Law (the "Lobbying Act") have occurred, to issue a report of its findings of fact and conclusions of law, and to impose penalties for any violation;

WHEREAS, this Settlement Agreement ("Agreement") is entered into by and between the Commission and Bolton-St. Johns, LLC ("Respondent");

WHEREAS, Respondent engages in reportable lobbying activity in New York State and is therefore subject to the jurisdiction of the Commission and the proscriptions and requirements set forth in the Lobbying Act;

WHEREAS, Respondent was engaged by multiple clients to lobby on their behalf during the 2021-2022 biennial registration period (the "Relevant Period");

WHEREAS, during the Relevant Period, Respondent filed 464 lobbying filings, including statements of registration, registration amendments and lobbyist bi-monthly reports beyond the time required by law;

WHEREAS, pursuant to the Lobbying Act §§ 1-e and 1-h, the Commission is authorized to impose a fee not to exceed twenty-five dollars per day for each day that a statement of registration, bimonthly report, is late, and generally imposes late fees according to the fee schedule in 19 N.Y.C.R.R. Part 943.10(g) and 943.11(d);

WHEREAS, Respondent was assessed $129,890 in late fees pursuant to the aforementioned fee schedule;

WHEREAS, the Commission allows for, and the Respondent submitted, an Application for Waiver of Late Filing Fee;

WHEREAS, on January 28, 2022, a letter was sent to Respondent notifying Respondent of the Commission’s denial of the aforementioned Late Filing Fee Waiver Request, totaling $129,890;
WHEREAS, pursuant to Lobbying Act § 1-o(b)(i), the Commission may impose penalties in an amount not to exceed the greater of twenty-five thousand dollars or three times the amount the person failed to report properly;

WHEREAS, Respondent and the Commission, the parties to this Agreement, have agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings;

NOW THEREFORE, in consideration of the fact that Respondent has cooperated with the Commission and in consideration of the mutual covenants made herein, as the final settlement of this matter, the parties stipulate and agree that:

1. Respondent failed to timely file 464 lobbyist statements of registration and/or registration amendments, and lobbyist bi-monthly reports during the Relevant Period as required in violation of §§1-c, and 1-h of the Lobbying Act accruing $129,890 in late filing fees.

2. In settlement of said violations Respondent agrees to pay the Commission, or any successor agency or commission, $97,417 at the signing of this Agreement.

3. During the remainder of the 2021-2022 biennial registration period, in addition to any random audit of Respondent’s filings that the Commission, or any successor agency or commission, may perform in accordance with and pursuant to §1-d of the Lobbying Act, the Respondent shall cooperate with any request by the Commission, or any successor agency or commission, to review records relating to lobbying activity conducted during the 2021-2022 biennial registration period to determine whether filings required to be made by Respondent have been made in a timely manner and are accurate and complete.

4. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made to the Commission by Respondent. To the extent that representations made by Respondent are later found by the Commission, or any successor agency or commission, to be materially incomplete or inaccurate, Respondent shall be in breach of this Agreement.

5. If the Respondent fails to timely perform any conditions set forth in the Agreement, Respondent shall be in breach of this Agreement.

6. Respondent agrees not to take any action or to make, permit to be made, authorize, or agree to any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis. Nothing in this paragraph affects Respondent’s: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondent.

7. Upon a breach of this Agreement, the Commission, or any successor agency or commission, shall have sole discretion to deem the Agreement null and void in its
entirely, issue a Notice of Substantial Investigation and Hearing, which may include additional charges against Respondent and proceed with an enforcement action, and then issue a new Substantial Investigation Report; or to deem the Respondent in breach of this Agreement and pursue, in court, any other remedy to which the Commission, or any successor agency or commission, is entitled at law or in equity, including but not limited to, specific performance or injunction. As to any Notice of Substantial Investigation, Notice of Hearing or enforcement action by the Commission, or any successor agency or commission, pursuant to this paragraph, Respondent: (1) waives any claim that such action is time-barred by a statute of limitations or any other time-related defenses; and (2) expressly acknowledges and agrees that the Commission, or any successor agency or commission, may use any statements herein, or any other statements, documents or materials produced or provided by Respondent prior to or after the date of this Agreement, including, but not limited to, any statements, documents, or materials, if any, provided for the purposes of settlement negotiations or in submissions by Respondent or by counsel on behalf of Respondent, in any proceeding against Respondent relating to the allegations herein.

8. Respondent shall, upon request by the Commission, or any successor agency or commission, provide all documentation and information reasonably necessary for the Commission, or any successor agency or commission, to verify compliance with this Agreement.

9. Respondent understands and acknowledges that the Commission, or any successor agency or commission, may investigate any other conduct, not covered by this Agreement, by Respondent and take any appropriate action.

10. Respondent waives the right to assert any defenses or any challenges to this Agreement, as well as any right to appeal or challenge the determination or conduct of the Commission, or any successor agency or commission, relating to this matter in any forum.

11. Respondent hereby waives any rights as provided in Section 1-o(c)(iii) of the Lobbying Act and may not assert such right at any future time.

12. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

13. Respondent consents to the jurisdiction of the Commission, or any successor agency or commission, in any proceeding to enforce this Agreement.

14. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law §§ 94(14) & (19).

15. This Agreement constitutes the entire agreement between the parties and supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement,
promise, understanding, condition or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.

16. Any amendment or modification to this Agreement shall be in writing and signed by both parties.

17. This Agreement shall become effective upon execution by the Commission, or any successor agency or commission, or its designee.

18. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

19. By signing below, Respondent acknowledges reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and having done so, knowingly, voluntarily, and freely enters into this Agreement. Respondent was represented by Mark Glaser of Greenberg Traurig, LLP.

Dated: June 13, 2022

__________________________________________
Sanford Berland
Executive Director
New York State Joint Commission on Public Ethics

ACCEPTED AND AGREED TO
THIS ___ DAY OF ___________, 2022

Respondent- Bolton-St. John, LLC

By: 
Name: Thomas P. Connolly, Jr.
Title: Member
Approved: Jose L. Nieves
        Chair
        Richard F. Braun
        Colleen C. DiPirro
        William P. Fisher
        Sharon Stern Gerstman
        C. Randall Hinrichs
        Marvin E. Jacob
        Gary J. Lavine
        David J. McNamara
        George H. Weissman
        James A. Yates

Opposed: Terryl L. Brown

        Members