



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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## **Resolution of Charge** **No. 2012-5**

(Charge No. 12-LCg-1; Relativity Media, LLC)

December 3, 2012

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In January, 2012, the Hawaii State Ethics Commission issued a charge against Relativity Media, LLC (“Relativity”) for violations of the State’s Lobbyists Law, Hawaii Revised Statutes (“HRS”) chapter 97. The charge contained three counts. The first and second counts concerned Relativity’s delinquent filing of lobbying expenditures reports that were due on March 31, 2011 and May 31, 2011, respectively. The third count concerned Relativity’s failure to properly report certain lobbying expenditures in its March 31, 2011 filing. Specifically, Relativity did not report the names of the legislators who were given sets of movie DVDs at a meeting or meetings held on or about February 1, 2011.<sup>1</sup>

The Lobbyists Law is primarily a disclosure law. It requires individuals and organizations that meet threshold requirements to periodically report to the Commission lobbying expenditures and contributions. The reporting periods for lobbying expenditures and contributions are:

- 1) January 1 through the last day of February. Report due March 31.
- 2) March 1 through April 30. Report due May 31.
- 3) May 1 through December 31. Report due January 31 of the following year.

The Lobbyists Law also requires certain items to be reported as lobbying expenses. Among other things, the statute specifically requires that lobbying expenditures and contributions reports must include “[t]he name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum

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<sup>1</sup> The Commission notes that Relativity reported expenditures of \$15,000 relating to a lobbying event at Mandalay Restaurant attended by certain unidentified legislators. Relativity acknowledged that it did not record attendance and has no information as to the identity of the legislators who participated in the event. The charge did not include the Mandalay Restaurant event, and the Commission does not intend to initiate any further independent action related thereto; however, the Commission emphasizes that, if the per person cost of the event was \$25 or more, the statute also likely required Relativity to report the names of the legislators who attended and the associated estimated amount or value of the expenditure. Relativity was also required to report the name of any legislator with respect to whom Relativity incurred lobbying expenditures, in the aggregate, of \$150 or more in a reporting period.

of \$25 or more per day . . . and the amount or value of such expenditure;<sup>2</sup> and “[t]he name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more . . . during the statement period and the amount or value of such expenditures.”<sup>3</sup>

Eleven legislators reported, on their respective gifts disclosure statements, receiving DVD sets from Relativity, which the legislators valued between \$225 and \$360.<sup>4</sup> The Commission was informed that Relativity had given the DVD sets to legislators at meetings held on or about February 1, 2011, at the State Capitol, involving Relativity officials, certain legislators, and legislative staff.

The Commission subsequently advised Relativity that the DVD sets appeared to be lobbying expenditures that should have been reported to the Commission on lobbying expenditures and contributions reports, as required by the Lobbyists Law. At that time, Relativity had not filed any lobbying reports with the Commission. On September 6, 2011, Relativity filed its lobbying reports for the periods of January 1 through the last day of February, 2011, and March 1 through April 30, 2011.

In its lobbying report for the period January through February 2011, Relativity reported expenditures of \$10,150, which amount was the value that Relativity attributed to the DVDs that it had distributed. Relativity reported that it had distributed 35 boxes of DVDs to legislators and other State employees at meetings on February 1, 2011, with each box containing, on average, 16 DVDs. Relativity reported the value of the average box of DVDs, i.e., the 16 DVDs and the box, to be \$290. Relativity further reported:

We unfortunately did not keep track of exactly who took the boxes - some of them went to legislators, some went to assistants and other staff.

Relativity filed an amended lobbying report on September 27, 2011, reflecting that it had prepared 35 boxes of DVDs but had distributed only 25 of the boxes.<sup>5</sup> Relativity reported the value of the DVDs as \$0, because, according to Relativity, the

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<sup>2</sup> HRS section 97-3(c)(1) (emphasis added).

<sup>3</sup> HRS section 97-3(c)(2) (emphasis added).

<sup>4</sup> A twelfth legislator later reported receiving a set of DVDs.

<sup>5</sup> The Commission also notes that, in its initial filing, Relativity reported total lobbying expenditures of \$52,150, of which \$10,150 was attributed to the DVDs. In its amended filing, Relativity reported total lobbying expenditures of \$153,220.50, of which \$220.50 was attributed to the DVDs. The vast majority of the additional reported lobbying expenditures were for “preparation & distribution of lobbying materials,” from \$27,000 to \$150,000.

DVDs were received as part of its production contract for each movie, and the cost of the box in which the DVDs were packaged as \$6.30. Relativity further reported:

Of the 25 boxes distributed we estimate that 15-20 were given to legislators and the rest to other individuals in the room such as AV staff, assistants, etc.

Relativity subsequently informed the Commission that the boxes of DVDs were on a table in the room in which the meeting was held, and people who attended the meeting took the boxes from the table. According to Relativity, it did not record the names of people who took the DVDs. Relativity estimated that there were between 15 and 20 legislators at the meeting.

Based upon the number of legislators to whom Relativity reported giving DVDs and the cost of the average set of DVDs, the Commission initiated an investigation into whether legislators had properly reported receipt of the DVDs in their gifts disclosure statements. As part of that investigation, the Commission requested and received information from each legislator. Seventeen legislators acknowledged receiving DVDs from Relativity.<sup>6</sup> Some of the legislators reported receiving only a few DVDs, not the 24-DVD set reported by some legislators. The legislators who received only a few DVDs had not and were not required to report the DVDs on their respective gifts disclosure statements because the value of the DVDs that they had received was likely less than the reporting threshold of \$200.<sup>7</sup> All of the legislators who received DVDs either had already returned the DVDs to Relativity, paid Relativity for the DVDs at the fair market value, or donated the DVDs to community or scholastic organizations, or did so after and because of the Commission's investigation.

On January 11, 2012, the Commission issued the charge against Relativity. Relativity denied, generally, the allegations in the charge. Relativity, however, subsequently agreed to the following to resolve the charge without any further Commission action:

- The Commission may issue this public statement regarding the charge and the allegations contained therein, which may include Relativity's name and any other information deemed relevant by the Commission;
- Relativity must make reasonable investigation as to identify the legislators who received DVDs and must amend its lobbying expenditures and contributions report for the period of January 1 through February 28, 2011, to comply with the Lobbyists Law, to the extent possible; and

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<sup>6</sup> No employees of the legislature reported receiving DVDs.

<sup>7</sup> See HRS section 84-11.5 (gifts disclosure statement is required for "any gift or gifts valued singly or in the aggregate in excess of \$200").

- Relativity must pay an administrative penalty in the amount of \$8,500 to the general fund of the State of Hawaii.

Pursuant to this agreement, Relativity conducted an independent investigation as to who received DVD sets, which the Commission believes was reasonable and sufficient. On October 25, 2012, Relativity filed a second amended lobbying report with the Commission for the required reporting period. The amended report lists the names of the legislators who Relativity gave DVDs, which is consistent with the information obtained by the Commission. It also reflects that legislators received boxes containing between 6 and 24 DVDs. The Commission previously had advised that, in reporting lobbying expenditures, the statute requires Relativity to report the fair market value of any gift and not the cost to Relativity. Following that direction, Relativity's amended report reflects the value of the DVDs given to the legislators, i.e., the lobbying expenditures, to be between \$100 and \$360, depending on the number of DVDs in the specific legislator's box. Relativity also made payment of \$8,500 to the general fund of the State of Hawaii.

The Commission considers this matter to be closed and is issuing this public document in order to better educate the public about the requirements of the Lobbyists Law.