FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3460

DATE FILMED 9-26-94 CAMERA NO. 2

CAMERAMAN JMH

9404358435 5

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 DEC 16 PM 12:12

MUR 3460

Allen W. Barr
188 Haulani Street
Pukalani, Maui, Hawaii 96768
(808) 572-0417

December 11, 1991

General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Sir:

Please act upon this formal complaint. Federal election laws were violated in the 1990 general election on Maui. A foreign principal made contributions to at least five candidates for local election. This violates 2 U.S.C. #441e and 2 U.S.C. #441f.

The contributions were made by Sports Shinko Group, a Japanese corporation, through an American attorney, to five members of the Maui County Council. The following establishes the basis and validity of this complaint.

1.

As reported in their respective campaign spending reports, the following contributions are at issue:

Friends of Vince Bagoyo, Jr., received $1,000.00 from Sports Shinko Co., Pukalani, on October 23, 1990.

Friends of Joe Tanaka received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on October 31, 1990.

Friends of Alice Lee received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on November 2, 1990.

Friends of Rick Medina received $1,000.00 from Sports Shinko (Pukalani) Co., Ltd. on November 14, 1990.

Goro Hokama received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on December 21, 1990.

Copies of the relevant campaign spending reports are enclosed for your convenience. Originals may be examined at the Office

9 4 0 4 3 5 8 4 3 5 6

of the Lt. Governor, State of Hawaii, in Honolulu. Official copies are also located in the Office of the County Clerk, County of Maui, Kalana O Maui Building, 7th Floor, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 243-7749].

All five recipients may be reached at the Office of the County Council, Kalana O Maui Building, 7th Floor, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 243-7838].

2.

The contributions were made on behalf of Sports Shinko Group, in apparent violation of 2 U.S.C. #441f, by Wailuku attorney B. Martin Luna, a member of the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, whose Wailuku address is 2145 Wells Street, Wells Street Professional Building, Suite 201, Post Office Box 1086, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 242-4535. Fax (808) 244-4974.]

3.

Sports Shinko (Pukalani) Co., Ltd., 360 Pukalani Street, Pukalani, Maui, Hawaii 96768 [Telephone: (808) 572-0779] is a wholly owned subsidiary of Sports Shinko, Tokyo and Osaka, Japan and is a member of the Sports Shinko Group. The corporation was registered in Hawaii on December 10, 1987, as a golf course operator. Record is available at the State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration Division, in Honolulu.

There are seven directors listed for Sports Shinko (Pukalani) Co., Ltd. Corporate president and treasurer, Toshio Kinoshita is a Japanese national listing an address in Tokyo. [Tokyo Head Office, Muraki Building No. 10.10 2 Chome Yaesu Chuo-Ku, Tokyo, Japan, Phone (03)271-4157, Fax (03)271-6586]. Corporate vice president, Takeshi Kinoshita, is a Japanese national listing an address in Del Mar, California. (Mr. Kinoshita is reportedly the manager of a golf course operation in that area.) Corporate secretary, Tsugio Fukuda, is a Japanese national listing an address in Tokyo. Director Tomio Kawasaki is a Japanese national listing an address in Osaka, Japan.

9 4 0 4 3 5 8 4 3 5 7

[Osaka Head Office, Naniwa Building No. 4.12 Manzai-Cho Kita-Ku, Osaka, Japan, Phone (06)313-1851, Fax (06)315-8396]. Executive Vice President and Director Iwane Yamamoto is a Japanese national listing an address in Honolulu. (Mr. Yamamoto is reportedly the manager of the Mililani Country Club in Oahu, Hawaii.) Director Yasuo Nishida is a Japanese national listing a Wailuku, Maui address. Mr. Nishida is manager of the Pukalani Country Club on Maui. The seventh director is Franklin Mukai, an American citizen and principal in the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, Pacific Tower Suite 2200, Honolulu, Hawaii 96813. [Telephone: (808)523-2500].

4.

The undersigned, sworn complainant examined the Sports Shinko contributions in consideration of Federal Election Commission Advisory Opinion 1989-29, dated December 19, 1989, to Edean S. Hayashida, Chairman, GEM Political Action Committee, GEM of Hawaii, Inc., Honolulu. The factual situation in the instant case is substantially different. It is in cognizance of these differences that this complaint is being filed.

AO 1989-29 references on page two Advisory Opinion 1989-20 (prohibiting contributions to non-Federal candidates by a domestic subsidiary from the funds of its foreign parent). Sports Shinko (Pukalani) Co., Ltd. is a domestic subsidiary of a foreign parent. Mr. Luna is indirectly quoted in The Maui News, August 20, 1991, page A3 (copy enclosed), as saying "money for the contributions came from Pukalani Country Club revenues." However, even if the contributions were made from a Pukalani Country Club checking account and current revenues from Pukalani Country Club operations are deposited into that account, it is no more than an accounting fiction to argue that that makes the contributions come out of Pukalani Country Club revenues.

Discounting the possible effects of depreciation and interest received from deposits of money originally transferred to the United States from Japan, the Sports Shinko corporate profit center at Pukalani Country Club is not yet profitable. The original $17.5 million capital expenditure for Sports Shinko (Pukalani) Co., Ltd. holdings and working capital advanced for Pukalani operations has not been recovered. Further, memberships in a Sports Shinko entity in Japan are sold to Japanese

9 4 0 4 3 5 8 4 3 5 8

nationals for the privilege of playing golf on Sports Shinko golf courses in the United States. Tours are sold to these and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko golf courses, and stay in Sports Shinko hotels or "lodges" where available. (Building a hotel in Pukalani is in process). Revenues from these Japanese operations are allocated to profit centers in the United States, presumbably on the basis of services rendered. Some revenues are derived locally from golf course and restaurant-bar operations. Locally generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

Appropriate use of subpoena powers would readily prove the allegations in the preceeding paragraph if Sports Shinko officials are not willing to stipulate to their validity. The implication of the above paragraph is clearly that the political contributions must be taken as made from funds of a foreign principal.

5.

AO 1989-29 references on page two Advisory Opinion 1980-7 (permitting a state-chartered corporation to make contributions in non-Federal elections provided that it is not merely an instrumentality of its Federally chartered parent). Complainant does not know whether Sports Shinko is Federally chartered. However, it is clear from foregoing allegations that Sports Shinko (Pukalani) Co., Ltd., is a state-chartered corporation which is merely an instrumentality of its parent, which parent corporation has its principal place of business in a foreign country, i.e., Japan.

6.

According to AO 1989-29, in order for Sports Shinko's contributions to comply with #441e, the foreign national parent, nor any other foreign nationals, including directors, officers, or other personnel of its company, must not participate in any decisions by Sports Shinko to contribute to campaigns for state or local office. Mr. Luna is indirectly quoted in The Maui News article referenced above (and copy enclosed) that only he [an American] and board member Franklin Mukai, a native of Kauai, made decisions about political contributions. The claim is on its face absurd!

9 4 0 4 3 5 8 4 3 5 9

First, with respect to Mr. Mukai: Mr. Mukai is an American and a Director of Sports Shinko (Pukalani) Co., Ltd. He is also a principal in the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, which firm represents Sports Shinko (Pukalani) Co., Ltd. As merely a director, Mr. Mukai cannot unilaterally appropriate and expend the funds of the corporation. Such decisions would require the authorization of either or both the Board of Directors or an officer of the corporation. Such decisions, therefore, would necessarily involve the participation of foreign nationals, since all other members of the board and all officers of the corporation are foreign nationals. Mr. Mukai may have, with Mr. Luna, decided which particular candidates for Maui County Council received how much in contributions. However, foreign nationals must have participated in the decision to make contributions at all and in the decision as to the amount in aggregate of contributions to be made. (If Mr. Mukai was acting as attorney for Sports Shinko rather than as a director, some of the comments below about Mr. Luna apply).

Now with respect to Mr. Luna: Mr. Luna is an American and a member of the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, which firm represents Sports Shinko (Pukalani) Co., Ltd. He is not a director, officer or employee of Sports Shinko. As a past county chairman of the Democratic Party of Maui and long time participant in Maui politics, Mr. Luna is an excellent choice to advise Sports Shinko which candidates should receive contributions for best effect. However, as an attorney making decisions on behalf of his client, he is acting as if he were the client, and decision makers within the client corporation are foreign nationals. Therefore, Mr. Luna is making his decisions as if he were a foreign national. (Also see Section 7, below).

In addition to the political decisions as to which candidates would receive contributions, an officer of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of check(s) in payment. Since all officers of Sports Shinko (Pukalani) Co., Ltd., are foreign nationals, again a foreign national would be participating in decision(s) to contribute to campaigns for state or local office. If the actual contribution were made by the attorney(s) out of a client trust account, that would merely add a step to the process, but not change the material fact that a foreign national participated in the decision(s).

9404358436 0

Foreign nationals hired two American attorneys to make illegal contributions. For the Commission to conclude that Sports Shinko's political contributions were legal would be to conclude that all a foreign national has to do to circumvent the law (2 U.S.C. #441e) is to use an American attorney. Such a conclusion would, in practical effect, repeal the law.

7.

Mr. Luna, and possibly also Mr. Mukai, even if he acted as a director, violated 2 U.S.C. #441f by making contributions in the name of another person. Even if elsewhere in law attorneys are empowered to act on behalf of their clients in other matters, #441f specifies "No person shall make a contribution in the name of another person . . ."

In addition, if one or more of the Council members accepted the contribution from Mr. Luna, it would appear each such Council member also violated #441f in that it specifies "no person shall knowingly accept a contribution made by one person in the name of another person." If a Council members did not accept the contribution from Mr. Luna or someone illegally making the contribution in the name of Sports Shinko, then the contribution must have been accepted directly from an authorized representative of the corporation. In that case, a foreign national made the contribution.

It would require a strained legal extrapolation to allow circumvention of #441f even if the contributions were otherwise legal.

8.

In addition to the political contributions by Sports Shinko herein identified, there are other contributions which are flawed for the same reasons. Complainant did not examine and copy all campaign spending reports of all candidates. However, complainant is aware that an additional contribution of $500.00 was made by Sports Shinko to Councilman Vince Bagoyo on May 6, 1991, and an in-kind contribution of $152 (rounds of golf) was made by Pukalani Country Club to Councilman Pat Kawano back on December 9, 1989.

The particular contributions first identified by complainant were so identified because they came during a period when the

9 4 0 4 3 5 8 4 3 6 1

Maui County Council was considering legislation pertaining specifically to Sports Shinko's interests. Complainant believes the contributions were made specifically to influence that legislative decision, which decision was made to favor Sports Shinko. If the Federal Election Commission has jurisdiction and is interested in this aspect of the case, complainant has additional information which should be known to the Commission -- including information of several contributions by Mr. Luna, Mr. Mukai and other consultants to and beneficiaries of Sports Shinko's operations and developments, which contributions were also made during the same period. Complainant will supply this additional information upon request.

9.

Thank you for your consideration of this complaint. There are undoubtedly matters which appear much more important to a public official stationed in our nation's capital. However, this matter may actually be of greater importance than it first appears. I rather imagine Sports Shinko is also making political contributions to candidates in Honolulu, California, Florida and any other places in America where it has golf course/hotel operations. Your investigation would probably unfold a national problem.

Please feel free to contact me if you would like additional information or questions answered.

Very truly yours,

Allen W. Barr

Allen W. Barr

:

Enclosures

Subscribed and sworn to before me this
11th day of December, 1991
Thomas Richardson
Notary Public, State of Hawaii
My commission expires 5-2-95

9404358436 2

port it.

Pukalani resident maintaining ethics complaint

THE MAUI NEWS — Tuesday, August 20, 1991 — A3

Golf fees, campaign contributions by Sports Shinko questioned

By BRIAN PERRY
Staff Writer

WAILUKU — Pukalani businessman Paul Elkins pledged Monday to pursue his ethics complaint against Maui County Council members despite the apparent legality of campaign contributions made to members by Sports Shinko (Pukalani) Co. Ltd.

"I'm going to the very end, and I don't see the end anywhere close," said Elkins, a member of the board of directors of the Pukalani Community Association.

Elkins' letter questioning campaign contributions to council members from Sports Shinko was not acted on by the Board of Ethics earlier this month. Board members decided Elkins needed to provide a notarized, concise statement of facts before his letter would be considered a formal request for an opinion.

Elkins raised the issue of the propriety of the campaign contributions during a council meeting July 5. During that meeting, council members voted 6-3 to kill a proposal to downzone Sports Shinko's 7.5-acre, hotel-zoned property near the Pukalani Country Club.

Sports Shinko proposes to build an 88-unit, two-story hotel with 120 apartment units. The project has divided the Pukalani community. Those who favor it say it would benefit the community with jobs and additional housing. Opponents say the project would create traffic problems and bring urban development to a predominantly rural community.

In his testimony, Elkins said it had been reported to him that Council Chairman Howard Kihune and Council Members Rick Medina and Alice Lee had played golf for free at the Pukalani Country Club. He also noted that Medina and Lee and Council Members Vince Bagoyo, Goro Hokama and Joe Tanaka had received $1,000 campaign contributions from either Sports Shinko or the country club.

He said Council Member Pat Kawano had received an in-kind contribution of $152 from the Pukalani Country Club.

A check of campaign spending records Monday confirmed those contributions as well as a May 6 contribution of $500 from Sports Shinko to Bagoyo.

Elkins questioned the legality of local candidates receiving campaign contributions from a foreign corporation.

Federal law prohibits foreign nationals from making contributions directly or indirectly in connection with federal, state or local elections. But a business incorporated under Hawaii law with its principal place of business in Hawaii is not considered a foreign corporation.

Sports Shinko (Pukalani) was registered in Hawaii on Dec. 10, 1987, as a golf course operator, according to the state Department of Commerce and Consumer Affairs' Business Registration Division. Its address is listed as 500 Pukalani St.

State records show seven officers and directors for the company. One director, Yasuo Nishida, has a Wailuku address. Two other directors, including attorney Franklin Mukai, give Honolulu addresses. The corporate president and treasurer, Toshio Kinoshita, lives in Tokyo, and the corporate vice president, Takeshi Kinoshita, lists an address in Del Mar, Calif. The corporate secretary, Tsugio Fukuda, resides in Tokyo, and the final director, Tomio Kawasaki, has an address in Osaka, Japan.

When members of the domestic corporation are foreign nationals, the question arises over who made the decisions to contribute money to local campaigns.

According to a Federal Election Commission advisory opinion, the domestic corporation must ensure that neither its foreign parent nor any foreign nationals, including directors, officers or other personnel, participate in any decision-making for campaign contributions.

Sports Shinko attorney B. Martin Luna said only he and board member Mukai, a native of Kauai, made decisions about political contributions. He said money for the contributions came from Pukalani Country Club revenues.

When asked about the allegations of free golf, Luna said he had not investigated the charge thoroughly. But, he said he knew that Medina, for example, golfed with an organized group that paid its fees in advance. That could have created the impression that Medina had not paid for golf, Luna said.

The council members involved have said they paid their golf fees.

Elkins doubts all the decision-making on political contributions is made by Luna and Mukai. He said Sports Shinko executives in Japan appear to be jealous of their decision-making prerogatives.

He said Sports Shinko architects and attorneys told Pukalani Community Association members repeatedly it was necessary to clear various development details with executives in Japan.

RECEIVED

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

This Report Covers The Period From 10/23 (Date) thru 11/6/90 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME Friends of Vince Bacovo, Jr.
ADDRESS P.O. Box 1235
CITY, STATE Wailuku, HI 96793
BUS. 242-9100 (Treasurer's Telephone) RES. 244-0426

THIS REPORT IS A:
- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☒ Post General Report
- ☐ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other

SECTION B SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS		EXPENDITURES	
1 Contributions of $100 or Less	1,245.00	10 Expenditures (Line 23 Col. 3)	6,571.9
2 Contributions Aggregating Over $100 (Line 18)	7,912.29	11 Fundraising Expenditures (Line 24 Col. 3)	2,000.0
3 Other Receipts (Line 20)	-0-	12 Total Expenditures This Period (Add Lines 10 and 11)	8,571.9
4 Total Contributions This Period (Add Line 1 thru 3)	9,157.29	13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	63,747.3
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	66,881.87	14 Total Expenditures to Date (Add Lines 12 & 13)	72,319.3
6 Total Contributions to Date (Add Lines 4 & 5)	76,039.16		
7 Balance on Outstanding Loans (Line 24)	-0-		
8 Petitioned Expenditures of Personal Funds (Line 22)	-0-		
9 Total Receipts to Date (Add Lines 6 thru 8)	76,039.16	15. SURPLUS (If Line 9 Minus Line 14 is Positive)	3,719.8
		16. DEFICIT (If Line 9 Minus Line 14 is Negative)	
		CASH BALANCE AS OF 11/6/90 $ 3,719.85	

SECTION C AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION (If individual)	AMOUNT OF THIS CASH CONTRIBUTION	AMOUNT OF THIS NON-CASH CONTRIBUTION	AGGREGATE TOTAL TO DATE
Var	Herbert K. Morita Realty, Inc. 2024 No. King Street Honolulu, HI 96819			1311.00	1311.0
10/31	Libert K. Landgraf P.O. Box 519 Hana, Maui 96713			701.22	701.2

17. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE 2012.2
18. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE 5900.0
19. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 7912.2

9404358436 4

SECTION D — OTHER RECEIPTS (Public Funding, Interest Recd, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
		Not Used		

10. TOTAL OTHER RECEIPTS THIS PERIOD ..... $

SECTION E — LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)
	Not Used				

11. CURRENT BALANCE OF LOAN ..... $
12. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $

SECTION F — EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
/23/90	Gilbert & Asso. 381 Hoohana sTreet Kahului, HI 96732	Ads	254.06	
/23	Mariamne Pool 408 Kinsole Circle Kihei,HI 96753	Photos	83.33	
/22	Four Sisters Bakery Vineyard Street Wailuku, HI 96793	Pastries	49.92	
/23	Aloha Island Air Kahului Airport	Airfare-Lanai	167.85	
/23	Lanai Democrataic Precint Club Lanai, HI	Donation	50.00	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
1. EXPENDITURES	605.16	5,966.76	6,571.92
2. EXPENDITURES INCIDENTAL TO FUNDRAISERS		2,000.07	2,000.07

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Candidate's Signature — Date — Treasurer's Signature — 12/6/90 Date

9404358436 5

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY

DATE RECEIVED	NAME AND ADDRESS OF DONOR	[illegible] OF A PERSON, BANK [illegible] OF PAYMENT	(COLUMN 1) AMOUNT OF THIS (NEW) CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
10/23	Anthony P. Takitani 1877 Wili Pa Loop Ste 1 Wailuku, HI 96793		200.00		200.00
10/23	Sports Shake Co. [redacted] 380 Pukalani Street Pukalani, HI 96768		[redacted]		1000.00
10/23	R.L. & Carol Ball 107 W. Kuiaha Road Haiku, HI 96808		200.00		200.00
10/23	Michael T. McCormack 1580 Makaloa St. #500 Honolulu. HI 96814		1000.00		1000.00
11/6	Libert K. Landgraf P.O. Box 519 Hana, HI 96713		500.00		500.00
11/6	Dairy Road Shall 370 Dairy Road Kahului, HI 96732		300.00		300.00
11/6	Nathan & Jasmine Kwee P.O. Box 1258 Wailuku, HI 96793		500.00		500.00
11/6	Group 70 Limited 924 Bethel Street Honolulu, HI 96813		200.00		200.00
Var	Dale & Beverly Moore Kaunakakai, Molokai 96748			Supplies, Food Drinks, Airfare Fund Raiser 1,360.98	1360.98
Var	Friendly Isle Realty, Inc. P.O. Box 893 Kaunakakai, Molokai 96748			Door Prizes Leis 276.09	276.09
Var	Various Misc. Donations			Soda, Meals, Food 163.00	163.00
			TOTAL COLUMN 1: 3900.00	TOTAL COLUMN 2: 2000.00	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1. SUBTOTAL of Contributions Over $100 This Page 5900.07
2. TOTAL This Period (last page this line only) 5900.07

9404358436 6

[redacted]

ELECTION YEAR
1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

RECEIVED
22 AM 9 19
OFFICE OF THE

This Report Covers The Period From 8-07-90 thru 12-31-90
Date Date

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: FRIENDS OF JOE TANAKA
ADDRESS: 213 NIUHOU ST.
CITY, STATE: KAHULUI, HI 96732
BUS. 877-7314 RES. 879-4361
Treasurer's Telephone

THIS REPORT IS A:

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☑ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must Be Reduced to Zero)
- ☐ Other _____

SECTION B — **SUMMARY OF RECEIPTS AND EXPENDITURES**
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	335
2 Contributions Aggregating Over $100 (Line 19)	2900
3 Other Receipts (Line 20)	—
4 Total Contributions This Period (Add Line 1 thru 3)	3235
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	68893.74
6 Total Contributions to Date (Add Lines 4 & 5)	62128.74
7 Balance on Outstanding Loans (Line 21)	—
8 Political Expenditures of Personal Funds (Line 22)	—
9 Total Receipt to Date (Add Lines 6 thru 8)	62128.74

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	561.86
11 Fundraising Expenditures (Line 24 Col. 3)	—
12 Total Expenditures This Period (Add Lines 10 and 11)	561.86
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	44407.28
14 Total Expenditures to Date (Add Lines 12 & 13)	50019.12
15 SURPLUS (If Line 6 Minus Line 14 is Positive)	12099.62
16 DEFICIT (If Line 6 Minus Line 14 is Negative)	—
CASH BALANCE AS OF 12-3-90 $ 12099.62	

SECTION C — **AGGREGATE CONTRIBUTIONS OVER $100**

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF INDIVIDUAL	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
3-24-90	A+B HIPAC P.O. Box 3440 Honolulu, HI 96801		400		
0-31-90	LIBERT K. LANDGRAF P.O. Box 519 Kihei, HI 96753	REALTOR	1000		
[redacted]	[redacted] 500 Ulualani St. Kailua, HI 96734	[redacted]	[redacted]		
1-1-90	CASTLE & COOKE LAND COMPANY P.O. Box 3780 Honolulu, HI 96803		500		

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE → 2900
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE —
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 2900

9 4 0 4 3 5 8 4 3 6 7

SECTION D OTHER RECEIPTS (Public Funding, Interest, Rent, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT

20. TOTAL OTHER RECEIPTS THIS PERIOD ..... $ ____

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHARGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)

21. CURRENT BALANCE OF LOAN ..... $ ____
22. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $ ____

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11-28-90	Al Fresh's Supermarket Kaneohe Shopping Center Kaneohe, HI 96792	Food items for Gen. Election Party	304.82	
11-28-90	Photography by Ishai Windward Shopping Ctr. Kaneohe, HI 96744	Advert. photos	918.24	
11-28-90	B. Thomas [illegible] Kaneohe, HI 96792	Reimb. for food for the [illegible]	176.22	
11-28-90	Hi Mahalo 335 Hahaione St. Kaneohe, HI 96792	Thelma cards for advert.	211.79	
11-28-90	Kaneohe Hongwanji Kaneohe, HI 96792	Rental for Gen. Elec. Party	150.	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1	4	COLUMN 2	=	COLUMN 3
	TOTAL THIS PAGE		TOTAL FROM SUPP. SCHEDULE		TOTAL THIS PERIOD
23. EXPENDITURES	1211.07		4400.77		5611.84
24. EXPENDITURES INCIDENTAL TO FUNDRAISERS					

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Candidate's Signature — Date — Treasurer's Signature — 1/19/91 Date

9 4 0 4 3 5 8 4 3 6 8

RECEI

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

This Report Covers The Period From 10/23 (Date) thru 11/06/90 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME FRIENDS OF ALICE LEE
ADDRESS P.O. BOX 1606
CITY, STATE KAHULUI, HI 96732
BUS. _____ RES. _____
Treasurer's Telephone

THIS REPORT IS A:
- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☒ Post General Report
- ☐ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other _____

SECTION B SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	1100.00
2 Contributions Aggregating Over $100 (Line 19)	6000.00
3 Other Receipts (Line 20)	
4 Total Contributions This Period (Add Line 1 thru 3)	7100.00
5 Total Contributions From Prior Report (Enter B Line 6 of Prior Report)	27066.57
6 Total Contributions to Date (Add Lines 4 & 5)	34166.57
7 Balance on Outstanding Loans (Line 21)	
8 Political Expenditures of Personal Funds (Line 22)	
9 Total Receipts to Date (Add Lines 6 thru 8)	34166.57

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	7246.75
11 Fundraising Expenditures (Line 24 Col. 3)	
12 Total Expenditures This Period (Add Lines 10 and 11)	7246.75
13 Total Expenditures From Prior Report (Enter B Line 14 of Prior Report)	21826.59
14 Total Expenditures to Date (Add Lines 12 & 13)	29073.34
15 SURPLUS (If Line 6 Minus Line 14 is Positive)	5093.23
16 DEFICIT (If Line 6 Minus Line 14 is Negative)	

CASH BALANCE AS OF 11/06/90 $ 5093.23

SECTION C AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF INDIVIDUAL	AMOUNT OF THIS DATE RECEIVED	TOTAL TO THIS DONOR THIS PERIOD	AGGREGATE TOTAL TO DATE
10/24/90	GOODFELLOW BROS., INC. KIHEI, HI 96753		500.00		
10/24/90	COLIN CAMERON KAHULUI, HI 96732		500.00		
10/24/90	MR. RAYMOND MATASCI BROWN & CALDWELL WAILUKU, HI 96793		200.00		
10/24/90	MR. NORMAN HONG GROUP 70 LIMITED HONOLULU, HI 96813		500.00		
10/24/90	MR. TAMOTSU TAMAKA HONOLULU, HI 96817		500.00		
10/31/90	DAIRY ROAD SHELL KAHULUI, HI 96732		500.00		
11/02/90	BILL MILLS MILLS/DOWLING WAILUKU, HI 96793		400.00		
11/02/90	EVERETTE DOWLING MILLS/DOWLING WAILUKU, HI 96793		400.00		

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE ..... 3500.
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE ..... 2500.
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) ..... 6000.

9 4 0 4 3 5 8 4 3 6 9

SECTION D **OTHER RECEIPTS (Public Funding, Interest Received, Other)**

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT

20. TOTAL OTHER RECEIPTS THIS PERIOD ..... $_____

SECTION E **LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS**

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES (DURING PERIOD)	BALANCE (Loans)	BALANCE (Exp. of Person Funds)

21. CURRENT BALANCE OF LOAN ..... $_____
22. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $_____

SECTION F **EXPENDITURES**

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
3 EXPENDITURES			
4 EXPENDITURES INCIDENTAL TO FUNDRAISERS			

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Allen Fong 12/3/90 Marie A Umemori 11/30/90
Candidate's Signature Date Treasurer's Signature Date

9 4 0 4 3 5 8 4 3 7 0

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY : FRIENDS OF ALICE LEE

DATE RECEIVED	NAME AND ADDRESS OF DONOR	CORPORATION PARTNERSHIP OR PROPRIETORSHIP	(COLUMN 1) MONETARY CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION DESCRIPTION	(COLUMN 3) CONTRIBUTION TOTALLY FROM DONOR
11/02	CASTLE & COOKE PROPERTIES, INC. P.O. BOX 2780 HONOLULU, HI 96803		500.00		
11/05	LIBERT K. LANDGRAF C/O KEOLA NANA MAUI P.O. BOX 519 HANA, HI 96713		1000.00		
11/02	[redacted] 360 PUKALANI ST. PUKALANI, HI 96768		[redacted]		
			TOTAL COLUMN 1:	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1. SUBTOTAL of Contributions Over $100 This Page 2500.00
2. TOTAL This Period (last page this line only) .....

9404358437 1

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

RECEIVED

This Report Covers The Period From 11/07/90 (Date) thru 12/31/90 (Date) 91 1: 50

OFFICE OF THE

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: Friends of Rick Medina (Ricardo "Rick" Medina)
ADDRESS: 373 Liholiho Street
CITY, STATE: Wailuku, Hawaii 96793
BUS. _____ RES. 244-5195
Treasurer's Telephone

THIS REPORT IS A:

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☒ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other _____

SECTION B — SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1. Contributions of $100 or Less	$405.00
2. Contributions Aggregating Over $100 (Line 18)	1,150.00
3. Other Receipts (Line 20)	68.58
4. Total Contributions This Period (Add Line 1 thru 3)	$1,623.58
5. Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	43,478.58
6. Total Contributions to Date (Add Lines 4 & 5)	$45,102.16
7. Balance on Outstanding Loans (Line 21)	-
8. Political Expenditures of Personal Funds (Line 22)	-
9. Total Receipt to Date (Add Lines 6 thru 8)	$45,102.16

EXPENDITURES

10. Expenditures (Line 23 Col. 3)	$1,252.45
11. Fundraising Expenditures (Line 24 Col. 3)	-
12. Total Expenditures This Period (Add Lines 10 and 11)	$1,252.45
13. Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	36,375.79
14. Total Expenditures to Date (Add Lines 12 & 13)	$37,628.24
15. SURPLUS (If Line 6 Minus Line 14 is Positive)	$7,473.92
16. DEFICIT (If Line 6 Minus Line 14 is Negative)	
CASH BALANCE As of 12/31/90	$7,473.92

SECTION C — AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION (If Individual)	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
11/14/90	[redacted] 360 Pukalani Street Pukalani, Hawaii 96768		[redacted]	-	1,000.00
12/18/90	David H. [redacted] 324 Liholiho Street Wailuku, Hawaii 96793	Attorney	150.00	-	150.00

17. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE 1,150.00
18. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE ..... -
19. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) $1,150.00

9 4 0 4 3 5 8 4 3 7 2

9 4 0 4 3 5 8 4 3 7 3

SECTION D OTHER RECEIPTS (Public Funding, Interest Received, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
12/06/90	Checking A/C #05-932262	Territorial Savings & Loan Association, P. O. Box 1481, Honolulu, Hawaii 96806	Checking account interest earned	$30.89
12/31/90	Checking A/C #05-932262	Territorial Savings & Loan Association, P. O. Box 1481, Honolulu, Hawaii 96806	Checking account interest earned	26.20
12/13/90		Radio Station MAUI 311 Ano Street, Kahului, Hawaii 96732	Refund-Overpayment on radio spots	11.49

20. TOTAL OTHER RECEIPTS THIS PERIOD ..... $ 68.58

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)

21. CURRENT BALANCE OF LOAN ..... $_____
22. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $_____

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11/13/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-4 Stereo from Fay N'Sive Gen. Elec. get-together $27.92		-
11/13/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-Fish Poki from Wainanae Fish Mkt.(Gen. Elec. Mtg) 50.00		-
11/13/90	Rick Medina 373 Liholiho Street	Re-imbursement-Food Ingredients(VIP Food Exc.-Gen. Elec. Mtg) 53.50		-
11/14/90	Maui Electric Co., Ltd. P. O. Box 398 Kahului, Hawaii 96732	Electric Charges to 11/08/90 30.42		-
11/14/90	South Maui Times P. O. Box 40 Kihei, Hawaii 96753	Newspaper Ads-10/26/90 & 10/31/90 Issues (1/8th page) 385.88		-

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
23. EXPENDITURES	$516.64	$735.81	$1,252.45
24. EXPENDITURES INCIDENTAL TO FUNDRAISERS	-	-	-

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Ricardo Medina 1/30/91 — Candidate's Signature: Ricardo Medina — Date

Y. Kawa 1/30/91 — Treasurer's Signature: Yoshikatsu Kawa — Date

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

RECEIVED

This Report Covers The Period From 10/23/90 thru 12/31/90

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: Goro Hokama
ADDRESS: Box H
CITY, STATE: Lanai City, HI 96753
BUS: _____ RES: 565-6503
Treasurer's Telephone

THIS REPORT IS A:

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☒ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other _____

SECTION B — **SUMMARY OF RECEIPTS AND EXPENDITURES**
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	225.00
2 Contributions Aggregating Over $100 (Line 19)	6,700.00
3 Other Receipts (Line 20)	342.27
4 Total Contributions This Period (Add Lines 1 thru 3)	7,267.27
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	54,324.02
6 Total Contributions to Date (Add Lines 4 & 5)	61,591.29
7 Balance on Outstanding Loans (Line 21)	
8 Political Expenditures of Personal Funds (Line 22)	
9 Total Receipt to Date (Add Lines 6 thru 8)	

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	
11 Fundraising Expenditures (Line 24 Col. 3)	
12 Total Expenditures This Period (Add Lines 10 and 11)	2,908.06
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	25,694.73
14 Total Expenditures to Date (Add Lines 12 & 13)	28,602.79
15 SURPLUS (If Line 6 Minus Line 14 is Positive)	32,988.50
16 DEFICIT (If Line 6 Minus Line 14 is Negative)	
CASH BALANCE As of 12/31/90	$32,988.50

SECTION C — **AGGREGATE CONTRIBUTIONS OVER $100**

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION (If Individual)	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
10/25/90	Brown & Caldwell 485 Wpiala Dr. Wailuku, HI 96793		200.00		
	Tamotsu Tanaka 3750 Old Pali Rd. Honolulu, HI 96817	Attorney	500.00		
	Franklin K. Murai Box 656 Honolulu, HI 96809		1,000.00		
11/3/90	B. Martin Luna 2145 Wells St., Suite 201 Wailuku, HI 96793		500.00		
12/21/90	[redacted] 360 Pukalani St. Pukalani, HI 96768		[redacted]		
	Bill D. Mills 1302 Mehoa St. Honolulu, HI 96822		750.00		
	Everett Dowling Box 758 Wailuku, HI 96793		750.00		
	Libert Landcraf Box 519 Hana, HI 96713		1,000.00		

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE 5,700.0
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE 1,000.0
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 6,700.0

9404358437 4

SECTION D OTHER RECEIPTS (Public Funding, Interest Fees, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
12/31/90	Bank	First Interstate Bank Box 2000 Honolulu, HI 96805	Interest Oct-Dec	342.27

20. TOTAL OTHER RECEIPTS THIS PERIOD ..... $ 342.27

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)

21. CURRENT BALANCE OF LOAN ..... $ _____
22. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $ _____

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
10/24/90	Mid Pac Sales 1806 Kaohu St. Wailuku, HI 96793	Candy	899.91	
10/26/90	Dan's Printing 250 Alamaha St. Kahului, HI 96732	Labels	239.01	
	Forttown Deli Kahului Shopping Center Kahului, HI 96732	Lunch	16.50	
	Valley Hardware Wailuku, HI 96793	Supplies	61.20	
10/27/90	Aloha Island Air Kahului, HI 96732	Air Fare	111.90	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
23 EXPENDITURES	1,320.52	1,579.54	2,900.06
24 EXPENDITURES INCIDENTAL TO FUNDRAISING			

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Gary Hakkema 1/00/91 — Candidate's Signature — Date

Gary Hakkema 1/00/91 — Treasurer's Signature — Date

9 4 0 4 3 5 8 4 3 7 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Allen W. Barr
188 Haulani Street
Pukalani, Maui, HI 96768

RE: MUR 3460

Dear Mr. Barr:

This letter acknowledges receipt on December 16, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Sports Shinko Group. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosure
Procedures

9404358437 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Toshio Kinoshita
Takeshi Kinoshita
Tsugio Fukuda
Tomio Kawasaki
Iwane Yamamoto
Yasuo Nishida
Franklin Mukai

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Sports Shinko (Pukalani) Company, Ltd. ("Company") and its directors, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Company and its directors, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9404358437 7

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358437 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Martin Luna
275 Ekoa Place
Wailuku, Maui, HI 96793-1501

RE: MUR 3460

Dear Mr. Luna:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9404358437 9

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358438 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Friends of Vince Bagoyo, Jr.
P.O. Box 1235
Wailuku, HI 96793

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Friends of Vince Bagoyo, Jr. ("Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9404358438 1

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358438 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Friends of Joe Tanaka
213 Niihau Street
Kahului, HI 96732

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Friends of Joe Tanaka ("Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9 4 0 4 3 5 8 4 3 8 3

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358434

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Friends of Alice Lee
P.O. Box 1606
Kahului, HI 96732

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Friends of Alice Lee ("Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9 4 0 4 3 5 8 4 3 8 5

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358436

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Friends of Rick Medina
373 Liholiho Street
Wailuku, HI 96793

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Friends of Rick Medina ("Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9 4 0 4 3 5 8 4 3 8 7

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9 4 0 4 3 5 8 4 3 8 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Goro Hokama
Box H
Lanai City, HI 96753

December 18, 1991

RE: MUR 3460

Dear Mr. Hokama:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9 4 0 4 3 5 8 4 3 8 9

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358439 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Friends of Pat Kawano
200 S. High Street
Wailuku, HI 96793

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Friends of Pat Kawano ("Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9404358439 1

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358439 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1991

Pukalani Country Club
360 Pukalani Street
Pukalani, HI 96768

RE: MUR 3460

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Pukalani Country Club ("Country Club") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3460. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Country Club in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9 4 0 4 3 5 8 4 3 9 3

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9404358439 4

86C3988

Council Chair
Howard S. Kihune

Council Vice-Chair
Patrick S. Kawano

Council Members
Vince G. Bagoyo, Jr.
Gene Helekana
Alice L. Lee
Rick Medina
Wayne K. Nishiki
Joe S. Tanaka
Leilasala Teruya Drummond

Gwen Yoshimi-Chashi
Director of Council Services

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

December 31, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
92 JAN -6 AM 9:57

Mr. Jonathan Bernstein
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

SUBJECT: MUR 3460

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN -6 PM 3:43

Dear Mr. Bernstein:

According to B. Martin Luna, Legal Counsel representing Sports Shinko (Pukalani) Co., Ltd., the political contribution is legal because Sports Shinko (Pukalani) Co., Ltd., is a bonafide Hawaii Corporation. We have attached Mr. Luna's letter to verify this statement; also attached is a copy of Articles of Incorporation of Sports Shinko (Pukalani) Co., Ltd.

Based on the foregoing information, the campaign committee, "Friends of Rick Medina" decided to accept the contribution, which was duly reported to the State Campaign Spending Commission.

If you have any further questions, please call me at 808-243-7672.

Sincerely,

Rick Medina

RICK MEDINA
Councilmember

atts.

9404358439 5

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
2145 WELLS STREET
WELLS STREET PROFESSIONAL BUILDING, SUITE 201
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5667

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4966
FAX (202) 628-4846

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

December 31, 1991

Councilmember Rick Medina
Maui County Council
200 S. High Street
Wailuku, HI 96793

RE: Campaign Contributions from
Sports Shinko (Pukalani) Co., Ltd.

Dear Councilmember Medina:

This letter is written to confirm that Sports Shinko (Pukalani) Co., Ltd. made monetary contributions to you and several other candidates seeking State and County offices in 1990. We informed you and several others who inquired at that time that these campaign contributions were made in accordance with the applicable federal campaign spending laws and guidelines.

Specifically, Sports Shinko (Pukalani) Co., Ltd. is a Hawaii corporation, duly registered to do business in the State of Hawaii. Funds used for the purpose of campaign contributions were earned here in Hawaii through the company's operation of its Pukalani Country Club golf course. Moreover, the decisions to make these contributions were made by an American citizen.

Given the above factors, we believe that the contributions were legally made. Please feel free to contact me should you have any questions on this matter.

Sincerely yours,

Paul M. Usoka

for B. MARTIN LUNA

BML:mmi

10777

9404358439 6

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAII

In the Matter of Incorporation of SPORTS SHINKO (PUKALANI) CO., LTD.	)

RECEIVED
DEC 10 1987
11:54 AM
Dept. of Commerce & Consumer Affairs
STATE OF HAWAII

ARTICLES OF INCORPORATION

OF

SPORTS SHINKO (PUKALANI) CO., LTD.

9 4 0 4 3 5 8 4 3 9 7

KNOW ALL MEN BY THESE PRESENTS:

That I/we, the undersigned, desiring to become incorporated as a corporation under and in accordance with the laws of the State of Hawaii, and to obtain the rights and benefits conferred by said laws upon corporations, do hereby associate ourselves together and unite and form a corporation, and do make and enter into the following Articles of Incorporation, the terms whereof it is agreed shall be equally obligatory upon the parties hereto and upon all who from time to time may hold stock in the corporation.

I.

The name of the corporation shall be SPORTS SHINKO (PUKALANI) CO., LTD.

II.

The location of the principal office of the corporation shall be at Pukalani, Hawaii, and the specific address of the initial office of the corporation shall be 55 Pukalani Street, Pukalani, Hawaii 96768.

The corporation may have such other offices within and without the State of Hawaii as its business may from time to time require, and as its Board of Directors may designate.

III.

1. The primary specific purpose and other purposes for which this corporation is organized are as follows:

(a) To own and operate golf courses.

9404358398

(b) To undertake and carry on any business, investment, transaction, venture or enterprise, whether manufacturing, agricultural, mercantile, trading, real estate, service, contracting, fiduciary, or otherwise, which may be undertaken and carried on by natural persons such as ranchers, financiers, merchants, manufacturers, contractors, agriculturists, brokers, agents, or otherwise; either directly in its own name or indirectly by agents or through the medium of the ownership of stock or other interest in any other business or enterprise established to carry on any of such pursuits, and so to do not only as principal, but also as agent, contractor, or attorney for any other person, firm or corporation;

(c) To buy or otherwise acquire, own, hold, use, improve, develop, subdivide, mortgage, lease or take on lease, sell, convey and in any and every other manner deal in and with and dispose of real estate, buildings and other improvements, hereditaments, easements and appurtenances of every kind in connection therewith, or any estate or interest therein, of any tenure, or description, to the fullest extent permitted by law, and also any and all kinds of chattels, goods, wares, merchandise, and agricultural, manufacturing and mercantile products and commodities, and patents, licenses, debentures, securities, stocks, bonds, commercial paper, and other form of assets, rights, and interests and evidences of property or indebtedness, tangible or intangible;

9404358439 9

(d) To loan money on real estate, bonds, stocks, notes and all other personal property and upon any and all character of collateral security;

(e) To manage or administer as agent, representative, or factor, the whole or any part of the business or property of any individual, partnership or corporation carrying on any authorized business, and to sell or dispose of, arrange for the administration or management of, by any agent, the whole or any part of the corporation's business of property;

(f) To act as agent, representative, broker, factor, advisor or manager of any individual, partnership or corporation and, as such, to promote, develop and extend their business and to aid in any lawful enterprise;

(g) To buy, sell, lease, assemble, import, export, process and deal in any and all classes of materials, merchandise, supplies and commodities of every kind and nature; and

(h) To undertake and carry on any business, investment, transaction, venture, or enterprise which may be lawfully undertaken or carried on by a corporation and any business whatsoever which may seem to the corporation convenient or suitable to be undertaken whether directly or indirectly to promote any of its general purposes or interests or render more valuable or profitable any of its property, rights, interests, or enterprises; and, for any of the purposes mentioned in these Articles, to acquire by purchase, lease or otherwise, interests in or the

9 4 0 4 3 5 8 4 4 0 0

property rights, franchises, charters, concessions, grants, rights or privileges belonging to any partnership or corporation engaged in or authorized to conduct any business or undertaking which may be carried on by this corporation or possessed of any property suitable or useful for any of its own purposes, and carry on the same and undertake all or any part of the obligations and liabilities in connection therewith, on such terms and conditions and for such consideration as may be agreed upon, and to pay for the same either all or partly in cash, stocks, bonds, debenture, or other forms of assets and securities, either of this corporation or otherwise; and to effect any such acquisition or carry on any business authorized by these Articles, either by directly engaging therein, or indirectly by acquiring the shares, stocks or other securities of such other business or entity, and holding and voting the same and otherwise exercising and enjoying the rights and advantages incidental thereto.

2. In furtherance of said purposes, the corporation shall also have the following powers:

(a) To have succession by its corporate name in perpetuity; to sue and be sued in any court; to make and use a common seal and to alter the same at its pleasure; to hold, purchase and convey such property as the purposes of the corporation shall require, without limit as to amount and to mortgage, pledge and hypothecate the same to secure any debt of the corporation; to appoint such subordinate officers or agents as the business of the

9 4 0 4 3 5 8 4 4 0 1

corporation shall require; to make and adopt and from time to time amend or repeal By-Laws not in conflict with any existing law or these Articles for the management of its properties, the election and removal of its officers, the regulation of its affairs and the transfer of its stock and for all other purposes permitted by law;

(b) To borrow money or otherwise incur indebtedness without limit as to amount and in excess of the capital stock of the corporation with or without security and to secure any indebtedness by deed or trust, mortgage, pledge, hypothecation or other lien upon all or any part of the real or personal property of the corporation and to execute bonds, promissory notes, bills of exchange, debentures or other obligations or evidences of indebtedness of all kinds, whether secured or unsecured;

(c) To issue shares of the capital stock and/or obligations of the corporation and/or options for the purchase of either thereof in payment for property acquired or for services rendered to the corporation or for any other objects in and about its business;

(d) To purchase on commission or otherwise, subscribe for, hold, own, sell on commission or otherwise, or otherwise acquire or dispose of and generally to deal in stocks, scrips, bonds, notes, debentures, commercial papers, obligations and securities, including, so far as permitted by law, its own issued shares of capital stock or other securities, and also any other securities, or evidences of indebtedness whatsoever, or any

9404358402

interest therein, and while the owner of the same to exercise all the rights, powers and privileges of ownership;

(e) To draw, make, accept, endorse, assign, discount, execute and issue all such bills of exchange, bills of lading, promissory notes, warrants and other instruments to be assignable, negotiable or transferable by delivery or to order, or otherwise, as the business of the corporation shall require;

(f) To lend and advance money or to give credit, with or without security, to such person, firms, or corporations, and on such terms as may be thought fit; and if with security, then upon mortgages, deeds of trust, pledges or other hypothecations or interest therein or thereto;

(g) To aid in any manner any corporation of which any of the bonds or other securities or evidences of indebtedness or stock are held by this corporation, and to do any acts or things to preserve, protect, improve or enhance the value of any such bonds or other securities or evidences of indebtedness or stock, including specifically the right and power to enter into and take the management of any business enterprise of any kind or nature, and while so managing any such business, to do the acts and things incidental or necessary thereto;

(h) To enter into partnership contracts, as a general partner or as a limited partner with any other person or persons, natural or corporate, to enter into agreements of joint venture with any such natural or corporate person or persons and to enter

9 4 0 4 3 5 8 4 4 0 3

into and perform contracts, undertakings and obligations of every kind and character to the same extent as if this corporation were a natural person;

(i) To promote, assist, subscribe or contribute to any association, organization, society, company, institution or object, charitable or otherwise, calculated to benefit the corporation or any persons in its employ or having dealings with the corporation, or deemed to be for the common or public welfare;

(j) To become a party to and effect a merger or consolidation with another corporation or other corporations, to enter into plans of reorganization and readjustment and to enter into agreements and relationships not in contravention of law with any persons, firms, or corporations;

(k) To become surety for or guarantee any dividends, bonds, stocks, contracts, debts, or other obligations or undertakings of any other person, firm, or corporation, and to convey, transfer or assign, by way of pledge or mortgage, all or any of the corporation's property or rights, both present and future, to secure the debts or obligations, present and future, of such persons, firms or corporations and on such terms and conditions as the corporation may determine;

(l) To the extent permitted by applicable federal law, to indemnify and purchase and maintain insurance on behalf of any fiduciary or any employee benefit plan or trust maintained for the

9 4 0 4 3 5 8 4 4 0 4

benefit of employees of the corporation or another corporation in which it owns shares; and

(m) To do all or any of the above things in any part of the world, directly or indirectly, and as principal, agent, factor, contractor or otherwise, and by or through trustees, agents or otherwise, and either alone or in conjunction with others.

3. The enumeration herein of the purposes of this corporation shall be construed as powers as well as purposes and shall be liberally construed both as to purposes and powers and the expression of one thing shall not be deemed to exclude another although it be of like nature not expressed and the enumeration of specific purposes and powers shall not be deemed to limit or restrict in any manner the meaning of the general purposes and powers nor exclude by inference any powers or purposes which this corporation is empowered to exercise, whether expressly by force of the laws of the State of Hawaii now or hereafter in effect, or impliedly by the reasonable construction of said laws.

IV.

1. The authorized capital of the corporation shall be divided into TWENTY THOUSAND (20,000) shares of no par value common stock.

9 4 0 4 3 5 8 4 4 0 5

2. The name(s) of the initial subscriber(s) of capital stock, the number of shares subscribed for by such subscriber(s), the subscription price thereof and the amount of capital paid in in cash and/or property and/or surplus are as follows:

Name	No. of Shares of Stock Subscribed	Total Subscription Price	Total Amount of Capital Paid in	Total Amount of Paid-In Surplus
SPORTS SHINKO (HAWAII) CO., LTD., a Hawaii corporation	1,000	$1,000	$1,000 (cash)	-0-

3. Subject to the pre-emptive rights of the holders of common stock as set forth in paragraph 4 of this Article IV, the Board of Directors is authorized to determine the consideration and the terms and conditions upon which and the persons to whom authorized and unissued shares whether originally authorized or created additionally, may be issued and sold and what portion of consideration shall constitute capital and what portion, if any, paid-in surplus, subject to applicable provisions of these Articles and of law.

4. In case of any increase of the outstanding capital stock of the corporation by the issuance or reissuance of any

9 4 0 4 3 5 8 4 4 0 6

shares of any class, or by the issuance of any obligation or securities convertible into shares of capital stock, such stock, obligations or securities shall, unless otherwise provided by the vote of the holders of not less than two-thirds (2/3) of the common stock issued and outstanding, before being sold or offered to others, be offered to the holders of the common stock of the corporation as of the date of issuance as shown by the stock books of the corporation upon such terms, which terms shall not be less favorable than the terms upon which said shares are thereafter sold to others, as shall be determined by the Board of Directors in proportion to the shares of common stock respectively held by such shareholders at such date.

V.

The corporation shall have a Board of Directors of not less than the number of shareholders there are in the corporation at any given time; provided, that, if the corporation has three or more shareholders, the corporation shall have three or more directors. The members of the Board of Directors shall be elected or appointed at such times, in such manner and for such terms as may be prescribed by the By-Laws. No director need be a shareholder of the corporation.

The Board of Directors of the corporation, without the approval of the shareholders of the corporation, or of any percentage thereof, may authorize the borrowing of money or the

9 4 0 4 3 5 8 4 4 0 7

incurring of debts, even though as a result thereof the amount of the corporation's indebtedness may exceed the capital stock.

VI.

No contract or other transaction between the corporation and any other corporation or any firm, association, or other organization, and no act of the corporation, shall in any way be affected or invalidated by the fact that any of the directors or officers of the corporation are parties to such contract or transaction or act or are pecuniarily or otherwise interested in the same or are directors or officers or members of any such other corporation, provided, that the interest of such director or officer shall be disclosed or shall have been known to the Board of Directors authorizing or approving the same, or to a majority thereof. Any director of the corporation who is pecuniarily or otherwise interested in or is a director or officer or member of such other corporation or any such firm, association or other organization, may be counted in determining a quorum of any meeting of the Board of Directors which shall authorize or approve any such contract, transaction or act, and may vote thereon with like force and effect as if he were in no way interested therein. Neither any director nor officer of the corporation, being so interested in any such contract, transaction, or act of the corporation which shall be approved by the Board of Directors of the corporation, nor any corporation, firm, association, or other organization in which such director, or officer may be interested,

9 4 0 4 3 5 8 4 4 0 8

shall be liable or accountable to the corporation, or to any shareholder thereof, for any loss incurred by the corporation pursuant to or by reason of such contract, transaction, or act, or for any gain received by any such other party pursuant thereto or by reason thereof.

VII.

The names and residence addresses of the initial directors who are to serve until their successors are elected as provided by the By-Laws are as follows:

Name	Residence Address
TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
KATSUHKI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
FRANKLIN K. MUKAI	1140 Waiholo Street Honolulu, Hawaii 96821

VIII.

The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the By-Laws, a secretary, and a treasurer, each of whom shall be elected or appointed by the Board of Directors at such time and in such manner as may be prescribed by the By-Laws. Such other officers and assistant officers and agents as may be deemed

9404358440 9

necessary may be elected or appointed by the Board of Directors or chosen in such other manner as may be prescribed by the By-Laws. Any two or more offices may be held by the same person; provided that the corporation shall have not less than two persons as officers. No officer or subordinate officer need be a shareholder of the corporation. The same person may hold at the same time an office and also be a director.

IX.

The following persons shall act as the initial officers of the corporation until their successors are appointed as provided for in the By-Laws:

Office	Name	Residence Address
Pres./Treas./Secy.	TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
Vice President	MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
Vice President	KATSUMI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
Asst. Secretary	TAKASHI YOSHIDA	3-25-4 Shonan-Dai Fujisawa-City, Japan
Asst. Treasurer	YASUO NISHIDA	94-214 Kakaili Place Mililani Town, HI 96789

X.

The corporation shall be liable for its debts to the extent of all its property, but no shareholder shall be liable for the debts of the corporation beyond the amount which may be due and unpaid upon the share, or shares, owned by him.

9404358410

XI.

The duration of the corporation shall be perpetual.

XII.

The corporation may distribute to its shareholders out of capital surplus, a portion of its assets in cash or in property in accordance with law.

I/WE CERTIFY under the penalties of Section 415-136, Hawaii Revised Statutes, that I/we have read the above statements and that the same are true and correct.

WITNESS my/our hand(s) this 9th day of December, 1987.

FRANKLIN K. MUKAI

940435844 1 1

Did Shinko give funds legally? Question put to election board

By BRIAN PERRY
Staff Writer

WAILUKU — A federal complaint has been filed alleging Sports Shinko (Pukalani) Co. hired Wailuku attorney B. Martin Luna and Honolulu attorney Franklin Mukai to make illegal campaign contributions to Maui County Council members last year.

Federal law prohibits foreign nationals from making contributions directly or indirectly in federal, state or local elections. But a business incorporated under Hawaii law with its principal place of business in the state is not considered a foreign corporation.

According to a complaint filed with the Federal Election Commission by former Maui County Council Member Allen Barr, Luna and Mukai violated the federal law by acting as a front for the Japanese-owned company.

Allen Barr

"Foreign nationals hired two American attorneys to make illegal contributions," Barr says. "For the commission to conclude that Sports Shinko's political contributions were legal would be to conclude that all a foreign national has to do to circumvent the law is to hire an American attorney. Such a conclusion would, in practical effect, repeal the law."

At issue are $1,000 donations to Council Members Vince Bagoyo, Goro Hokama, Alice Lee, Rick Medeiros and Joe Tanaka. On Wednesday, all the council members said they believed the donations were legal because the Sports Shinko company is incorporated under Hawaii law.

Barr alleges the contributions were made around the time of the 1990 election campaign to influence proposed resolutions before the council to downzone Sports Shinko's 7.5-acre hotel-zoned property near the Pukalani Country Club. Council members voted 6-3 to kill the resolutions during a July 5 council meeting.

Sports Shinko proposes to build an 88-unit, two-story hotel with 120 apartment units. The plan has divided the Pukalani community. Proponents say it would benefit the community with jobs and additional housing. Opponents say it would aggravate traffic congestion and bring urban development to a predominantly rural community.

Barr acknowledges in his complaint that Sports Shinko (Pukalani), a wholly owned subsidiary of Sports Shinko of Tokyo and Osaka, Japan, was registered in Hawaii on Dec. 10, 1987, as a golf course operator.

Barr points out that Mukai, an attorney with the firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, is the only one of the seven directors listed for Sports Shinko (Pukalani) who is an American [illegible]

See DID SHINKO
on the last page of this section

IDAY

ndex

1 Around the Nation
Around the World
Classifieds
Comics
Community
1 Business
1 Dear Abby
Entertainment
1 Home Sundays
1 News From Hawaiian
In Hawaii
Money Matters
Obituaries
3 Opinion
Religion
2 The Week in Review
TV Schedule
2 Visit Maui
Weather
Word Has It

1

Friday,

ed cuts inte
ates, one dr
a 27-year l

WASHINGTON (AP) — The Federal Reserve today slashed two interest rates, dropping one of them to the lowest level in 27 years, a central bank intervention in efforts to stimulate an economic recovery bogged down in months of stalling.

The Fed cut by a full percentage point a discount rate — the interest it charges to lend money to banks — to 3.5 percent from 4.5 percent.

The lower level is added reserves to the nation's banking system, in addition that analysts said it is doing for the federal funds rate, the rate for the 15th time since the stimulation began in July.

Analysts said the Fed action appeared to signal a half-point drop in the rate to 4 percent, down from 4.5 percent.

The Fed doesn't lower or increase its changes in its target funds rate, the interest banks charge each other for overnight loans, but it does for a change in the discount rate.

The Fed's action marked the first time a discount rate has been reduced by a full percentage point in a decade, and it put the discount rate at its lowest level since the discount rate signal at the end of the decade, when it was lower to prime the economy.

The domestic economy was prompted Thursday, the country's banks, to cut its prime rate a full percentage point to the lowest level for more than nearly twelve years since 1977.

Other major banks followed with similar cuts.

The Fed move surprised although it had taken indications of a surprise. They said it was consistent with what it views the nation's economy.

Analysts said a probably was taken this week of the Federal Reserve Board. There were 2 dissents and one the most four years.

As the Fed was announcing of the

scount rate

Did Shinko give donations legally?

Continued from Page A1

ron. The others are Japanese nationals with addresses in Tokyo, Osaka, Honolulu, Waikiki and Del Mar, Calif.

According to a Federal Election Commission advisory opinion, a domestic corporation with a foreign parent must ensure that foreign nationals do not participate in any decision-making for campaign contributions.

When questioned on this point in August, Lunn said only he and Makai made decisions about political contributions.

"The claim is on its face absurd," Barr says.

Makai, as only a director, could not unilaterally appropriate and expend money from the corporation, he says.

"Such decisions would require the authorization of either or both the board of directors or an officer of the corporation," Barr says. "Such decisions, therefore, would necessarily involve the participation of foreign nationals since all other members of the board and all officers of the corporation are foreign nationals."

This week, Lunn volunteered that only he and Makai made decisions about making contributions to Sports Shinko. He said he has been informed federal law and federal guidelines allowed the contributions if a company is transparent about ownership.

Lunn said the firm did not require an advisory opinion from the election commission. Barr said an advisory opinion would have been required and obtained within an hour or two days.

Barring those, he said, in Makai's business life, he understand the impropriety of making campaign contributions to council members. On Thursday, he said he doubted he ever sought an advisory opinion after reviewing the law and previous commission decisions on cases with very similar factual circumstances.

He said the commission has consistently held over the past 20 years that domestically transparent companies, which are wholly owned by foreign entities, are not considered foreign. He said such corporations may make campaign contributions if those making decisions are American citizens and if the dollars money comes from within the United States.

Lunn said Makai was given authority by the Sports Shinko corporation to make the campaign contributions. But Lunn said he did not know how Makai managed to insulate the foreign nationals from the decision-making process.

Makai has been out of the state this week, and attempts to reach him for comment were unsuccessful.

When asked how Makai could make a unilateral decision on campaign spending, Sayre said, "I'm not going to get into that."

In his complaint, Barr also challenges Lunn's statement that money for the campaign contributions came from Sports Shinko (Pukalani) revenues.

"Even if the contributions were made from a Pukalani Country Club checking account and current revenues from Pukalani Country Club operations are being deposited into that account, it is no more than an accounting fiction to argue that that makes the contributions come out of Pukalani Country Club revenues," Barr says.

He says Sport Shinko (Pukalani) Co.'s initial investment of $17.5 million has not been recovered.

Lunn said he was not aware that profitability was an issue in whether money made locally could be used for campaign contributions.

Barr said the council members violated the federal law by accepting contributions made by an American citizen in the name of Sports Shinko.

Shinoda said he would check out Barr's interpretation of the federal law with the Lieutenant Governor's Office.

"If what he says is true, I will return the check," he said.

Tomita said he also would return the $1,000 if the contribution were deemed illegal.

Sayre called Barr's allegations "wild stuff." He said his campaign records checked and double-checked and found it was legal to accept the campaign contribution from Sports Shinko.

He said the charges have been referred to the Maui County Board of Ethics and the state Campaign Spending Commission, and nothing in the law because of them.

Lee said she believed the allegations are linked to the council's failure to determine Sports Shinko's beachfront property in Pukalani. She said she voted against killing the campaign contribution from Sports Shinko.

She said she believes Sports Shinko officials contributed to her campaign because she's a hard-working, outspoken and open-minded councilwoman.

Tomita said the allegations amounted to personal attacks by Barr because he was on the losing end of the governing issue.

9 4 0 4 3 5 8 4 4 1 3

MUR C 3992

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
1001 BISHOP STREET
PACIFIC TOWER, SUITE 2200
POST OFFICE BOX 656
HONOLULU, HAWAII 96809
TELEPHONE (808) 523-2500
FAX (808) 523-0842

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 683-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-8480

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

DIRECT DIAL NUMBER:
(808) 523-2627

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
92 JAN -6 AM 9:17

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN -6 PM 4:04

9 4 0 4 3 5 8 4 4 1 4

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Attention: Mark Allen, Esq.

Gentlemen:

Re: MUR 3460 - Sports Shinko (Pukalani) Co., Ltd.

Your letter dated December 18, 1991 and the enclosed complaint were received on December 24, 1991.

Due to the holiday schedule in the United States and the traditional year-end vacations in Japan, we are experiencing difficulties in communicating with various individuals in both countries in order to verify certain facts. Therefore, we respectfully request an extension of time to file an appropriate response to the complaint until January 15, 1992.

Thank you for your kind consideration. Please call should you have any questions.

Very truly yours,

Stanley D. Suyat

Stanley D. Suyat

SDS:jsi
cc: Mr. Yasuo Nishida
Franklin K. Mukai, Esq.
B. Martin Luna, Esq.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 9, 1992

Stanley D. Suyat
Carlsmith, Ball, Wichman, Murray, Case, Mukai & Ichiki
1001 Bishop Street
Pacific Tower, Suite 2200
Post Office Box 656
Honolulu, HI 96809

RE: MUR 3460
Sports Shinko (Pukalani)
Co., Ltd.

Dear Mr. Suyat:

This is in response to your letter dated December 30, 1991, which we received on January 6, 1992, requesting an extension until January 15, 1992 to respond to the complaint. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on January 15, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9 4 0 4 3 5 8 4 4 1 5

OC 2993

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

92 JAN -6 AM 9:17

P. O. Box H
Lanai City, Lanai
Hawaii 96763

December 30, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JAN -6 PM 2:44

General Counsel's Office
Federal Election Commission
Washington, D. C. 20463

Re: MUR 3460

Dear Sir:

I received your letter dated December 18, 1991, on the evening of December 27th upon my return from the island of Maui.

Prior to receiving your letter with the enclosures, I did receive a copy of Mr. Allen Barr's letter to you from Mr. Barr and, also, was contacted by reporters from the Honolulu Advertiser and the Maui News regarding this matter. I stated to the reporters that I had filed with the State Campaign Commission all contributions and from whom the contributions came from and that I would write to the Lt. Governor of our State, who is the State's Chief Election Officer, and request his ruling on the complaint brought by Mr. Barr. Also, if the contribution received is a violation of the law that I would return the contribution to the donor. I have not as yet received a response from the Office of the Lt. Governor.

I do not have legal counsel at the present time and I am not hiring legal counsel at the present time.

Yours truly,

Goro Hokama

Goro Hokama

9404358441 6

Tanaka

90-C2994

December 31, 1991

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL 92 JAN -6 AM 9:14

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL 92 JAN -6 PM 4:

MEMO TO: Federal Election Commission
Washington, D.C. 20463

ATTN: Jonathan Bernstein
Assistant General Counsel

F R O M: Councilmember Joe S. Tanaka
C/O Friends of Joe Tanaka
213 Niihau Street
Kahului, HI 96732

SUBJECT: MUR 3460

Due to the Holidays its very difficult to reply in lenght at this time. Please bear with me until the holidays are over, then I will reply in length.

As for this matter: MUR 3460, we feel we did not violate Federal Election Campaign Act of 1971. Sport Shinko Co., Ltd. representative did in fact state that these campaign contribution were made in accordance with the applicable federal campaign spending laws and guidelines.

All contributions received by Friends of Joe Tanaka are filled with our County Clerk's office, which is public information and the State Campaign Spending Commission office. We believe if there was any kind of violation our State Campaign Spending Commission would have question our Report of Campaign Receipts and Expenditures. (See attached)

Friends of Joe Tanaka did received contribution from Sport Shinko Co., Ltd. in good faith, and if by any chance we were in violation we would be more than happy to return Sport Shinko, Co., Ltd. contribution.

Thank you for your attention on this matter. Should you have any questions, please do not hesitate to call me at 243-7678.

Sincerely,

Joe S. Tanaka
Councilmember
County of Maui

JST:cc

9 4 0 4 3 5 8 4 4 1 7

P.O. Box 1652 • Kahului, Maui, HI 96732 • (808) 877-0946 • Fax (808) 877-5612

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAII

In the Matter of Incorporation of SPORTS SHINKO (PUKALANI) CO., LTD.	)

RECEIVED
DEC 10 1987
11:54 AM
Dept. of Commerce & Consumer Affairs
STATE OF HAWAII

9404358418

ARTICLES OF INCORPORATION

OF

SPORTS SHINKO (PUKALANI) CO., LTD.

KNOW ALL MEN BY THESE PRESENTS:

That I/we, the undersigned, desiring to become incorporated as a corporation under and in accordance with the laws of the State of Hawaii, and to obtain the rights and benefits conferred by said laws upon corporations, do hereby associate ourselves together and unite and form a corporation, and do make and enter into the following Articles of Incorporation, the terms whereof it is agreed shall be equally obligatory upon the parties hereto and upon all who from time to time may hold stock in the corporation.

I.

The name of the corporation shall be SPORTS SHINKO (PUKALANI) CO., LTD.

II.

The location of the principal office of the corporation shall be at Pukalani, Hawaii, and the specific address of the initial office of the corporation shall be 55 Pukalani Street, Pukalani, Hawaii 96768.

The corporation may have such other offices within and without the State of Hawaii as its business may from time to time require, and as its Board of Directors may designate.

III.

1. The primary specific purpose and other purposes for which this corporation is organized are as follows:

(a) To own and operate golf courses.

9404358419

(b) To undertake and carry on any business, investment, transaction, venture or enterprise, whether manufacturing, agricultural, mercantile, trading, real estate, service, contracting, fiduciary, or otherwise, which may be undertaken and carried on by natural persons such as ranchers, financiers, merchants, manufacturers, contractors, agriculturists, brokers, agents, or otherwise; either directly in its own name or indirectly by agents or through the medium of the ownership of stock or other interest in any other business or enterprise established to carry on any of such pursuits, and so to do not only as principal, but also as agent, contractor, or attorney for any other person, firm or corporation;

(c) To buy or otherwise acquire, own, hold, use, improve, develop, subdivide, mortgage, lease or take on lease, sell, convey and in any and every other manner deal in and with and dispose of real estate, buildings and other improvements, hereditaments, easements and appurtenances of every kind in connection therewith, or any estate or interest therein, of any tenure, or description, to the fullest extent permitted by law, and also any and all kinds of chattels, goods, wares, merchandise, and agricultural, manufacturing and mercantile products and commodities, and patents, licenses, debentures, securities, stocks, bonds, commercial paper, and other form of assets, rights, and interests and evidences of property or indebtedness, tangible or intangible;

9 4 0 4 3 5 8 4 4 2 0

(d) To loan money on real estate, bonds, stocks, notes and all other personal property and upon any and all character of collateral security;

(e) To manage or administer as agent, representative, or factor, the whole or any part of the business or property of any individual, partnership or corporation carrying on any authorized business, and to sell or dispose of, arrange for the administration or management of, by any agent, the whole or any part of the corporation's business of property;

(f) To act as agent, representative, broker, factor, advisor or manager of any individual, partnership or corporation and, as such, to promote, develop and extend their business and to aid in any lawful enterprise;

(g) To buy, sell, lease, assemble, import, export, process and deal in any and all classes of materials, merchandise, supplies and commodities of every kind and nature; and

(h) To undertake and carry on any business, investment, transaction, venture, or enterprise which may be lawfully undertaken or carried on by a corporation and any business whatsoever which may seem to the corporation convenient or suitable to be undertaken whether directly or indirectly to promote any of its general purposes or interests or render more valuable or profitable any of its property, rights, interests, or enterprises; and, for any of the purposes mentioned in these Articles, to acquire by purchase, lease or otherwise, interests in or the

9 4 0 4 3 5 8 4 4 2 1

property rights, franchises, charters, concessions, grants, rights or privileges belonging to any partnership or corporation engaged in or authorized to conduct any business or undertaking which may be carried on by this corporation or possessed of any property suitable or useful for any of its own purposes, and carry on the same and undertake all or any part of the obligations and liabilities in connection therewith, on such terms and conditions and for such consideration as may be agreed upon, and to pay for the same either all or partly in cash, stocks, bonds, debenture, or other forms of assets and securities, either of this corporation or otherwise; and to effect any such acquisition or carry on any business authorized by these Articles, either by directly engaging therein, or indirectly by acquiring the shares, stocks or other securities of such other business or entity, and holding and voting the same and otherwise exercising and enjoying the rights and advantages incidental thereto.

2. In furtherance of said purposes, the corporation shall also have the following powers:

(a) To have succession by its corporate name in perpetuity; to sue and be sued in any court; to make and use a common seal and to alter the same at its pleasure; to hold, purchase and convey such property as the purposes of the corporation shall require, without limit as to amount and to mortgage, pledge and hypothecate the same to secure any debt of the corporation; to appoint such subordinate officers or agents as the business of the

9 4 0 4 3 5 8 4 4 2 2

corporation shall require; to make and adopt and from time to time amend or repeal By-Laws not in conflict with any existing law or these Articles for the management of its properties, the election and removal of its officers, the regulation of its affairs and the transfer of its stock and for all other purposes permitted by law;

(b) To borrow money or otherwise incur indebtedness without limit as to amount and in excess of the capital stock of the corporation with or without security and to secure any indebtedness by deed or trust, mortgage, pledge, hypothecation or other lien upon all or any part of the real or personal property of the corporation and to execute bonds, promissory notes, bills of exchange, debentures or other obligations or evidences of indebtedness of all kinds, whether secured or unsecured;

(c) To issue shares of the capital stock and/or obligations of the corporation and/or options for the purchase of either thereof in payment for property acquired or for services rendered to the corporation or for any other objects in and about its business;

(d) To purchase on commission or otherwise, subscribe for, hold, own, sell on commission or otherwise, or otherwise acquire or dispose of and generally to deal in stocks, scrips, bonds, notes, debentures, commercial papers, obligations and securities, including, so far as permitted by law, its own issued shares of capital stock or other securities, and also any other securities, or evidences of indebtedness whatsoever, or any

9404358423

interest therein, and while the owner of the same to exercise all the rights, powers and privileges of ownership;

(e) To draw, make, accept, endorse, assign, discount, execute and issue all such bills of exchange, bills of lading, promissory notes, warrants and other instruments to be assignable, negotiable or transferable by delivery or to order, or otherwise, as the business of the corporation shall require;

(f) To lend and advance money or to give credit, with or without security, to such person, firms, or corporations, and on such terms as may be thought fit; and if with security, then upon mortgages, deeds of trust, pledges or other hypothecations or interest therein or thereto;

(g) To aid in any manner any corporation of which any of the bonds or other securities or evidences of indebtedness or stock are held by this corporation, and to do any acts or things to preserve, protect, improve or enhance the value of any such bonds or other securities or evidences of indebtedness or stock, including specifically the right and power to enter into and take the management of any business enterprise of any kind or nature, and while so managing any such business, to do the acts and things incidental or necessary thereto;

(h) To enter into partnership contracts, as a general partner or as a limited partner with any other person or persons, natural or corporate, to enter into agreements of joint venture with any such natural or corporate person or persons and to enter

9 4 0 4 3 5 8 4 4 2 4

into and perform contracts, undertakings and obligations of every kind and character to the same extent as if this corporation were a natural person;

(i) To promote, assist, subscribe or contribute to any association, organization, society, company, institution or object, charitable or otherwise, calculated to benefit the corporation or any persons in its employ or having dealings with the corporation, or deemed to be for the common or public welfare;

(j) To become a party to and effect a merger or consolidation with another corporation or other corporations, to enter into plans of reorganization and readjustment and to enter into agreements and relationships not in contravention of law with any persons, firms, or corporations;

(k) To become surety for or guarantee any dividends, bonds, stocks, contracts, debts, or other obligations or undertakings of any other person, firm, or corporation, and to convey, transfer or assign, by way of pledge or mortgage, all or any of the corporation's property or rights, both present and future, to secure the debts or obligations, present and future, of such persons, firms or corporations and on such terms and conditions as the corporation may determine;

(l) To the extent permitted by applicable federal law, to indemnify and purchase and maintain insurance on behalf of any fiduciary or any employee benefit plan or trust maintained for the

9 4 0 4 3 5 8 4 4 2 5

benefit of employees of the corporation or another corporation in which it owns shares; and

(m) To do all or any of the above things in any part of the world, directly or indirectly, and as principal, agent, factor, contractor or otherwise, and by or through trustees, agents or otherwise, and either alone or in conjunction with others.

3. The enumeration herein of the purposes of this corporation shall be construed as powers as well as purposes and shall be liberally construed both as to purposes and powers and the expression of one thing shall not be deemed to exclude another although it be of like nature not expressed and the enumeration of specific purposes and powers shall not be deemed to limit or restrict in any manner the meaning of the general purposes and powers nor exclude by inference any powers or purposes which this corporation is empowered to exercise, whether expressly by force of the laws of the State of Hawaii now or hereafter in effect, or impliedly by the reasonable construction of said laws.

IV.

1. The authorized capital of the corporation shall be divided into TWENTY THOUSAND (20,000) shares of no par value common stock.

9 4 0 4 3 5 8 4 4 2 6

2. The name(s) of the initial subscriber(s) of capital stock, the number of shares subscribed for by such subscriber(s), the subscription price thereof and the amount of capital paid in in cash and/or property and/or surplus are as follows:

Name	No. of Shares of Stock Subscribed	Total Subscription Price	Total Amount of Capital Paid in	Total Amount of Paid-In Surplus
SPORTS SHINKO (HAWAII) CO., LTD., a Hawaii corporation	1,000	$1,000	$1,000 (cash)	-0-

3. Subject to the pre-emptive rights of the holders of common stock as set forth in paragraph 4 of this Article IV, the Board of Directors is authorized to determine the consideration and the terms and conditions upon which and the persons to whom authorized and unissued shares whether originally authorized or created additionally, may be issued and sold and what portion of consideration shall constitute capital and what portion, if any, paid-in surplus, subject to applicable provisions of these Articles and of law.

4. In case of any increase of the outstanding capital stock of the corporation by the issuance or reissuance of any

94043584427

shares of any class, or by the issuance of any obligation or securities convertible into shares of capital stock, such stock, obligations or securities shall, unless otherwise provided by the vote of the holders of not less than two-thirds (2/3) of the common stock issued and outstanding, before being sold or offered to others, be offered to the holders of the common stock of the corporation as of the date of issuance as shown by the stock books of the corporation upon such terms, which terms shall not be less favorable than the terms upon which said shares are thereafter sold to others, as shall be determined by the Board of Directors in proportion to the shares of common stock respectively held by such shareholders at such date.

V.

The corporation shall have a Board of Directors of not less than the number of shareholders there are in the corporation at any given time; provided, that, if the corporation has three or more shareholders, the corporation shall have three or more directors. The members of the Board of Directors shall be elected or appointed at such times, in such manner and for such terms as may be prescribed by the By-Laws. No director need be a shareholder of the corporation.

The Board of Directors of the corporation, without the approval of the shareholders of the corporation, or of any percentage thereof, may authorize the borrowing of money or the

9 4 0 4 3 5 8 4 4 2 8

incurring of debts, even though as a result thereof the amount of the corporation's indebtedness may exceed the capital stock.

VI.

No contract or other transaction between the corporation and any other corporation or any firm, association, or other organization, and no act of the corporation, shall in any way be affected or invalidated by the fact that any of the directors or officers of the corporation are parties to such contract or transaction or act or are pecuniarily or otherwise interested in the same or are directors or officers or members of any such other corporation, provided, that the interest of such director or officer shall be disclosed or shall have been known to the Board of Directors authorizing or approving the same, or to a majority thereof. Any director of the corporation who is pecuniarily or otherwise interested in or is a director or officer or member of such other corporation or any such firm, association or other organization, may be counted in determining a quorum of any meeting of the Board of Directors which shall authorize or approve any such contract, transaction or act, and may vote thereon with like force and effect as if he were in no way interested therein. Neither any director nor officer of the corporation, being so interested in any such contract, transaction, or act of the corporation which shall be approved by the Board of Directors of the corporation, nor any corporation, firm, association, or other organization in which such director, or officer may be interested,

9 4 0 4 3 5 8 4 4 2 9

shall be liable or accountable to the corporation, or to any shareholder thereof, for any loss incurred by the corporation pursuant to or by reason of such contract, transaction, or act, or for any gain received by any such other party pursuant thereto or by reason thereof.

VII.

The names and residence addresses of the initial directors who are to serve until their successors are elected as provided by the By-Laws are as follows:

Name	Residence Address
TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
KATSUHEI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
FRANKLIN K. MUKAI	1140 Waiholo Street Honolulu, Hawaii 96821

VIII.

The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the By-Laws, a secretary, and a treasurer, each of whom shall be elected or appointed by the Board of Directors at such time and in such manner as may be prescribed by the By-Laws. Such other officers and assistant officers and agents as may be deemed

9404358443 0

necessary may be elected or appointed by the Board of Directors or chosen in such other manner as may be prescribed by the By-Laws. Any two or more offices may be held by the same person; provided that the corporation shall have not less than two persons as officers. No officer or subordinate officer need be a shareholder of the corporation. The same person may hold at the same time an office and also be a director.

IX.

The following persons shall act as the initial officers of the corporation until their successors are appointed as provided for in the By-Laws:

Office	Name	Residence Address
Pres./Treas./Secy.	TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
Vice President	MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
Vice President	KATSUHEI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
Asst. Secretary	TAKASHI YOSHIDA	3-25-4 Shonan-Dai Fujisawa-City, Japan
Asst. Treasurer	YASUO NISHIDA	94-214 Kakaili Place Mililani Town, HI 96789

X.

The corporation shall be liable for its debts to the extent of all its property, but no shareholder shall be liable for the debts of the corporation beyond the amount which may be due and unpaid upon the share, or shares, owned by him.

9404358443 1

XI.

The duration of the corporation shall be perpetual.

XII.

The corporation may distribute to its shareholders out of capital surplus, a portion of its assets in cash or in property in accordance with law.

I/WE CERTIFY under the penalties of Section 415-136, Hawaii Revised Statutes, that I/we have read the above statements and that the same are true and correct.

WITNESS my/our hand(s) this 9th day of December, 1987.

FRANKLIN K. MUKAI

9404358443 2

CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

RECEIVED

This Report Covers The Period From 11-07-90 (Date) thru 12-31-90 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: FRIENDS OF JOE TANAKA
ADDRESS: 213 NIIHAU ST.
CITY STATE: KAILUA, HI 96732
BUS: 877-734 (Treasurer's Telephone) RES: 879-9369

THIS REPORT IS A:

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☑ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other

SECTION B — SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C D E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	335
2 Contributions Aggregating Over $100 (Line 19)	2900
3 Other Receipts (Line 20)	—
4 Total Contributions This Period (Add Line 1 thru 3)	3235
5 Total Contributions From Prior Report Sec. B Line 6 of Prior Report)	58883.74
6 Total Contributions to Date (Add Lines 4 & 5)	62118.74
7 Balance on Outstanding Loans (Line 21)	—
8 Personal Expenditures of Personal Funds (Line 22)	—
9 Total Receipts to Date (Add Lines 6 thru 8)	62118.74

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	5611.14
11 Fundraising Expenditures (Line 24 Col. 3)	—
12 Total Expenditures This Period (Add Lines 10 and 11)	5611.14
13 Total Expenditures From Prior Report Sec. B Line 14 of Prior Report)	44407.28
14 Total Expenditures to Date (Add Lines 12 & 13)	50019.42
15 SURPLUS (If Line 6 Minus Line 14 is Positive)	12099.62
16 DEFICIT (If Line 6 Minus Line 14 is Negative)	—

CASH BALANCE AS OF 12-3-90 $ 12099.62

SECTION C — AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION of individual	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
8-24-90	A+B HIPAC P.O. Box 3440 Honolulu, HI 96801		400		
10-31-90	LIBERT K. LANDGRAF P.O. Box 59 Hana, HI 96713	REALTOR	1000		
10-31-90	SPORTS SHINKO KAILUA CO., LTD. 360 Kailua St. Kailua, HI 96734		1000		
11-1-90	CASTLE & COOKE LAND COMPANY P.O. Box 3780 Honolulu, HI 96803		500		

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE → 2900
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE —
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 2900

9404358443 3

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY FRIENDS OF JOE TANAKA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11-28-90	MAUI ELECTRIC CO. KAHULUI, HI 96732	ELECTRICAL HOOKUP AT CAMPAIGN HDQT.	100.	
11-29-90	KAHULUI POSTMASTER KAHULUI, HI 96732	2 ROLLS OF STAMP	50.	
12-4-90	C. CABANILLA KAHULUI, HI 96732	REIMB. FOR 4 ROLLS OF STAMP	100.	
12-17-90	PRINTER'S INK. WAILUKU, HI 96793	X-MAS CARDS	132.65	
12-19-90	AH FOOK'S SUPERMARKET KAHULUI, HI 96732	MISC. FOOD ITEMS & SUPPLIES FOR GEN. ELEC. PARTY	586.44	
12-17-90	MAUI BAY SHIRT CO. 2960 MOKUMOA ST HONOLULU, HI 96819	T-SHIRTS FOR CAMPAIGN	256.25	
12-17-90	PHOTOGRAPHY BY IRVIN WAILUKU, HI 96793	X-MAS CARDS	198.46	
12-19-90	KAHULUI POSTMASTER KAHULUI, HI 96732	2 ROLLS OF STAMPS	50.	
12-19-90	MAUI GAS WAILUKU, HI 96793	HELIUM FOR BALLOONS FOR GEN. ELEC. PARTY	30.	

1. Total Amount of Invoices Paid This Page 1523.80
2. Total Amount of Invoices Received but Unpaid This Page ..... —
3. SUBTOTAL of Expenditures This Page (lines 1 & 2) 1523.50
3a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... —
4. TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358443 4

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

Page 1 of 1

NAME OF CANDIDATE, COMMITTEE OR PARTY FRIENDS OF JOE TANAKA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
12-26-90	JOE TANAKA 213 NUHAU KAILUA, HI 96734	REIMB. FOR EXPENSES INCURRED DURING CAMP.	2876.97	

1. Total Amount of Invoices Paid This Page 2876.97
2. Total Amount of Invoices Received but Unpaid This Page ..... —
3. SUBTOTAL of Expenditures This Page (lines 1 & 2) 2876.97
3a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... —
4. TOTAL This Period (last page this line only) 4400.77

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 4 3 5

9404358443 6

SECTION D OTH. F EIPTS (Public Funding, Interest Recv., Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT

20 TOTAL OTHER RECEIPTS THIS PERIOD ..... $ —

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp of Personal Funds)

21 CURRENT BALANCE OF LOAN ..... $ —

22 CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $ —

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11-28-90	Ah Fook's Supermarket Kaneohe Shopping Center Kaneohe, HI 96732	Food items for Gen. Election Party	354.82	
11-28-90	Photography by Ianu Waikiki Industrial Park Waianae, HI 96792	Advert. Photos	318.24	
11-28-90	B. Tanaka 213 Nihoa Kaneohe, HI 96732	Reimb. for food for campaigning	176.22	
11-28-90	Hi Wind Lep. 335 Uwelike St. Kaneohe, HI 96732	Imelda Cards for Advert.	211.79	
11-28-90	Kaneohe Hongwanji Kaneohe, HI 96732	Rental for Gen. Elec. Party	150.	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
23 EXPENDITURES	1211.07	4400.77	5611.84
24 EXPENDITURES INCIDENTAL TO FUNDRAISERS			

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Candidate's Signature — Date — Treasurer's Signature — Date 1/10/91

OG-C 3987

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

92 JAN -6 AM 10:00

January 2, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JAN -6 PM 3:43

Mr. Jonathan Bernstein
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Bernstein:

SUBJECT: MUR 3460

According to Mr. B. Martin Luna, the attorney and representative for Sports Shinko on Maui, the $1,000 contribution to the Friends of Alice Lee was done in accordance with federal campaign spending laws.

On December 4, 1990, the $1,000 contribution from Sports Shinko was duly and properly reported by the Friends of Alice Lee to the State of Hawaii Campaign Spending Commission.

Although the complainant of the above referenced matter fails to provide evidence and supporting documentation to substantiate his opinions and charges, I will be happy to cooperate with the Federal Election Commission.

The complainant's inference that Sports Shinko successfully influenced the recipients of the $1000 contribution is erroneous. I initiated the legislation to down zone Sports Shinko's property and maintained that position to the end.

Should you have any questions, please feel free to call me at (808) 243-7682.

Yours truly,

ALICE L. LEE
Councilwoman

9 4 0 4 3 5 8 4 4 3 7

00-C-0040

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

92 JAN -8 AM 9:28

P. O. Box 1235
Wailuku, HI
January 2, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JAN 10 PM 3:13

Federal Election Commission
Washington, D.C. 20463

RE: Sports Shinko (Pukalani) Co., Ltd. - MUR 3460

Dear Sir:

As you may be aware, I am a member of the Council of the County of Maui on Maui, Hawaii. I recently received an inquiry from your office concerning some contributions which I received from Sports Shinko (Pukalani) Co., Ltd. in conjunction with my campaign for a seat on the Council during the latter part of 1990.

I have always understood that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") is a Hawaii corporation, which operates the Pukalani Country Club golf course here on Maui. I am informed that the company generates income from its operations on the island and that the decision-making concerning charitable and political contributions on the company's behalf is made by an American citizen. Under these circumstances, I believe the contributions which I received from Sports Shinko are legally acceptable.

However, in the interest of avoiding any unwarranted negative impression of my campaign and the manner in which it was conducted, I am writing to inform you that I have returned the campaign contributions which I received from Sports Shinko.

I am willing to discuss this further with you as you deem necessary.

Very truly yours,

VINCE G. BAGOYO, JR.

9 4 0 4 3 5 8 4 4 3 8

OGC 4196

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
2145 WELLS STREET
WELLS STREET PROFESSIONAL BUILDING, SUITE 201
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 989-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-8464
FAX (808) 329-9455

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

92 JAN 15 PM 4:46
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JAN 15 AM 10:00
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

January 10, 1992

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Re: MUR 3460

Dear Mr. Bernstein:

On December 24, 1991, I received your request for information pertaining to Mr. Allen Barr's complaint alleging that certain activities may violate the Federal Election Campaign Act of 1971 ("FECA"). Thank you for extending the time for me to respond to said request.

Our law firm has represented Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a Hawaii corporation doing business as Pukalani Country Club for many years. The principal attorney for Sports Shinko in Hawaii is Franklin K. Mukai, Esq., one of my partners whose office is in Honolulu. On matters pertaining locally to the Island of Maui, Paul M. Ueoka, Esq., a partner in the firm's Maui office, generally performed legal services for Sports Shinko.

In May of 1990, certain residents of Pukalani, a small community on Maui, began a drive to change the zoning of a parcel of land (approximately 30 acres) owned by Sports Shinko's affiliate from hotel and apartment to single family residential. Since 1990 was an election year, these residents, who comprised a majority of the membership in the Pukalani Community Association at that time, targeted public office incumbents and candidates for these offices as part of their "downzoning" effort.

Sports Shinko became aware of this downzoning attempt and decided to join its affiliate in addressing the concerns of

9 4 0 4 3 5 8 4 4 3 9

these Pukalani residents. Sports Shinko's restaurant and golf course operations which are directly across Pukalani Street from the 30-acre parcel would benefit substantially when the subject parcel is developed for hotel and apartment uses. However, no significant contacts occurred between the opposing residents and Sport Shinko over the summer of 1990 so that by September, the downzoning drive seemed to have made important gains.

To slow down the momentum or even perhaps reverse the gains of the opposing residents, our firm provided more manpower to assist Sports Shinko and its affiliate, and consultants were retained to provide the expertise to design a hotel/apartment project that would be acceptable to the Pukalani community and to address certain environmental concerns. Grant Chun, an associate in the Maui office, began devoting more time in this matter and I was asked to work on this land use issue as well. A local architectural firm and engineering firm with strong ties in the Pukalani community began to formulate development plans for the subject property and to assess the impact the development may have upon the community.

Having worked on government entitlements more than anyone else in the Maui office, I assumed the role similar to that of a project manager of a development. Only in this situation, instead of seeking government approvals for a development, we were working to prevent the hotel and apartment zonings of the subject parcel from being changed to a lower, less desirable zoning.

One of the strategies we developed to counter the actions of the opposing residents was to make the name "Sports Shinko" more well known on the Island of Maui. Hence, we recommended to Sports Shinko through Mr. Mukai that Sports Shinko become more involved in community matters, which included adopting a policy of making charitable and political donations. In the process of assessing this recommendation, we consulted with Stanley D. Suyat, another partner in our Honolulu office, to determine whether Sports Shinko could legally make State and local political contributions, considering that it is a subsidiary of a Japanese company. Mr. Suyat informed us that under certain specific guidelines which he obtained from the Federal Election Commission and through other research, Sports Shinko could legally contribute funds to a candidate seeking, or an incumbent holding, State or local public office. Based on this understanding, Sports Shinko authorized Frank Mukai in consultation with me to proceed with a program for charitable and political contributions. Under this authority, Mr. Mukai

9 4 0 4 3 5 8 4 4 4 0

and I determined which public officials and charitable organizations on Maui would receive a contribution and the amount of the contribution. The campaign contributions made in 1990 and 1991 by Sports Shinko to the public officials stated in Mr. Barr's complaint are a result of this authorization. These public officials are only a partial list of State and County officials who received contributions from Sports Shinko. However, I do not have personal knowledge of the 1989 in kind contribution allegedly made by Sports Shinko to Pat Kawano which is mentioned at the end of the first paragraph in part 8 on page 6 of the complaint.

I too made personal campaign contributions in 1990 and 1991 to the same public officials mentioned in the Allen Barr complaint as well as to other State and County public officials not listed in said complaint. The moneys for these contributions were personally earned and owned by me. They were not given to me by Sports Shinko or by any other client of our law firm to donate on its behalf. In fact, I have been making such personal contributions to public officials each election year for many years - long before I became involved in helping Sports Shinko. Moreover, there is no logical and rational reason why Sports Shinko would need others to make contributions on its behalf if its contribution limit had not been exceeded as noted below.

The maximum amount of contribution allowed per election under Hawaii law is $2,000.00 or a total of $4,000.00 for both the primary and general elections. Neither Sports Shinko nor I gave the maximum amount allowed under law to any of the council persons who voted on the resolution which would have required the Maui Planning Commission to act on the downzoning issue. Any allegation that we purchased the vote of the council persons who received campaign contributions is preposterous considering the unimpressive amount of the campaign contributions and the independent nature of the persons involved, as demonstrated by councilperson Alice Lee who received donations from Sports Shinko and me but voted for the resolution to downzone Sports Shinko's parcel. Further, the timing of the campaign donations contradicts this vote buying allegation. The initial campaign contributions were made in late October 1990, after the Council had voted to defer acting on the resolution to downzone the parcel and eight months before the Council actually voted to deny the resolution to downzone. (Each time councilwoman Alice Lee voted against Sport Shinko's position.)

The more likely reasons that the downzoning effort was defeated were the following:

2 4 0 4 3 5 8 4 4 4 1

1. The proposed Pukalani Lodge and apartment project was well designed and blended with the residential character of the neighborhood. More importantly, about one half of the low density, low rise apartment units would be within the affordable price range as defined in Maui County and would be made available first to employees of the Pukalani Lodge.

2. A large group of Pukalani residents emerged to support Sports Shinko and its affiliate and in fact became the majority membership in the Pukalani Community Association in early 1991, overturning the prior vote of the association to downzone the parcel by a vote of nearly two to one in April 1991. These supporting residents effectively helped Sports Shinko and its affiliate win the confidence of a majority of the council persons who defeated the downzoning resolution in July 1991.

3. The zoning of the parcel had been hotel and apartment for about 20 years as part of a planned development community. Sports Shinko's predecessor in title had established the zoning for the entire Pukalani community providing for a mix of small areas of business, apartment and hotel zoning with large areas of residential zoning. No doubt the council persons realized the unfairness of changing the zoning after 20 years of development pursuant to the approved community plans and the negative economic impact such action will have on prospective development on Maui.

The foregoing information is factual to the best of my knowledge. I respectfully request that it be read in conjunction with the legal memorandum that is being submitted on behalf of Sports Shinko and its directors and officers by Mr. Suyat. Said memorandum is incorporated herein and by reference is made a part hereof.

Please contact me if further information is required.

Sincerely yours,

B. Martin Luna

B. MARTIN LUNA

9 4 0 4 3 5 8 4 4 4 2

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 10th day of January, 1992, before me personally appeared B. MARTIN LUNA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Mary E. Auhan
Notary Public, State of Hawaii

My commission expires: 4-24-95

4394L

94043584443

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
1001 BISHOP STREET
PACIFIC TOWER, SUITE 2200
POST OFFICE BOX 656
HONOLULU, HAWAII 96809

TELEPHONE (808) 523-2500
FAX (808) 523-0842

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 683-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 439-8631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 626-4566
FAX (202) 626-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-8464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

DIRECT DIAL NUMBER:
(808) 523-2627

9 4 0 4 3 5 8 4 4 4 4

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
92 JAN 21 AM 9:46

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Dear Mr. Bernstein:

Re: MUR 3460 - Sports Shinko (Pukalani) Co., Ltd.

We represent Sports Shinko (Pukalani) Co., Ltd., doing business as Pukalani Country Club ("Respondent"), which acknowledges receipt of a complaint and your correspondence dated December 18, 1991. In accordance with 2 U.S.C. Section 437g(a)(1) and 11 C.F.R. Section 111.6, Respondent hereby respectfully requests that the Commission find, pursuant to 11 C.F.R. Section 111.7, that there is no reason to believe that the alleged violation has been committed and that the complaint accordingly be dismissed.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN 21 AM 11:05

The complaint states that Respondent made contributions to the respective campaign election committees of five candidates for local elective office. The complaint further alleges that Respondent is a foreign owned and/or controlled corporation, that the contributions are allegedly in violation of federal law, and further that contributions were allegedly made in the name of another person on behalf of Respondent.

X9148841

As discussed more fully below, under the Federal Election Campaign Act of 1971, as amended ("FECA"), the accompanying regulations and the relevant Advisory Opinions, the contributions referred to in the complaint were entirely proper in all respects and, specifically, were not made, directly or indirectly, through or on behalf of foreign nationals. Further, any attempt to apply the prohibitions of 2 U.S.C. Sections 441e and 441f to Hawaii state and local elections is unconstitutional. Accordingly, the complaint as to Respondent is without merit and should summarily be dismissed.

I. FACTUAL BACKGROUND

Respondent is a Hawaii corporation, with its principal office located in Pukalani, Hawaii on the Island of Maui, and is a wholly-owned subsidiary of a Japan corporation. Respondent is engaged in operating a golf course located at Pukalani, Maui.

Respondent presently has four directors, one of whom is lawfully admitted to the United States in a managerial capacity for Respondent, one is a United States citizen, and two are citizens of Japan.

Respondent has six officers (three of whom are also directors), of whom two are lawfully admitted to the United States in managerial capacities for Respondent, and four are citizens of Japan.

Respondent created a political and charitable fund and committee, appointing Franklin K. Mukai, one of Respondent's directors and a United States citizen, to serve as the sole member of said committee. Mr. Mukai was authorized by Respondent to consult with B. Martin Luna, a United States citizen and a Maui resident, who was appointed to serve as a consultant to Mr. Mukai for civic and charitable matters on Maui. A copy of the corporate authorization will be provided under separate cover and is incorporated herein by reference as Exhibit A.[1] The funds disbursed by the committee were

---

[1]When Respondent authorized the political and charitable fund and committee, its directors were (1) Toshio Kinoshita, a
(continued...)

9 4 0 4 3 5 8 4 4 4 5

generated from Respondent's Maui golf course operations, which are thus far economically self-sufficient. Except for a donation of four complimentary golf passes discussed in further detail below, all decisions concerning the amounts and recipients of any political contributions were made by Mr. Mukai, after consultation with Mr. Luna. No foreign national contributed to the fund and no foreign national participated in decisions regarding individual amounts to be contributed or the recipients of such political contributions, except for the aforementioned incident involving the complimentary golf passes, which is not a violation of the FECA or its accompanying regulations.

II. DISCUSSION

1. Hawaii law permits corporate contributions.

As a preliminary matter, Hawaii law permits a corporation or its political action committee to make contributions to candidates for state or local election. See Hawaii Revised Statutes ("H.R.S.") Sections 11-191(18) and 11-204(f) attached hereto as Exhibit B.

2. Respondent is not a foreign national and therefore is not subject to the prohibitions of 2 U.S.C. Section 441e.

Under the FECA and the accompanying regulations, foreign nationals may not make any contributions, directly or through any other person, in connection with any election to political office. 2 U.S.C. Section 441e; 11 C.F.R. Section 110.4(1). According to Section 441e(b), "foreign national" means a foreign principal, as that term is defined in 22 U.S.C. Section 611(b), or an individual who is not a citizen of the United States and is not lawfully admitted for permanent residence, as defined by 8 U.S.C. Section 1101(a)(20).

---

[1](...continued)
citizen of Japan, (2) Tomio Kawasaki, a citizen of Japan, (3) Takeshi Kinoshita, who is lawfully admitted to the United States in a managerial capacity, (4) Koichi Soejima, a citizen of Japan, and (5) Franklin K. Mukai, a United States citizen.

9 4 0 4 3 5 8 4 4 4 6

With respect to corporations, Section 611(b) of Title 22 states that a corporation will be considered a "foreign principal" when it is organized under the laws of, or has its principal place of business in, a foreign country. Numerous Advisory Opinions have interpreted this portion of Section 611(b) to establish that a corporation organized under the laws of any state of the United States with its principal place of business in the United States is not a foreign principal. Accordingly, such a corporation would not be a "foreign national" under Section 441e of FECA. See Advisory Opinions 1985-3; 1983-31; 1982-10; 1981-36.

Respondent is organized under the laws of the State of Hawaii, and has its principal place of business in Pukalani, Maui, Hawaii. The fact that the stock of Respondent is owned by a foreign national does not render it a foreign national because the nationality of the stock owners is not the applicable test. Rather, the Commission has repeatedly stated that "a domestic corporation whose principal place of business is within the United States is not a 'foreign principal' and hence not a 'foreign national'. . . ." Advisory Opinion 1980-100. See also Advisory Opinion 1985-3 ("a corporation organized under the law of any state within the United States whose principal place of business is in the United States is not a foreign principal and, accordingly, would not be a 'foreign national'. . ."). Therefore, Respondent is not a "foreign national" under 2 U.S.C. Section 441e.

3. A corporation which is not a foreign national may lawfully contribute to state and local elections as long as foreign nationals do not contribute funds or exercise decision-making authority.

In addition to prohibiting direct contributions by foreign nationals, Section 441e also prohibits contributions by foreign nationals "through any other person". Under the standards discussed below, because foreign nationals do not contribute to or have any decision-making authority over Respondent's contributions listed in the complaint, it cannot be said to have violated this provision either.

In the first instance, a domestic corporation, even one that is wholly-owned by a foreign national, may make political contributions to state and local elections under FECA and the accompanying regulations, provided individuals who are

9 4 0 4 3 5 8 4 4 4 7

foreign nationals do not contribute to the fund nor exercise decision-making authority with respect to the corporation's political contributions. A host of Advisory Opinions make it clear that a United States subsidiary that is wholly-owned by a foreign national may make contributions to a state or local election as long as the foreign parent (and foreign nationals) do not directly or indirectly provide funds for such contributions nor would foreign nationals have any decision-making responsibility with respect to the contributions. See e.g. Advisory Opinion 1985-3; Advisory Opinion 1978-21; Advisory Opinion 1982-10; Advisory Opinion 1980-100. Thus, in Advisory Opinion 1985-3, a wholly-owned U.S. subsidiary of a Canadian corporation asked the Commission whether it could make contributions to state and local elections without violating the prohibitions of Section 441e. The Commission held that the subsidiary could make such contributions under the following conditions:

a. The foreign corporate parent (and foreign nationals) could not directly or indirectly provide funds for any contribution;

b. No foreign national could have any decision-making role or control with respect to the making of any political contribution by the subsidiary.

Advisory Opinion 1985-3 (citing Advisory Opinion 1981-36; Advisory Opinion 1983-31). These principles were reaffirmed in Advisory Opinion 1989-29, which involved GEM of Hawaii, Inc., a Hawaii corporation wholly-owned by a Japanese corporation, wherein political contributions to state and local elections were allowed provided the conditions set forth above regarding the exclusion of foreign nationals were satisfied.

In the case of Respondent, no foreign national (nor the foreign corporate parent) contributed to the funds used for political contributions nor did any foreign national exercise decision-making control over the director who is a United States citizen and who had been delegated the sole authority to determine political contributions. First, with regard to source of funds, Respondent derived its funds from its golf course business activities in the United States, not from foreign nationals. Therefore, the contributions at issue were not from a fund contributed by foreign nationals and the first condition was satisfied.

9 4 0 4 3 5 8 4 4 4 8

Second, with respect to decision-making authority, all determinations dealing with political contributions were properly delegated to the director who is a United States citizen. More significantly, the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions to state and local elections, which satisfies the second condition.

Mr. Yasuo Nishida, Respondent's Assistant Treasurer, who is a Japanese national lawfully admitted to the United States in a managerial capacity for Respondent, recalls receiving a November 1989 request for golf tournament prizes, whereupon complimentary rounds of golf at Pukalani Country Club were donated. Since he was still a relative newcomer to Maui at the time with no opportunity or inclination to become involved in local politics, Mr. Nishida was not aware that the complimentary rounds of golf were to be used in connection with a local political fundraising event. 2 U.S.C. Section 431(8)(A)(i) and 11 C.F.R. Section 100.7(a)(1) define "contribution" as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person <u>for the purpose of influencing any election for Federal office</u> (emphasis added). Similarly, 2 U.S.C. Section 431(9)(A)(i) and 11 C.F.R. Section 100.8(a)(1) define "expenditure" and limit the definition to things of value provided for the purpose of influencing elections for Federal office. Clearly, Mr. Nishida did not make the rounds of golf available for the purpose of influencing any state or local election, and certainly not for the purpose of influencing any election for Federal office. Therefore, the complimentary rounds of golf in question do not constitute a prohibited contribution or expenditure under the FECA or its accompanying regulations. Any violation of the FECA, if one did occur in this instance, certainly was, as indicated by the circumstances, inadvertent.

4. <u>No contributions were made in the name of another</u>.

Section 441f provides in relevant part that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution.

9 4 0 4 3 5 8 4 4 4 9

This portion of the complaint appears to be based upon copies of various state campaign spending reports filed by Maui County councilmembers and included with the complaint as exhibits, which collectively indicate that at least one councilmember received contributions from Respondent, Franklin K. Mukai and B. Martin Luna.

The complaint appears to allege that the contribution made by Mr. Luna (and possibly Mr. Mukai) was made with funds obtained from Respondent. This allegation is unfounded and patently untrue. All contributions made by Respondent were paid with checks properly identifying Respondent. Respondent has no rational reason to have Mr. Luna or Mr. Mukai make further contributions in their respective names with Respondent's funds. Under Hawaii law, H.R.S. Section 11-204 permits contributions of up to $2,000 to a candidate or a candidate's committee for each primary, special primary, special or general election. Since Respondent's contributions were between $500 and $1,000, there was no reason for it to have others make contributions on its behalf. Respondent understands Section 441f requires the disclosure of the actual contributor's identity whenever a contribution is made. In other words, the real source of the funds must be revealed. Respondent is not in violation of Section 441f. Respondent did not provide Mr. Luna nor Mr. Mukai with funds for this purpose and upon information and belief, the respective sources of the contributions from Mr. Mukai and Mr. Luna are their own funds. The fact that Mr. Mukai and Mr. Luna collaborated in decisions regarding disbursements from Respondent's political and charitable account is not a violation of Section 441f. Incidentally, any checks from Respondent written for this purpose would be processed through Mr. Yasuo Nishida, Respondent's Assistant Treasurer, who is lawfully admitted to the United States in a managerial capacity for Respondent, but his participation in these matters would be ministerial and non-discretionary.

As further evidence that this allegation has no merit, Mr. Mukai signed all of Respondent's political contributions checks. Copies of the checks in question, all of them bearing Mr. Mukai's signature, are attached hereto as Exhibits C-1 to C-7. Since Mr. Mukai has the authority to sign Respondent's checks for this purpose, it does not logically follow that Respondent would request Mr. Luna or Mr. Mukai to make further contributions in their names with Respondent's

9 4 0 4 3 5 8 4 4 5 0

funds. Finally, H.R.S. Section 11-202, a copy of which is attached as Exhibit D, similarly prohibits contributions in the name of another. Even if Messrs. Mukai and Luna were not advised of federal restrictions (of which they were advised), they were aware of comparable state restrictions and they are not in violation of the state law.

5. The prohibitions of Section 441e, if applied to Respondent's participation in state and local elections, would be unconstitutional and void.

The Tenth Amendment to the United States Constitution provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Sections 441e and 441f, if applied to Respondent under the circumstances of this case (and impliedly to State of Hawaii and County of Maui elections), would be an unconstitutional and therefore impermissible federal exercise of a power reserved to the states; i.e., the power to regulate state and local elections. In Oregon v. Mitchell, 400 U.S. 112, 118 (1970), a majority of the U.S. Supreme Court held unconstitutional a federal voting rights statute that would have lowered the voting age to 18 in both federal and state elections. The decision was based in part upon the principle articulated in the Tenth Amendment, and ruled that the power to regulate state and local elections was reserved to the states.

Therefore, while Respondent has not violated Sections 441e or 441f as alleged in the complaint and maintains that the complaint should be dismissed because it is without merit, Respondent is also prepared to assert this constitutional argument should the circumstances so require.

6. Contributions by foreign nationals to state and local elections are permitted under Hawaii law.

Under Hawaii law, (a) individuals and other legal entities (H.R.S. Section 11-191(18)) may contribute to state and local elections (H.R.S. Section 11-204), and (b) no restrictions are placed upon "foreign nationals", as that term is defined in Section 441e. In support of this last assertion, the Hawaii legislature considered a bill during the 1989 session that would have prohibited political contributions by foreign nationals (H.B. No. 235). Significantly, the bill

9 4 0 4 3 5 8 4 4 5 1

failed and Respondent asserts that the legislature, by its decision not to enact this measure, implicitly allows political contributions by foreign nationals. This assertion is supported by the Senate committee report on the bill, which stated in relevant part:

> While the [foreign] contributions prohibited under this [proposed] section are the same as those which the federal government contends are illegal in state or local elections under its laws and regulations, this bill is not intended to demonstrate any acquiescence to that contention. On the contrary, the legislature does not recognize federal jurisdiction in this area, and is therefore free to create an independent Hawaii campaign contribution law. (Emphasis added.)

Sen. Stand. Comm. Rep. No. 1300, 15th Legis., Reg. Sess., 1989 Hawaii Sen. J. 1287.

Finally, the Hawaii State Campaign Spending Commission has consistently advised political candidates and contributors that contributions to state and local elections by foreign nationals are allowed under Hawaii law.[2] Therefore, Respondent is in compliance with applicable Hawaii law as well as the FECA and accompanying regulations with regard to contributions to state and local elections.

III. SUMMARY

On the basis of the facts presented, analysis of the FECA, its accompanying regulations, the Commission's relevant Advisory Opinions, and other applicable laws, Respondent respectfully requests that the Commission dismiss this complaint. Respondent is willing to provide any additional

---

[2]The Honolulu Advertiser, January 28, 1989, quoting Jack M. K. Gonzales, Director, Hawaii State Campaign Spending Commission.

9404358445 2

information that will assist the General Counsel's Office in formulating its recommendation to the Commission.

Respectfully submitted,

CARLSMITH BALL WICHMAN MURRAY
CASE MUKAI & ICHIKI

By Stanley D. Suyat
Stanley D. Suyat

SDS:jsi
Attachments

9404358445 3

(A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:

(i) Influencing the nomination for election, or election, of any person to office; or

(ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election above;

(iii) Use by any party for the purposes set out in clause (i) or (ii) above;

(B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in subparagraph (A) above; or

(C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this subparagraph and subparagraphs (A) and (B), the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or

(D) Notwithstanding subparagraphs (A), (B), and (C), a candidate's expenditure of the candidate's own funds or the making of a loan or advance in the pursuit of the candidate's campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.

***

(14) "Loan" means an advance of money, goods, or services, or a guarantee, endorsement, or any other form of security, with an absolute promise to repay.

(15) "Matching payment period" means:

(A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and

(B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.

(16) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.

(17) "Office" means any elective public or constitutional office excluding federal elective offices.

(18) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.

(19) "Political party" means any party which satisfies the requirements of section 11-61.

(20) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.

(21) "Qualifying campaign contribution" means a monetary contribution of $100 or less, and not more than $100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions. [am L 1987, c 369, §1(1)]

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN 21 AM 11:34

9 4 0 4 3 5 8 4 4 5 4

EXHIBIT B
(Page 1 of 2 Pages)

(1) The cost of food and beverages consumed at the function;
(2) Rent and utilities for the premises where the function is held;
(3) The amount paid for guest speakers and entertainment;
(4) Printing and postage related to a function; and
(5) All other direct costs incurred in solicitation of the fundraiser, or fundraising activity. [L 1979, c 224, pt of §2; am L 1980, c 232, §1 and c 246, §1(e); am imp L 1984, c 90, §1; am L 1987, c 369, §1(6)]

§11-204 Campaign contributions; limits as to persons. (a) No person or any other entity shall make contributions to a candidate or candidate's committee in an aggregate amount greater than $2,000 in any primary, special primary, special, or general election.

(b) A candidate or the candidate's immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to $50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate or candidate's committee who knowingly receives in the aggregate more than $2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over $2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate or candidate's committee who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.

(e) All payments made by a person whose contributions or expenditure activity is financed, maintained, or controlled by any corporation, labor organization, association, political party, or any other person or committee, including any parent, subsidiary, branch, division, department, or local unit of the corporation, labor organization, association, political party, or any other person, or by any group of those persons shall be considered to be made by a single person.

(f) A contribution made by two or more corporations shall be treated as one person when such corporations:
(1) Share the majority of members of their boards of directors;
(2) Share two or more corporate officers;
(3) Are owned or controlled by the same majority shareholder or shareholders; or
(4) Are in a parent-subsidiary relationship.

(g) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(h) No committee which supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. [L 1979, c 224, pt of §2; am L 1980, c 246, §1(f); am imp L 1984, c 90, §1; am L 1987, c 369, §1(7); am L 1988, c 403, §1; am L 1989, c 261, §1]

§11-206 Campaign contributions; restrictions as to excess. (a) Every candidate in a primary, special primary, special, or general election who has voluntarily agreed to abide by spending limits and who subsequently receives campaign contributions in excess of the expenditure limit set for the candidate's

EXHIBIT B
(Page 2 of 2 Pages)

7 4 0 4 3 5 8 4 4 5 5

NO 3178

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

CHECK DATE	CHECK NO
04/18/91	3178

CHECK AMOUNT
*****500.00 ***

PAY TO
ORDER
OF

FRIENDS OF VINCE BAGOYO
ATTN: Mr. Lloyd Kimura
P. O. Box 1235
Wailuku, Maui, Hawaii 96793

AUTHORIZED SIGNATURE

⑈003178⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000050000⑈

EXHIBIT C-1

92 JAN 21 AM 11:34

9 4 0 4 3 5 8 4 4 5 6

For deposit to the
credit of Payee

0210 75923

▶ 121301028 ◀

▶ 121301028 ◀

MAY -7 91

9 4 0 4 3 5 8 4 4 5 7

05/07/91
121301028
5007722

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50 102
1213

NO 2402

CHECK DATE	CHECK NO
10/13/90	2402

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

BAGOYO, VINCE G., JR.

AUTHORIZED SIGNATURE

⑈002402⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-2

9 4 0 4 3 5 8 4 4 5 8

TC payee
a/c 60-047294

for deposit
BANK [illegible]
to the credit of

[illegible]

▶ 121301028 ◀
BANK OF HAWAII
ANNEX PROCESS DEPT.
HONOLULU, HI U.S.A.
▶ 121301028 ◀

[illegible] 24 99

10/24/96
121301028
93167300

2404358446

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

59 102
1213

NO 2405

CHECK DATE	CHECK NO
10/13/90	2405

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

HOKAMA, GORO

AUTHORIZED SIGNATURE

⑈002405⑈ ⑆121301028⑆ 0065⑈009419⑈ ⑈0000100000⑈

EXHIBIT C-3

9 4 0 4 3 5 8 4 4 6 0

2 4 0 4 3 5 8 4 4 4 6 1

For deposit only with
FIRST INTERSTATE BANK OF NEVADA
WALBURN BRANCH
to the account of the payee
Acct. No. 1082323-0

⑈121393109⑈
First Interstate Bank
of Nevada
2999 S. Maryland Pkwy
Las Vegas, Nevada

P1121301001214

DEC 24 '90

0000/0026
82010121

12/24/90

0305036551

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-102
1213

NO 2406

CHECK DATE	CHECK NO
10/13/90	2406

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

KAWANO, PATRICK S.

PROCESSED 11/05/90 001110016

AUTHORIZED SIGNATURE

⑈002406⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-4

9 4 0 4 3 5 8 4 4 6 2

AMERICAN SAVINGS BK 321370765<
CO111CC16 597076 SB HON. HI-
11/05/90

11/07/90

121301028

93068600

AMERICAN SAVINGS BANK FSB

FOR DEPOSIT WITH
AMERICAN SAVINGS BANK
TO THE CREDIT OF
HOLOKAI COMMUNITY FCU
42-90177

9 0 4 3 5 8 4 4 6 3

NO 2408

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

CHECK DATE	CHECK NO
10/13/90	2408

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

LEE, ALICE

AUTHORIZED SIGNATURE

⑈002408⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-5

9 4 0 4 3 5 8 4 4 6 4

2 4 0 4 3 5 8 4 4 4 6 5

93085445
82010121
06/20/11

>3213706977
1105590
0720000219880

For deposit only
PO[illegible] BANK
TO THE CREDIT OF PAYEE

[illegible]

02075512

NO 2409

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-102
1213

CHECK DATE	CHECK NO
10/13/90	2409

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

MEDINA, RICK

AUTHORIZED SIGNATURE

⑈002409⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-6

9 4 0 4 3 5 8 4 4 6 6

11 / 15 / 90

121301028

92302550

Price Medine

For

7261 th Terr

[illegible]

[illegible]

[illegible]

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

NO 2412

CHECK DATE	CHECK NO
10/13/90	2412

CHECK AMOUNT
*****1,000.00

PAY TO ORDER OF

TANAKA, JOE S.

AUTHORIZED SIGNATURE

⑈002412⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-7

9 4 0 4 3 5 8 4 4 6 8

Tanaka

County Council 2 5 3 0

P.O. Box 1882
Kahului, Maui, HI 96732

12/26/90
121301028
92221313

§11-202 False name. No person shall make a contribution of the person's own money or property, or money or property of another person to any candidate, party, or committee in connection with a nomination for election, or election, in any name other than the true name of the person who owns the money or who supplied the money or property.

All contributions made in the name of a person other than the true or established name of the actual owner of the money or property shall escheat to the Hawaii election campaign fund. [L 1979, c 224, pt of §2; am imp L 1984, c 90, §1]

§11-203 Fundraisers and fundraising activities. (a) As used in this subpart, "fundraiser" means any function held for the benefit of a person which is designed to raise funds for political purposes for which the total price of attending the function is more than $25 per person.

(b) There shall be no more than one fundraiser held for a person prior to a general or special election in which that person is either elected or defeated. Where a person seeks election to statewide office, the person or the person's directly associated committee may hold not more than one fundraiser in each county prior to a general or special election.

Within six months after a general, special general, or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fundraiser.

(c) No fundraiser shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair, and whether contributions will be solicited at the affair and the method thereof.

(d) Fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

(e) The following expenses incident to a fundraiser and to all other political fundraising activities held for the benefit of a person for which there is a charge for attending or participating in the fundraiser or fundraising activity, shall not be considered expenditures within the limitations set by section 11-209:

(1) The cost of food and beverages consumed at the function;
(2) Rent and utilities for the premises where the function is held;
(3) The amount paid for guest speakers and entertainment;
(4) Printing and postage; and
(5) All other direct costs incurred in solicitation of the fundraiser or fundraising activity. [L 1979, c 224, pt of §2; am L 1980, c 232, §1 and c 246, §1(e); am imp L 1984, c 90, §1]

§11-204 Campaign contributions; limits as to persons. (a) No person or any other entity other than a political party shall make contributions to a candidate in an aggregate amount greater than $2,000 in any primary, special primary, special, or general election.

(b) A candidate or the candidate's immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to $50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate who knowingly receives in the aggregate more than

9 4 0 4 3 5 8 4 4 7 0

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN 21 AM 11:35

EXHIBIT D

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3460

NAME OF COUNSEL: Stanley D. Suyat, Esq.
Grant Y. M. Chun, Esq.

ADDRESS: Carlsmith Ball Wichman Murray
Case Mukai & Ichiki
Suite 2200, Pacific Tower
1001 Bishop Street
Honolulu, Hawaii 96813

TELEPHONE: (808) 523-2500

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

SPORTS SHINKO (PUKALANI) CO., LTD.

January 15, 1992
Date

Yasuo Nishida
Signature
Yasuo Nishida

RESPONDENT'S NAME: Sports Shinko (Pukalani) Co., Ltd.

ADDRESS: 360 Pukalani Street
Pukalani, Maui, Hawaii 96768

HOME PHONE:

BUSINESS PHONE: (808) 572-1336

92 JAN 21 AM 11:35
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

9404358471

Office of Disciplinary Counsel
Supreme Court • State of Hawaii
1164 Bishop Street, Suite 600
Honolulu, Hawaii 96813
Telephone (808) 521-4591

Gerald H. Kibe
Chief Disciplinary Counsel

Charlene M. Norris
Carole R. Richelieu
Brian C. Means
Assistant Disciplinary Counsel

Scott G. O'Neal
Investigator

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
Mar 16 12 30 PM '92

Disciplinary Board
Helen Gillmor
Chairperson
Dwight M. Rush
Vice Chairperson
Clifford L. Nakea
Secretary
Ellen Godbey Carson
C. Jepson Garland
Madeleine J. Goodman, Ph.D.
John Jubinsky
James H. Kamo
Linda K.C. Luke
Dorothy Lum
B. Martin Luna
Marjorie H. Manuia
Robert F. Mougeot, C.P.A.
Gregory G. Ogin
Carolyn Staats, Ph.D.
Manuel R. Sylvester, C.P.A.
Peter C. Wolff, Jr.
Stanley F.H. Wong, D.D.S.

March 12, 1992

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 East Street N.W.
Washington, D.C. 20463

Re: MUR3460

Dear Mr. Bernstein:

The undersigned is the Vice Chairman of the Disciplinary Board of the State of Hawaii created by court Order of the Supreme Court of the State of Hawaii. Mr. B. Martin Luna is also a member of this Board. Mr. Luna's conduct regarding use of campaign funds from a foreign country was reported to you by Allen W. Barr, 188 Haulani Street, Pukalani, Maui, Hawaii 96768. We understand that you were in the process of investigating the same or have concluded an investigation concerning the same. The Disciplinary Board of the State of Hawaii is also interested in any conduct by Mr. Luna which might have contravened the Code of Professional Responsibility.

We would appreciate a copy of your investigative report as and when it is permissible to release the same to this body. Releasing the report to us will not be a release of the same to Mr. Luna unless you include such permission. The report would become part of the confidential files of the Office of Disciplinary Counsel and would be the basis of filing charges against Mr. Luna if the information which you provide establishes such a basis. We are unfamiliar as to the regulations governing your investigative reports, but we would certainly appreciate hearing from you concerning availability of your report. We would also like to know the status of the investigation if it is not complete.

Very truly yours,

OFFICE OF DISCIPLINARY COUNSEL

By Dwight M. Rush
Dwight M. Rush

92 MAR 16 PM 3:39
RECEIVED
FEDERAL ELECTION COMMISSION
LEGAL COUNSEL

9404358472

Allen

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 20, 1992

Dwight M. Rush, Vice Chairman
Disciplinary Board of the State of Hawaii
1164 Bishop Street, Suite 600
Honolulu, HA 96813

RE: MUR 3460

Dear Mr. Rush:

Thank you for your letter of March 12, 1992 requesting information about Federal Election Commission enforcement procedures and about its investigation in the above-captioned matter.

In response to your general question, Commission investigative reports are made public after an enforcement matter is closed. 11 C.F.R. § 111.20. During the pendency of a matter, however, strict confidentiality attends the proceedings unless the targets of the investigation waive such confidentiality. 2 U.S.C. § 437g(a)(12); 11 C.F.R. § 111.21. As a consequence, because MUR 3460 is still pending the Commission cannot release any information about its status at this time.

Please be assured that we will retain your request, and will respond substantively at the earliest possible time. If you have any questions, please feel free to contact me at (202) 219-3690.

Sincerely,

Jonathan Bernstein

Jonathan A. Bernstein
Assistant General Counsel

9404358473

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
1001 BISHOP STREET
PACIFIC TOWER, SUITE 2200
POST OFFICE BOX 656
HONOLULU, HAWAII 96809

TELEPHONE (808) 523-2500
FAX (808) 523-0842

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-8450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-[illegible]

DIRECT DIAL NUMBER:
(808) 523-2627

April 7, 1992

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
APR 10 10 24 AM '92

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Dear Mr. Bernstein:

Re: MUR 3460 - Sports Shinko (Pukalani) Co., Ltd.

In its January 15, 1992 response to the complaint indicated above, Sports Shinko (Pukalani) Co., Ltd. indicated that it would provide to the Commission, under separate cover, a copy of the corporate authorization which appointed Mr. Franklin K. Mukai as the sole member of a political and charitable contributions committee. Enclosed please find a copy of the Unanimous Written Consent of the Board of Directors, effective October 1, 1990, marked as Exhibit A.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 APR 14 AM 10: 35

The corporate authorization further authorizes Mr. Mukai to consult with Mr. B. Martin Luna with regard to the disbursement of the Company's political and charitable contributions in the County of Maui, State of Hawaii.

Please contact the undersigned should you require further information.

Very truly yours,

Stanley D. Suyat

Stanley D. Suyat

SDS:jsi
Enclosure

X9212523

9 4 0 4 3 5 8 4 4 7 4

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 APR 14 AM 10: 35

UNANIMOUS WRITTEN CONSENT OF THE BOARD OF DIRECTORS IN LIEU OF A MEETING OF THE BOARD OF DIRECTORS OF SPORTS SHINKO (PUKALANI) CO., LTD.

The undersigned, being all of the Directors of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation (the "Corporation"), who would be entitled to vote upon the resolutions hereinafter set forth if same had been submitted at a formal meeting of such Directors, duly called and held for the purpose of acting upon such resolutions, do hereby consent, pursuant to Section 415-44, Hawaii Revised Statutes, that when all of the Directors have signed this Consent or an exact counterpart hereof, the following resolutions shall be deemed to be adopted to the same extent and to have the same force and effect as if adopted at a formal meeting of such Directors, duly called and held for the purpose of acting upon such proposals to adopt such resolutions:

RESOLVED, that a political and charitable contributions account is hereby authorized, for the purpose of enabling the Corporation to participate in the civic and charitable activities of the County of Maui, State of Hawaii;

FURTHER RESOLVED, that said political and charitable contributions account shall be funded in the amount of $50,000;

FURTHER RESOLVED, that a political and charitable contributions committee is hereby created, and which is hereby authorized to determine, at its sole discretion, the disbursement of the funds in said political and charitable contributions account, provided that all disbursements so made shall, in the judgment of the committee, promote the civic and charitable participation of the Corporation within the County of Maui;

FURTHER RESOLVED, that Mr. Franklin K. Mukai is hereby appointed to serve as the political and charitable contributions committee for the Corporation and he shall determine, after consultation with Mr. B. Martin Luna, who is authorized to serve as the Corporation's civic and charitable contributions consultant, the disbursement of political and charitable contributions for the County of Maui; and

9 4 0 4 3 5 8 4 4 7 5

EXHIBIT A

X9148475

FURTHER RESOLVED, that all civic and charitable contributions made in the year 1990 by or on behalf of the Corporation prior to the effective date herein and, in particular, that certain civic and charitable contribution to the Pukalani School Parent-Teacher Association in the amount of $500.00, made on or about June 6, 1990, are hereby affirmed and ratified as authorized and proper acts of the Corporation.

Effective as of October 1, 1990.

TOSHIO KINOSHITA

TOMIO KAWASAKI

TAKESHI KINOSHITA

KOICHI SOEJIMA

FRANKLIN K. MUKAI

9404358447 6

RECEIVED
F.E.C.
SECRETARIAT

93 JUN -4 AM 10: 44

SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR #3460
DATE COMPLAINT RECEIVED
BY OGC: 12/16/91
DATE OF NOTIFICATION TO
RESPONDENTS: 12/18/91
STAFF MEMBER: M. Allen

COMPLAINANT: Allen W. Barr

RESPONDENTS: Sports Shinko (Pukalani) Co., Ltd. dba Pukalani Country Club
Toshio Kinoshita
Takeshi Kinoshita
Tsugio Fukuda
Tomio Kawasaki
Iwane Yamamoto
Yasuo Nishida
Franklin Mukai
Martin Luna
Friends of Vince Bagoyo, Jr.
Friends of Joe Tanaka
Friends of Alice Lee
Friends of Rick Medina
Campaign of Goro Hokama
Campaign of Pat Kawano

RELEVANT STATUTES: 2 U.S.C. § 441e
2 U.S.C. § 441f

RELEVANT REGULATIONS: 11 C.F.R. § 110.4(a)

INTERNAL REPORTS CHECKED: MUR 2892 General Counsel's Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint from Allen W. Barr alleging that Sports Shinko (Pukalani) Co., Ltd., a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C.

9404358447 7

§§ 441e and 441f.[1/]

II. ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is

1/ A similar case, MUR 2892, is an open matter also involving alleged violations of section 441e by numerous contributors and recipients based in Hawaii. In light of the lack of any overlapping respondents in these matters and the advanced posture of MUR 2892, this Office does not recommend merging these cases.

9 4 0 4 3 5 8 4 4 7 8

established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission

9 4 0 4 3 5 8 4 4 7 9

recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters

9 4 0 4 3 5 8 4 4 8 0

concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5970 at 11,575.

3. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to

2 4 0 4 3 5 8 4 4 8 1

effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

III. FACTUAL ANALYSIS

A. The Complaint

The complaint alleges that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to Maui County Council members in violation of 2 U.S.C. §§ 441e and 441f. The complaint included the recipients' state disclosure reports covering the five $1,000 contributions, all of which list Sports Shinko as the contributor.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	12-09-89	152 (in-kind)

The complaint states that Sports Shinko was registered in Hawaii on December 10, 1987 as a golf course operator. In addition, the complaint states that six of Sports Shinko's seven directors are foreign nationals. The one U.S. citizen director is attorney Franklin Mukai. All seven directors were notified of the complaint. The complaint also asserts that all of Sports Shinko's officers are foreign nationals.

Complainant alleges that Sports Shinko cannot have made contributions with its own funds because it is not yet profitable, i.e., the original capital expenditure by the foreign parent corporation has not yet been recovered. Furthermore, Sports Shinko's earnings arise from memberships sold in Japan. The

9404358482

complaint explains that memberships in a Sports Shinko entity in Japan are sold to Japanese nationals for the privilege of playing golf on Sports Shinko golf courses in the U.S. Tours are sold to these customers and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko courses, and stay in Sports Shinko hotels where available (the complaint notes that the construction of a hotel at Sports Shinko's location is in progress). Revenues from these Japanese operations are allocated to profit centers in the U.S., presumably on the basis of services rendered. Some revenues are derived locally from golf course and restaurant-bar operations. Complainant asserts that locally-generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

In addition, complainant asserts that although two U.S. citizens, attorney Martin Luna and director Franklin Mukai, are said to have been the only persons involved in the contribution decisions, this is not possible because one director cannot unilaterally appropriate and expend funds of the corporation. Such decisions would require, complainant continues, the involvement of other directors and/or officers of the corporation, all of whom are foreign nationals. Complainant asserts that foreign nationals must have participated in the decision to make contributions at all and in the decision as to the aggregate amount of contributions to be made. In addition, officers of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of contribution checks.

Further, complainant claims that Martin Luna, who is not a

9 4 0 4 3 5 8 4 4 8 3

director or officer of Sports Shinko, by making contribution decisions on behalf of his client, Sports Shinko, is "acting as if he were the client, and decision makers within the client corporation are foreign nationals. Therefore, Mr. Luna is making his decisions as if he were a foreign national" (complaint, page 5). Thus, complainant alleges that Mr. Luna, by working in the interests of heavily foreign national-dominated Sports Shinko, is effectively working as a foreign national himself, and so his activity constitutes foreign national participation in the making of contributions. In addition, the complaint notes that this reasoning may apply to Franklin Mukai if he were acting as attorney for Sports Shinko rather than as a director.

Finally, complainant alleges a violation of 2 U.S.C. § 441f on the part of Martin Luna and possibly Franklin Mukai for making contributions in the name of Sports Shinko. The city council recipients are alleged to have violated section 441f for their receipt of these contributions.

B. <u>Responses and Analysis</u>

1. Sports Shinko and Related Individuals

a. challenge to jurisdiction

As an initial matter, Sports Shinko challenges the Commission's jurisdiction over state and local elections. (Attachment 1, pages 37-38). Sports Shinko argues that the Commission is without jurisdiction because the contributions in

9 4 0 4 3 5 8 4 4 8 4

question are not prohibited by Hawaii state law.[2] In MUR 2892, the Commission considered, and rejected, such jurisdictional challenges. For this Office's analysis, see the General Counsel's Report in that matter dated April 19, 1990.[3]

b. response to allegations

In Sports Shinko's response to the complaint, it indicates that it is doing business as the Pukalani Country Club (Attachment 1, page 30).[4] The response states that Sports Shinko is incorporated in the state of Hawaii and is a wholly-owned subsidiary of a Japan corporation. The response further indicates that of its five directors at the time of the contributions, one is a U.S. citizen (respondent Franklin Mukai), three are foreign nationals, and one is "lawfully admitted to the United States in a managerial capacity."[5] Of Sports Shinko's six officers, four are foreign nationals and two are "lawfully admitted to the United States in managerial capacities." This admission, however,

9 4 0 4 3 5 8 4 4 8 5

2/ Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

3/ The attached factual and legal analyses in the present matter include this analysis.

4/ Pukalani Country Club was initially notified as a separate respondent to the complaint. This Office will treat the Country Club and Sports Shinko as one respondent.

5/ The complaint in this matter named seven directors of Sports Shinko. Presumably these were the directors at the time the complaint was filed, and all seven were notified of the complaint along with Sports Shinko. No separate response was received from any of these directors. Previously, at the time of the contributions, there were five directors. One of these five directors was no longer on the board by the time the complaint was filed.

appears to be based on the possession of special visas, and does not alter these individuals' status as foreign nationals. As noted above, the term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b)(2), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national". See 2 U.S.C. § 441e(b)(2). Because the individuals admitted to the U.S. via special visas are neither U.S. citizens nor resident aliens, for the purposes of the Act they are foreign nationals. Therefore, four out of five directors and all six officers are foreign nationals.

Regarding the making of the contributions, Sports Shinko's response states that it created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions (Attachment 1, page 31). Mr. Mukai was later authorized by Sports Shinko to appoint Martin Luna, an American attorney and a member of the law firm representing Sports Shinko, to consult with him regarding such contributions. Sports Shinko asserts that Messrs. Mukai and Luna were the sole authorizers of any political contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions (Attachment 1, pages 31-32). Sports Shinko provided

9 4 0 4 3 5 8 4 4 8 6

a copy of the corporate authorization, dated October 1, 1990, signed by all five directors, which created the committee and funded its political and charitable contributions account in the amount of $50,000 (Attachment 1, page 52). The committee is granted sole discretion over the disbursement of the funds in the account. The Board appointed Mr. Mukai as the sole member of the committee, to consult with Martin Luna. Mr. Mukai signed the contribution checks (copies provided at Attachment 1, pages 42-48).

Finally, regarding the $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that its foreign national assistant treasurer provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that the assistant treasurer was not aware that the rounds of golf were to be used in connection with a political fundraising event. (Attachment 1, page 35).

i. contribution decision-making

Sports Shinko asserts that its contributions were made in keeping with the Commission's interpretation of section 441e regarding domestic subsidiaries of foreign national corporations, i.e., that no foreign nationals had decision-making authority and that the funds used were domestically-derived. See A.O.s 1989-20 and 1985-3; 11 C.F.R. § 110.4(a)(3). With respect to the former, Sports Shinko states that all determinations dealing with political contributions "were properly delegated to the director who is a United States citizen." In addition, "the officers and/or directors who are foreign nationals did not and do not

9 4 0 4 3 5 8 4 4 8 7

participate in any manner in decisions related to Respondent's contributions..." (Attachment 1, page 35).

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorising the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this arrangement partly on the basis that foreign national board members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval

9 4 0 4 3 5 8 4 4 9 8

on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000 (corporate authorization at Attachment 1, page 52). The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8. Therefore, it appears that foreign nationals participated in Sports Shinko's contribution decisions.[6/] This Office therefore recommends that

9 4 0 4 3 5 8 4 4 8 9

6/ In addition to the apparent involvement of the foreign national directors, complainant alleges the necessary involvement of Sports Shinko's foreign national officers in the authorization and issuance of contribution checks. Sports Shinko's response provided copies of the contribution checks but no check registers or other corporate forms regarding any check approval process. At the time the contributions were made, all of Sports Shinko's officers and all but one of its directors were foreign nationals, a striking imbalance in nationality status. In A.O. 1989-20, the Commission noted that the presence of exclusively foreign national officers and directors would appear to constitute foreign national participation in the decision-making process. This Opinion recognizes the oversight and management role that corporate officers and directors can play, and the foreign national role in

the Commission find reason to believe that Sports Shinko (Pukalani) Co., Ltd. violated 2 U.S.C. § 441e. In addition to investigating contributions made pursuant to the directors' authorization, this Office will investigate the 1989 in-kind contribution as well as any other contributions made by Sports Shinko.[7/]

This liability appears to extend to the four foreign national directors who voted on the resolution regarding the committee. Section 110.4(a)(3) of the Commission's regulations states that "a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any ... corporation ... such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee." The foreign national directors' votes regarding Sports Shinko's committee appear to constitute such participation. Therefore, this Office recommends that the Commission find reason to believe that Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima violated 2 U.S.C. § 441e. This is the first time that this Office has

9 4 0 4 3 5 8 4 4 9 0

(Footnote 6 continued from previous page)
corporate decisions where all officers and directors are foreign nationals.

7/ Interestingly, most of the identified contributions took place only 12 days after the board made the three above-noted votes, providing a basis for an inference that the foreign national board members were involved in the contributions, perhaps to the extent of the selection of the contribution recipients. This Office, however, does not possess any specific information regarding this possibility at this point, and we make no knowing and willful recommendations in this matter at this time.

recommended that the Commission apply section 441e in the context of individuals' participation. This provision arguably applies on its face to such activity, and the regulation at section 110.4(a)(3) clarifies this application, i.e., that no foreign nationals shall participate in the decision-making process. Significantly, the 110.4(a)(3) regulation, which codified previous advisory opinions, became effective on April 11, 1990, prior to the events in this matter.

Of the four directors included in the recommendation above, Toshio Kinoshita, Takeshi Kinoshita, and Tomio Kawasaki were identified in the complaint as directors and so were notified of the complaint. This Office proposes to internally generate Koichi Soejima as a respondent at this time. Regarding the other individuals identified in the complaint as directors and notified of the complaint, Sports Shinko's response does not reveal any role played by these individuals in the company's contributions. Sports Shinko may have made other contributions at other times under other circumstances in which these other individuals may have been involved. Martin Luna noted in his response that Sports Shinko made other contributions in addition to those noted in the complaint (Attachment 1, page 27). Therefore, this Office

9 4 0 4 3 5 8 4 4 9 1

recommends that the Commission take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

Regarding the allegation that Martin Luna and possibly Franklin Mukai made contribution decisions on behalf of Sports Shinko and so were acting as if they were foreign nationals, section 441e does not specifically prohibit U.S. citizens from participating in the decision-making process. The regulation provides that "[a] foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process..." 11 C.F.R. § 110.4(a)(3) (emphasis added). Therefore, this Office recommends that the Commission find no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. § 441e.

ii. funding of the contributions

In addition to the decision-making issue, the Commission considers the source of funds used for the contributions. Complainant asserts that Sports Shinko received a large capital expenditure from its parent that has not yet been recovered, and that funds are raised from Japanese customers in Japan through the parent company. Complainant does acknowledge that some revenues are locally derived from Sports Shinko's golf course and restaurant-bar operations. In its response, Sports Shinko states that the funds disbursed by the committee were generated from Sports Shinko's local golf course operations, "which thus far are economically self-sufficient" (Attachment 1, pages 31-32; 35). As noted above, the Commission recently ruled that the domestic subsidiary must be able to demonstrate through a reasonable

9 4 0 4 3 5 8 4 4 9 2

accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. A.O. 1992-16. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16.

It is unclear at this preliminary stage 1) whether or not Sports Shinko is actually generating sufficient funds and 2) the history and status of its parent's capital infusions. If the Commission approves this Office's reason to believe recommendations based on the decision-making factor set out above, this Office will investigate the funding issue according to the factors set out in A.O. 1992-16. In addition, this Office will examine the allegation that Sports Shinko's income raised in Japan from Japanese national customers constitutes infusions from the foreign parent.

c. 441f allegation

Complainant also alleges that the recipient committees, Martin Luna and possibly Franklin Mukai violated 2 U.S.C. § 441f by making "contributions on behalf of Sports Shinko." Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within

9 4 0 4 3 5 8 4 4 9 3

441f. See the MUR 2892 General Counsel's Report dated April 19, 1990, pages 4-8. Therefore, it appears that section 441f does not apply to state and local elections, and so this Office recommends that the Commission find no reason to believe that Martin Luna, Franklin Mukai, the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f.[9/]

2. The Recipient Committees

Five of the six recipient county council members have responded to the complaint on behalf of their committees. The five all state that they believed the contributions to be acceptable. One recipient, Vince Bagoyo, states that he has refunded "all contributions" from Sports Shinko (Attachment 1, page 22). Two recipients, Goro Hokama and Joe Tanaka, have offered to refund the contributions. (Attachment 1, pages 1 and 2). Mr. Tanaka noted that Sports Shinko represented that the

---

9/ Hawaii law also prohibits contributions in the name of another, but because each of the recipient committees disclosed that Sports Shinko made the contribution to their respective campaigns, and there is no evidence at this time to indicate that Martin Luna and Franklin Mukai made contributions in their own names with Sports Shinko funds, this allegation appears to be without merit. Furthermore, newspaper articles note that the allegations have been referred to the Hawaii Campaign Spending Commission and the Maui County Board of Ethics (complaint page 8; Attachment 1, page 21). Therefore, this Office makes no recommendation at this time with regard to reporting this issue to state election officials. See 2 U.S.C. § 437d(a)(9).

In addition, on March 12, 1992, this Office received an information request from the Hawaii Office of Disciplinary Counsel regarding the Commission's investigation of Mr. Luna, who is a member of the Disciplinary Board (Attachment 2). This Office responded to the request, explaining the Act's confidentiality requirements (Attachment 3).

9 4 0 4 3 5 8 4 4 9 4

contributions were legal (Attachment 1, page 2). In addition, recipients Rick Medina and Alice Lee each specified that they had been assured of legality of the contribution by Martin Luna as counsel for Sports Shinko (Attachment 1, pages 3 and 23).[10/] Although the assurances from contributor Sports Shinko (depending on their timing) may constitute mitigating circumstances, the receipt of foreign national-influenced contributions is on its face a violation of section 441e.

The sixth recipient, the Campaign of Pat Kawano, did not respond to the complaint. Although the complaint only identified a $142 in-kind contribution to the Campaign, Sports Shinko's response includes a copy of a $1,000 contribution check to Mr. Kawano dated October 13, 1990 (Attachment 1, page 45).

All of the recipients received possibly illegal contributions, but the amounts involved as to each recipient are small, i.e., no recipient received more than $1,500. However, in order to allow this Office to seek information from the campaigns regarding the circumstances of the contributions, this Office recommends that the Commission find reason to believe that Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

9 4 0 4 3 5 8 4 4 9 5

10/ Mr. Medina's response included a copy of a letter from Martin Luna dated December 31, 1991, i.e., after the complaint was filed (Attachment 1, page 4).

III. RECOMMENDATIONS

1. Find reason to believe that Sports Shinko (Pukalani) Co., Ltd. violated 2 U.S.C. § 441e.

2. Find reason to believe that Toshio Kinoshita, Takeshi Kinoshita, and Tomio Kawasaki violated 2 U.S.C. § 441e.

3. Find reason to believe that Koichi Soejima violated 2 U.S.C. § 441e.

4. Take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

5. Find no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. § 441e.

6. Find no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. § 441f.

7. Find no reason to believe that the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f.

8. Find reason to believe that the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

9. Approve the attached sample factual and legal analyses and the appropriate letters.

6/4/93
Date

Lawrence M. Noble
General Counsel

Attachments
1. Responses
2. Letter from Hawaii Office of Disciplinary Counsel
3. Response to Hawaii Office of Disciplinary Counsel
4. Sports Shinko Factual and Legal Analysis
5. sample director Factual and Legal Analysis
6. sample recipient committee Factual and Legal Analysis

9404358449 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: JUNE 9, 1993

SUBJECT: MUR 3460 - FIRST GENERAL COUNSEL'S REPORT DATED JUNE 4, 1993.

The above-captioned document was circulated to the Commission on Monday, June 7, 1993 at 11:00 a.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	XXX
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, June 15, 1993.

Please notify us who will represent your Division before the Commission on this matter.

9404358447

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
Sports Shinko (Pukalani) Co., Ltd.	)	
dba Pukalani Country Club;	)	
Toshio Kinoshita;	)	
Takeshi Kinoshita;	)	
Tsugio Fukuda;	)	
Tomio Kawasaki;	)	
Iwane Yamamoto;	)	
Yasuo Nishida;	)	
Franklin Mukai;	)	
Martin Luna;	)	
Friends of Vince Bagoyo, Jr.;	)	
Friends of Joe Tanaka;	)	
Friends of Alice Lee;	)	
Friends of Rick Medina;	)	
Campaign of Goro Hokama;	)	
Campaign of Pat Kawano.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 22, 1993, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3460:

1. Find reason to believe that Sports Shinko (Pukalani) Co., Ltd. violated 2 U.S.C. § 441e.

2. Find reason to believe that Toshio Kinoshita, Takeshi Kinoshita, and Tomio Kawasaki violated 2 U.S.C. § 441e.

(continued)

9404358449 8

3. Find reason to believe that Koichi Soejima violated 2 U.S.C. § 441e.

4. Take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

5. Find no reason to believe that Martin Luna of Franklin Mukai violated 2 U.S.C. § 441e.

6. Find no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. § 441f.

7. Find no reason to believe that the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f.

8. Find reason to believe that the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

9. Approve the sample factual and legal analyses and the appropriate letters as recommended in the General Counsel's report dated June 4, 1993.

Commissioners Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

Attest:

6-22-93
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

9404358449 9

RECEIVED
F.E.C.
SECRETARIAT
93 JUN 24 AM 11:14

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 1993 **SENSITIVE**

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 3460
Supplemental Recommendation

The General Counsel's Report in MUR 3460 dated June 4, 1993, included recommendations that the Commission find no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. §§ 441e or 441f. This Office omitted the recommendation that the Commission also close the file regarding Messrs. Luna and Mukai. On June 22, 1993, the Commission found no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. §§ 441e or 441f. This Office now recommends that the Commission close the file regarding Martin Luna and Franklin Mukai.

RECOMMENDATION

Close the file regarding Martin Luna and Franklin Mukai.

Staff assigned: Allen

9 4 0 4 3 5 8 4 5 0 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Martin Luna;	)	MUR 3460
Franklin Mukai.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 29, 1993, the Commission decided by a vote of 6-0 to close the file regarding Martin Luna and Franklin Mukai, as recommended in the General Counsel's Memorandum dated June 24, 1993.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

6-29-93
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., June 24, 1993 11:14 a.m.
Circulated to the Commission: Thurs., June 24, 1993 4:00 p.m.
Deadline for vote: Tues., June 29, 1993 4:00 p.m.

bjr

9404358450 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Friends of Vince Bagoyo, Jr.
P.O. Box 1235
Wailuku, Hawaii 96793

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Friends of Vince Bagoyo, Jr. ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on June 22, 1993, found that there is reason to believe the Friends of Vince Bagoyo, Jr. violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9 4 0 4 3 5 8 4 5 0 2

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358450 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Friends of Vince Bagoyo, Jr.
P.O. Box 1235
Wailuku, HI 96793

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9 4 0 4 3 5 8 4 5 0 4

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 5 0 5

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9404358450 6

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358450 7

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9404358458 08

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Friends of Vince Bagoyo, Jr. MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358450 9

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9 4 0 4 3 5 8 4 5 1 0

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9 4 0 4 3 5 8 4 5 1 1

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

9 4 0 4 3 5 8 4 5 1 2

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9404358451 3

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358451 4

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 5 1 5

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 5 1 6

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9 4 0 4 3 5 8 4 5 1 7

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 5 1 8

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 5 1 9

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Friends of Vince Bagoyo, Jr. ("the Committee") allegedly received two contributions from Sports Shinko, $1,000 on October 23, 1990, and $500 on May 6, 1991, in violation of 2 U.S.C. § 441e. In its response to the complaint, the Committee stated that it has refunded "all contributions" from Sports Shinko. While return of the contributions is a mitigating factor in the consideration of the ultimate resolution of this matter, such action does not negate a recipient committee's liability. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Friends of Vince Bagoyo, Jr. violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Friends of Vince Bagoyo, Jr. violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 5 2 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Friends of Alice Lee
P.O. Box 1606
Kahului, Hawaii 96732

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Friends of Alice Lee ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on June 22, 1993, found that there is reason to believe the Friends of Alice Lee violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9 4 0 4 3 5 8 4 5 2 1

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9 4 0 4 3 5 8 4 5 2 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Friends of Alice Lee
P.O. Box 1606
Kahului, HI 96732

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9 4 0 4 3 5 8 4 5 2 3

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 5 2 4

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 5 2 5

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358452 6

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9 4 0 4 3 5 8 4 5 2 7

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Friends of Alice Lee MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358452 8

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9 4 0 4 3 5 8 4 5 2 9

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9404358453 0

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

9404358453 1

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9 4 0 4 3 5 8 4 5 3 2

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358453 3

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 5 3 4

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 5 3 5

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9404358453 6

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 5 3 7

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 5 3 8

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Friends of Alice Lee ("the Committee") allegedly received a contribution from Sports Shinko, $1,000 on November 2, 1990, in violation of 2 U.S.C. § 441e. In its response to the complaint, the Committee stated that it had been assured of the legality of the contribution by Martin Luna as counsel for Sports Shinko. Although the assurances from contributor Sports Shinko (depending on their timing) may constitute mitigating circumstances, the receipt of foreign national-influenced contributions is on its face a violation of section 441e. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Friends of Alice Lee violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Friends of Alice Lee violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 5 3 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Friends of Rick Medina
373 Liholiho Street
Wailuku, Hawaii 96793

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Friends of Rick Medina ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on June 22, 1993, found that there is reason to believe the Friends of Rick Medina violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9404358454 0

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358541

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Friends of Rick Medina
373 Liholiho Street
Wailuku, HI 96793

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358454 2

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 5 4 3

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9404358454

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9 4 0 4 3 5 8 4 5 4 5

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9404358454 6

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Friends of Rick Medina MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358547

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9 4 0 4 3 5 8 4 5 4 8

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9 4 0 4 3 5 8 4 5 4 9

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

9 4 0 4 3 5 8 4 5 5 0

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9 4 0 4 3 5 8 4 5 5 1

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9 4 0 4 3 5 8 4 5 5 2

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 5 5 3

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 5 5 4

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9 4 0 4 3 5 8 4 5 5 5

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 5 5 6

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 5 5 7

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Friends of Rick Medina ("the Committee") allegedly received a contributions from Sports Shinko, $1,000 on November 14, 1990, in violation of 2 U.S.C. § 441e. In its response to the complaint, the Committee stated that it had been assured of the legality of the contribution by Martin Luna as counsel for Sports Shinko. Although the assurances from contributor Sports Shinko (depending on their timing) may constitute mitigating circumstances, the receipt of foreign national-influenced contributions is on its face a violation of section 441e. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Friends of Rick Medina violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Friends of Rick Medina violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 5 5 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Campaign of Goro Hokama
Box H
Lanai City, Hawaii 96753

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Campaign of Goro Hokama ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on June 22, 1993, found that there is reason to believe the Campaign of Goro Hokama violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9404358459

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358456 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Campaign of Goro Hokama
Box H
Lanai City, HI 96753

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358456 1

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 5 6 2

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 5 6 3

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9 4 0 4 3 5 8 4 5 6 4

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9 4 0 4 3 5 8 4 5 6 5

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Campaign of Goro Hokama **MUR 3460**

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358456 6

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9 4 0 4 3 5 8 4 5 6 7

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9 4 0 4 3 5 8 4 5 6 8

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

9 4 0 4 3 5 8 4 5 6 9

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9 4 0 4 3 5 8 4 5 7 0

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358457 1

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 5 7 2

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 5 7 3

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9 4 0 4 3 5 8 4 5 7 4

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 5 7 5

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 5 7 6

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Campaign of Goro Hokama ("the Committee") allegedly received a contribution from Sports Shinko, $1,000 on December 21, 1990, in violation of 2 U.S.C. § 441e. In its response to the complaint, the Committee offered to refund the contributions. While the return of a contribution is a mitigating factor in the consideration of the ultimate resolution of this matter, such action does not negate a recipient committee's liability. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Campaign of Goro Hokama violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Campaign of Goro Hokama violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 5 7 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Campaign of Pat Kawano
200 S. High Street
Wailuku, Hawaii 96793

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Campaign of Pat Kawano ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, the Commission, on June 22, 1993, found that there is reason to believe the Campaign of Pat Kawano violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9 4 0 4 3 5 8 4 5 7 8

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9 4 0 4 3 5 8 4 5 7 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Campaign of Pat Kawano
200 S. High Street
Wailuku, HI 96793

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358450

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 5 8 1

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 5 8 2

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9 4 0 4 3 5 8 4 5 8 3

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9 4 0 4 3 5 8 4 5 8 4

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Campaign of Pat Kawano MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358585

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9 4 0 4 3 5 8 4 5 8 6

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9 4 0 4 3 5 8 4 5 8 7

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

9 4 0 4 3 5 8 4 5 8 8

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9 4 0 4 3 5 8 4 5 8 9

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358459 0

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9404358459 1

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 5 9 2

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9 4 0 4 3 5 8 4 5 9 3

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 5 9 4

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 5 9 5

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Campaign of Pat Kawano ("the Committee") allegedly received two contributions from Sports Shinko, $152 (in-kind) on December 9, 1989, and $1,000 on October 13, 1990, in violation of 2 U.S.C. § 441e. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Campaign of Pat Kawano violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 5 9 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Friends of Joe Tanaka
213 Niihau Street
Kahului, Hawaii 96732

RE: MUR 3460

Dear Sir or Madam:

On December 18, 1991, the Federal Election Commission notified the Friends of Joe Tanaka ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on June 22, 1993, found that there is reason to believe the Friends of Joe Tanaka violated 2 U.S.C. § 441e, a provision of the Act. Also on that date, the Commission found that there is no reason to believe the Committee violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9 4 0 4 3 5 8 4 5 9 7

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358598

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Friends of Joe Tanaka
213 Niihau Street
Kahului, HI 96732

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9 4 0 4 3 5 8 4 5 9 9

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 6 0 0

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 6 0 1

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9 4 0 4 3 5 8 4 6 0 2

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all contributions received by you from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") by date and amount. For each such contribution, identify and produce all related documents, including but not limited to copies of checks and all correspondence.

2. For each contribution identified above, state whether the contribution has been refunded. For each contribution so refunded, state the date of the refund and provide a copy of the refund check and any other documentation regarding the refund.

3. Produce all other documents in your possession that refer, relate, or in any way pertain to any other communications with Sports Shinko, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

4. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9404358460 3

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Friends of Joe Tanaka MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. §§ 441e and 441f.

II. LEGAL ANALYSIS

A. The Law

1. Section 441e

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358460 4

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

2. Section 441f

The second provision alleged by the Complainant as having been violated by the respondents in this matter, 2 U.S.C. § 441f, states that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter argue that the Commission is without jurisdiction because the

9404358460 5

contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, it is argued that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed separately below.

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[2] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and

9404358460 6

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

2. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[3] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[4] The

9 4 0 4 3 5 8 4 6 0 7

---

3. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

4. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶

legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[5]

(Footnote 4 continued from previous page)
5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

5. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See

9404358460 8

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase

---

(Footnote 5 continued from previous page)
also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358460 9

"contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[6] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the

6. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9404358461 0

qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected

9 4 0 4 3 5 8 4 6 1 1

in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the

9 4 0 4 3 5 8 4 6 1 2

decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalisation of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an

9 4 0 4 3 5 8 4 6 1 3

examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign

9 4 0 4 3 5 8 4 6 1 4

Fin. Guide (CCH) ¶ 5970 at 11,575.

III. FACTUAL ANALYSIS

A. Section 441e Allegation

The Friends of Joe Tanaka ("the Committee") allegedly received a contribution from Sports Shinko, $1,000 on October 31, 1990, in violation of 2 U.S.C. § 441e. In its response to the complaint, the Committee offered to refund the contributions. It also noted that Sports Shinko represented that the contributions were legal. Although the refunding of a contribution and the assurance from contributor Sports Shinko (depending on its timing) may constitute mitigating circumstances, the receipt of foreign national-influenced contributions is on its face a violation of section 441e. In light of the Committee's receipt of possibly illegal contributions from Sports Shinko, there is reason to believe that the Friends of Joe Tanaka violated 2 U.S.C. § 441e.

B. Section 441f Allegation

The complaint also alleges that the Committee violated 2 U.S.C. § 441f by receiving contributions made by Martin Luna and Franklin Mukai in the name of Sports Shinko. Unlike section 441e, which applies to elections "to any political office," section 441f appears to be limited to elections for federal office based on the definition of "contribution" at section 431(8) and the lack of any contravening language within 441f. Therefore, it appears that section 441f does not apply to state and local elections, and so there is no reason to believe that the Friends of Joe Tanaka violated 2 U.S.C. § 441f.

9 4 0 4 3 5 8 4 6 1 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Stanley D. Suyat, Esq.
Grant Y. M. Chun, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
Suite 2200, Pacific Tower
1001 Bishop Street
Honolulu, HI 96813

RE: MUR 3460
Sports Shinko (Pukalani)
Co., Ltd.

Dear Messrs. Suyat and Chun:

On December 18, 1991 the Federal Election Commission notified your client, Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 22, 1993, found that there is reason to believe Sports Shinko violated 2 U.S.C. § 441e, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against Sports Shinko. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against Sports Shinko, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable

9 4 0 4 3 5 8 4 6 1 6

cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Factual & Legal Analysis

9404358461 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Sports Shinko (Pukalani) Co., Ltd.
c/o Stanley Suyat, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
Suite 2200, Pacific Tower
1001 Bishop Street
Honolulu, HI 96813

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9 4 0 4 3 5 8 4 6 1 8

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 6 1 9

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 6 2 0

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358462 1

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all your officers and directors, including their nationality status, for the period January 1, 1989 through the present, including the dates of their terms.

2. Identify all your management personnel, including their nationality status, for the period January 1, 1989 through the present, including the dates of their terms.

3. Identify all persons and entities, including their nationality status, which directly or indirectly have ownership rights in you. Describe the interest held by each. Describe the relationship between/among these persons and/or entities.

4. If you are a subsidiary of another entity, do you receive any transfers from your parent? If so, for each such transfer for the period January 1, 1989 through the present:

a. State the amount;

b. State the purpose;

c. Identify the bank and number of the account from which the transfer was made.

5. For each transfer you have received from any other entity for the period January 1, 1989 through the present,

a. State the amount;

b. State the purpose;

c. Identify the source;

d. Identify the bank and number of the account from which the transfer was made.

6. For each contribution made by you to federal, state, and local candidates or committees since January 1, 1989,

a. Identify by date, amount, and recipient;

b. Provide all related documents, including copies of contribution checks, check registers, payment requests, approval forms, cover letters, memoranda, and correspondence;

c. State whether a refund was made by recipient; if so, state the date of the refund;

d. Provide all documents that refer in any way to communications to or from recipient, such as letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

9 4 0 4 3 5 8 4 6 2 2

7. For each contribution identified above, describe each step of the process by which you made each contribution, including the identification (including nationality status) of the persons who made and participated in the decision to make the contribution and the persons who carried out the contribution. For example, identify the person(s) who signed the contribution checks, the person(s) who approved the checks, and any person(s) who could have overrode such contribution decision made by the persons identified above.

8. Identify by name, position, and nationality status each individual associated with Sports Shinko whose name or initials appear on any documents provided in response to questions 6 and 7.

9. State whether you are required to file reports with any government agency. If so, provide copies of all such reports for the period January 1, 1989 to the present.

10. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorising a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which each director signed the resolution.

11. For the period January 1, 1989 to the present, for each of all other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which each director signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

12. Identify the source of funds used to make the contributions identified above, including from which account (bank and account number) the contributions were made and the sources of funds for this account.

13. Identify the persons who supervise, manage, review, or are vested with the power to vote on the selection of, those persons within the corporation with the authority to make contributions. Include the nationality status of each person identified.

14. Produce all other documents in your possession that refer, relate, or in any way pertain to Sports Shinko contributions, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

9404358462 3

15. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

9404358462 4

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Sports Shinko (Pukalani) Co., Ltd. **MUR 3460**

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to six members of the Maui County Council in violation of 2 U.S.C. § 441e.

II. LEGAL ANALYSIS

A. The Law

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9 4 0 4 3 5 8 4 6 2 5

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Sports Shinko's response argues that the Commission is without jurisdiction because the contributions in question are not prohibited by Hawaii state law.[1] This argument rests upon two independent legal bases. First, Sports Shinko argues that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution.

---

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

9 4 0 4 3 5 8 4 6 2 6

Each argument is discussed separately below.[2]

1. State and Local Committees Accepting Contributions from Foreign Nationals Are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[3] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "<u>any</u> political office," (emphasis added). The phrase "any political office" appears but

9 4 0 4 3 5 8 4 6 2 7

---

2. Sports Shinko also notes that the Hawaii Campaign Spending Commission has advised political candidates and contributors that contributions to state and local elections are allowed under Hawaii law.

3. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. <u>See, e.g.</u>, A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[4] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[5] The legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make

9 4 0 4 3 5 8 4 6 2 8

---

4. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

5. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶ 5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

> a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[6]

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the

---

6. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358462 9

> same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase "contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S.

9404358463 0

v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[7] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the

7. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9404358463 1

Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognised that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v.

9 4 0 4 3 5 8 4 6 3 2

Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has

9404358463

sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The

9 4 0 4 3 5 8 4 6 3 4

Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5970 at 11,575.

9 4 0 4 3 5 8 4 6 3 5

III. FACTUAL AND LEGAL ANALYSIS

A. The Complaint

The complaint alleges that Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, made contributions to Maui County Council members in violation of 2 U.S.C. § 441e. The complaint included the recipients' state disclosure reports covering the five $1,000 contributions, all of which list Sports Shinko as the contributor.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	12-09-89	152 (in-kind)

The complaint states that Sports Shinko was registered in Hawaii on December 10, 1987 as a golf course operator. In addition, the complaint states that six of Sports Shinko's seven directors are foreign nationals. The one U.S. citizen director is attorney Franklin Mukai. The complaint also asserts that all of Sports Shinko's officers are foreign nationals.

Complainant alleges that Sports Shinko cannot have made contributions with its own funds because it is not yet profitable, i.e., the original capital expenditure by the foreign parent corporation has not yet been recovered. Furthermore, Sports Shinko's earnings arise from memberships sold in Japan. The complaint explains that memberships in a Sports Shinko entity in Japan are sold to Japanese nationals for the privilege of playing golf on Sports Shinko golf courses in the U.S. Tours are sold to these customers and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko courses, and stay in Sports Shinko hotels where available (the complaint notes that the construction of a hotel at Sports Shinko's location is in progress). Revenues from these Japanese operations are allocated to profit centers in the U.S., presumably on the basis of services rendered. Some revenues are derived locally from golf course and restaurant-bar operations. Complainant asserts that

9 4 0 4 3 5 8 4 6 3 6

locally-generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

In addition, complainant asserts that although two U.S. citizens, attorney Martin Luna and director Franklin Mukai, are said to have been the only persons involved in the contribution decisions, this is not possible because one director cannot unilaterally appropriate and expend funds of the corporation. Such decisions would require, complainant continues, the involvement of other directors and/or officers of the corporation, all of whom are foreign nationals. Complainant asserts that foreign nationals must have participated in the decision to make contributions at all and in the decision as to the aggregate amount of contributions to be made. In addition, officers of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of contribution checks.

B. Responses and Analysis

1. Response to Allegations

In Sports Shinko's response to the complaint, it indicates that it is doing business as the Pukalani Country Club.[8] The response states that Sports Shinko is incorporated in the state of Hawaii and is a wholly-owned subsidiary of a Japan corporation. The response further indicates that of its five directors at the time of the contributions, one is a U.S. citizen, three are foreign nationals, and one is "lawfully admitted to the United

8. Pukalani Country Club was initially notified as a separate respondent to the complaint. The Commission will treat the Country Club and Sports Shinko as one respondent.

9 4 0 4 3 5 8 4 6 3 7

States in a managerial capacity." Of Sports Shinko's six officers, four are foreign nationals and two are "lawfully admitted to the United States in managerial capacities." This admission, however, appears to be based on the possession of special visas, and does not alter these individuals' status as foreign nationals. As noted above, the term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b)(2), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national". See 2 U.S.C. § 441e(b)(2). Because the individuals admitted to the U.S. via special visas are neither U.S. citizens nor resident aliens, for the purposes of the Act they are foreign nationals. Therefore, four out of five directors and all six officers are foreign nationals.

Regarding the making of the contributions, Sports Shinko's response states that it created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions. Mr. Mukai was later authorized by Sports Shinko to appoint Martin Luna, an American attorney and a member of the law firm representing Sports Shinko, to consult with him regarding such contributions. Sports Shinko asserts that Messrs. Mukai and Luna were the sole authorizers of any political

9404358463 8

contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions. Sports Shinko provided a copy of the corporate authorization, dated October 1, 1990, signed by all five directors, which created the committee and funded its political and charitable contributions account in the amount of $50,000. The committee is granted sole discretion over the disbursement of the funds in the account. The Board appointed Mr. Mukai as the sole member of the committee, to consult with Martin Luna. Mr. Mukai signed the contribution checks.

Finally, regarding the $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that its foreign national assistant treasurer provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that the assistant treasurer was not aware that the rounds of golf were to be used in connection with a political fundraising event.

2. Contribution Decision-making

Sports Shinko asserts that its contributions were made in keeping with the Commission's interpretation of section 441e regarding domestic subsidiaries of foreign national corporations, i.e., that no foreign nationals had decision-making authority and that the funds used were domestically-derived. See A.O.s 1989-20 and 1985-3; 11 C.F.R. § 110.4(a)(3). With respect to the former, Sports Shinko states that all determinations dealing with political contributions "were properly delegated to the director

9 4 0 4 3 5 8 4 6 3 9

who is a United States citizen." In addition, "the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions..."

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorizing the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this arrangement partly on the basis that foreign national board

9 4 0 4 3 5 8 4 6 4 0

members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000. The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8. Therefore, it appears that foreign nationals participated in Sports Shinko's contribution decisions.[9]

9 4 0 4 3 5 8 4 6 4 1

---

9. In addition to the apparent involvement of the foreign national directors, complainant alleges the necessary involvement of Sports Shinko's foreign national officers in the authorization and issuance of contribution checks. Sports Shinko's response provided copies of the contribution checks but no check registers or other corporate forms regarding any check approval process. At the time the contributions were made, all of Sports Shinko's officers and all but one of its directors were foreign nationals, a striking imbalance in nationality status. In A.O. 1989-20, the Commission noted that the presence of exclusively foreign national officers and directors would appear to constitute foreign national participation in the decision-making process. This Opinion

3. Funding of the Contributions

In addition to the decision-making issue, the Commission considers the source of funds used for the contributions. Complainant asserts that Sports Shinko received a large capital expenditure from its parent that has not yet been recovered, and that funds are raised from Japanese customers in Japan through the parent company. Complainant does acknowledge that some revenues are locally derived from Sports Shinko's golf course and restaurant-bar operations. In its response, Sports Shinko states that the funds disbursed by the committee were generated from Sports Shinko's local golf course operations, "which thus far are economically self-sufficient." As noted above, the Commission recently ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. A.O. 1992-16. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16.

(Footnote 9 continued from previous page)
recognizes the oversight and management role that corporate officers and directors can play, and the foreign national role in corporate decisions where all officers and directors are foreign nationals.

9 4 0 4 3 5 8 4 6 4 2

It is unclear at this preliminary stage 1) whether or not Sports Shinko is actually generating sufficient funds and 2) the history and status of its parent's capital infusions. In any event, for the reasons stated above regarding the involvement of the foreign national directors, there is reason to believe that Sports Shinko (Pukalani) Co., Ltd. violated 2 U.S.C. § 441e.

9404358464 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Koichi Soejima
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, HI 96768

RE: MUR 3460
Koichi Soejima

Dear Mr. Soejima:

On June 22, 1993, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441e, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be

9404358464 4

entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis
Procedures

9404358464 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Koichi Soejima
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358464 6

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 6 4 7

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 6 4 8

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358649

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

9404358465 0

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Koichi Soejima MUR 3460

I. BACKGROUND

In the ordinary course of carrying out its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that Koichi Soejima may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"), as a director of Sports Shinko (Pukalani) Co., Ltd. participating in contributions to six members of the Maui County Council.

II. LEGAL ANALYSIS

A. The Law

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

9404358465 1

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter have submitted responses arguing that the Commission is without jurisdiction because the contributions in question are not prohibited by Hawaii state law.[1] These arguments rest upon two independent legal bases. First, respondents argue that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

9 4 0 4 3 5 8 4 6 5 2

to the United States Constitution. Each argument is discussed separately below.[2]

1. State and Local Committees Accepting Contributions from Foreign Nationals are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[3] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "<u>any</u> political office,"

9 4 0 4 3 5 8 4 6 5 3

---

2. A respondent in this matter also notes that the Hawaii Campaign Spending Commission has advised political candidates and contributors that contributions to state and local elections are allowed under Hawaii law.

3. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. <u>See, e.g.</u>, A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

(emphasis added). The phrase "any political office" appears but twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[4] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[5] The legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

The effect of this provision is to make it unlawful for

---

4. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

5. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶ 5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

9 4 0 4 3 5 8 4 6 5 4

> any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[6]

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

---

6. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358465 5

> natural presumption that identical words used in different parts of the same Act are intended to have the same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase "contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render

9 4 0 4 3 5 8 4 6 5 6

statutory language meaningless are to be avoided. See, e.g., U.S. v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[7] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations

---

7. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9404358465 7

valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation

9 4 0 4 3 5 8 4 6 5 8

through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v. Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31, Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the

9 4 0 4 3 5 8 4 6 5 9

Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to

9 4 0 4 3 5 8 4 6 6 0

operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5970 at 11,575.

9404358466 1

III. FACTUAL AND LEGAL ANALYSIS

A. The Facts

The directors of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, may have participated in contributions to Maui County Council members in violation of 2 U.S.C. § 441e. Sports Shinko made the following

contributions, all of which except the $152 contribution are reflected in the recipients' state disclosure reports.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	10-13-90	1,000
	12-09-89	152 (in-kind)

Of its five directors at the time of the contributions, one is a U.S. citizen (Franklin Mukai) and four are foreign nationals. All of Sports Shinko's officers are foreign nationals.

Regarding the making of the contributions, it appears that the directors of Sports Shinko created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions. Mr. Mukai was also authorized by Sports Shinko to appoint Martin Luna to consult with him regarding such contributions. The corporate authorisation, dated October 1, 1990, signed by all five directors, created the committee and funded its political and charitable contributions account in the amount of $50,000. Mr. Mukai signed the contribution checks.

B. Analysis

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national

9 4 0 4 3 5 8 4 6 6 2

corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorizing the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this arrangement partly on the basis that foreign national board members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and

9 4 0 4 3 5 8 4 6 6 3

Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000. The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8.

Prior similar Advisory Opinions are codified in the Commission's section 110.4(a)(3) regulation, which specifies the application of 2 U.S.C. § 441e to foreign national individuals: "a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any ... corporation ... such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee." The foreign national directors' votes regarding Sports Shinko's committee appear to constitute such participation. Koichi Soejima is a foreign national member of the board of directors. Therefore, there is reason to believe that Koichi Soejima violated 2 U.S.C. § 441e.

9 4 0 4 3 5 8 4 6 6 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Toshio Kinoshita
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, HI 96768

RE: MUR 3460
Toshio Kinoshita

Dear Mr. Kinoshita:

On December 18, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on June 22, 1993, found that there is reason to believe you violated 2 U.S.C. § 441e, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

9 4 0 4 3 5 8 4 6 6 5

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358466 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Toshio Kinoshita
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358466 67

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 6 6 8

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 6 6 9

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9404358467 0

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

2404358467 1

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Toshio Kinoshita MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that the directors of Sports Shinko (Pukalani) Co., Ltd., a domestic subsidiary of a foreign corporation, may have participated in contributions to six members of the Maui County Council in violation of 2 U.S.C. § 441e.

II. LEGAL ANALYSIS

A. The Law

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

The term "foreign national" is defined at 2 U.S.C.

2 4 0 4 3 5 8 4 6 7 2

§ 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter have submitted responses arguing that the Commission is without jurisdiction because the contributions in question are not prohibited by Hawaii state law.[1] These arguments rest upon two independent legal bases. First, respondents argue that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

9 4 0 4 3 5 8 4 6 7 3

separately below.[2]

1. State and Local Committees Accepting Contributions from Foreign Nationals are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[3] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but

9 4 0 4 3 5 8 4 6 7 4

---

2. A respondent in this matter also notes that the Hawaii Campaign Spending Commission has advised political candidates and contributors that contributions to state and local elections are allowed under Hawaii law.

3. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[4] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[5] The legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make

---

4. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

5. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶ 5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

9 4 0 4 3 5 8 4 6 7 5

> a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[6]

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the

---

6. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

7 4 0 4 3 5 8 4 6 7 6

> same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase "contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S.

9404358467 7

v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[7] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the

---

7. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 6 7 8

Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v.

9 4 0 4 3 5 8 4 6 7 9

Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has

9404358460

sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The

9 4 0 4 3 5 8 4 6 8 1

Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5970 at 11,575.

9 4 0 4 3 5 8 4 6 8 2

III. FACTUAL AND LEGAL ANALYSIS

A. The Complaint

The complaint alleges that the directors of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, may have participated in contributions to Maui County Council members in violation of 2 U.S.C. § 441e. The complaint included the recipients' state disclosure reports covering the five $1,000 contributions, all of which list Sports

Shinko as the contributor.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	12-09-89	152 (in-kind)

The complaint states that Sports Shinko was registered in Hawaii on December 10, 1987 as a golf course operator. In addition, the complaint states that six of Sports Shinko's seven directors are foreign nationals. The one U.S. citizen director is attorney Franklin Mukai. The complaint also asserts that all of Sports Shinko's officers are foreign nationals.

Complainant alleges that Sports Shinko cannot have made contributions with its own funds because it is not yet profitable, i.e., the original capital expenditure by the foreign parent corporation has not yet been recovered. Furthermore, Sports Shinko's earnings arise from memberships sold in Japan. The complaint explains that memberships in a Sports Shinko entity in Japan are sold to Japanese nationals for the privilege of playing golf on Sports Shinko golf courses in the U.S. Tours are sold to these customers and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko courses, and stay in Sports Shinko hotels where available (the complaint notes that the construction of a hotel at Sports Shinko's location is in progress). Revenues from these Japanese operations are allocated to profit centers in the U.S., presumably on the basis of services rendered. Some revenues are derived locally from golf course and

9 4 0 4 3 5 8 4 6 8 3

restaurant-bar operations. Complainant asserts that locally-generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

In addition, complainant asserts that although two U.S. citizens, attorney Martin Luna and director Franklin Mukai, are said to have been the only persons involved in the contribution decisions, this is not possible because one director cannot unilaterally appropriate and expend funds of the corporation. Such decisions would require, complainant continues, the involvement of other directors and/or officers of the corporation, all of whom are foreign nationals. Complainant asserts that foreign nationals must have participated in the decision to make contributions at all and in the decision as to the aggregate amount of contributions to be made. In addition, officers of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of contribution checks.

B. Responses and Analysis

1. Response to Allegations

In Sports Shinko's response to the complaint, it indicates that it is doing business as the Pukalani Country Club.[8] The response states that Sports Shinko is incorporated in the state of Hawaii and is a wholly-owned subsidiary of a Japan corporation. The response further indicates that of its five directors at the time of the contributions, one is a U.S. citizen (Franklin Mukai),

8. Pukalani Country Club was initially notified as a separate respondent to the complaint. The Commission will treat the Country Club and Sports Shinko as one respondent.

9 4 0 4 3 5 8 4 6 8 4

three are foreign nationals, and one is "lawfully admitted to the United States in a managerial capacity." Of Sports Shinko's six officers, four are foreign nationals and two are "lawfully admitted to the United States in managerial capacities." This admission, however, appears to be based on the possession of special visas, and does not alter these individuals' status as foreign nationals. As noted above, the term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b)(2), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national". See 2 U.S.C. § 441e(b)(2). Because the individuals admitted to the U.S. via special visas are neither U.S. citizens nor resident aliens, for the purposes of the Act they are foreign nationals. Therefore, four out of five directors and all six officers are foreign nationals.

Regarding the making of the contributions, Sports Shinko's response states that it created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions. Mr. Mukai was later authorized by Sports Shinko to appoint Martin Luna, an American attorney and a member of the law firm representing Sports Shinko, to consult with him regarding such contributions. Sports Shinko asserts that

9 4 0 4 3 5 8 4 6 8 5

Messrs. Mukai and Luna were the sole authorizers of any political contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions. Sports Shinko provided a copy of the corporate authorization, dated October 1, 1990, signed by all five directors, which created the committee and funded its political and charitable contributions account in the amount of $50,000. The committee is granted sole discretion over the disbursement of the funds in the account. The Board appointed Mr. Mukai as the sole member of the committee, to consult with Martin Luna. Mr. Mukai signed the contribution checks.

Finally, regarding the $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that its foreign national assistant treasurer provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that the assistant treasurer was not aware that the rounds of golf were to be used in connection with a political fundraising event.

2. Contribution Decision-making

Sports Shinko asserts that its contributions were made in keeping with the Commission's interpretation of section 441e regarding domestic subsidiaries of foreign national corporations, i.e., that no foreign nationals had decision-making authority and that the funds used were domestically-derived. See A.O.s 1989-20 and 1985-3; 11 C.F.R. § 110.4(a)(3). With respect to the former, Sports Shinko states that all determinations dealing with

9 4 0 4 3 5 8 4 6 8 6

political contributions "were properly delegated to the director who is a United States citizen." In addition, "the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions..."

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorizing the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this

9 4 0 4 3 5 8 4 6 8 7

arrangement partly on the basis that foreign national board members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000. The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8.

Prior similar Advisory Opinions are codified in the Commission's section 110.4(a)(3) regulation, which specifies the application of 2 U.S.C. § 441e to foreign national individuals: "a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any ... corporation ... such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the

9 4 0 4 3 5 8 4 6 8 8

administration of a political committee." The foreign national directors' votes regarding Sports Shinko's committee appear to constitute such participation. Toshio Kinoshita is a foreign national member of the board of directors. Therefore, there is reason to believe that Toshio Kinoshita violated 2 U.S.C. § 441e.

9404358468 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JLULY 1, 1993

Takeshi Kinoshita
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, HI 96768

RE: MUR 3460
Takeshi Kinoshita

Dear Mr. Kinoshita:

On December 18, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on June 22, 1993, found that there is reason to believe you violated 2 U.S.C. § 441e, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

9404358469 0

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358469 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Takeshi Kinoshita
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358469 2

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9404358469 3

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 6 9 4

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

24043584695

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

9404358469 6

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Takeshi Kinoshita MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that the directors of Sports Shinko (Pukalani) Co., Ltd., a domestic subsidiary of a foreign corporation, may have participated in contributions to six members of the Maui County Council in violation of 2 U.S.C. § 441e.

II. LEGAL ANALYSIS

A. The Law

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

The term "foreign national" is defined at 2 U.S.C.

9404358469 7

§ 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter have submitted responses arguing that the Commission is without jurisdiction because the contributions in question are not prohibited by Hawaii state law.[1] These arguments rest upon two independent legal bases. First, respondents argue that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

9 4 0 4 3 5 8 4 6 9 8

separately below.[2]

1. State and Local Committees Accepting Contributions from Foreign Nationals are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[3] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but

9 4 0 4 3 5 8 4 6 9 9

---

2. A respondent in this matter also notes that the Hawaii Campaign Spending Commission has advised political candidates and contributors that contributions to state and local elections are allowed under Hawaii law.

3. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[4] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[5] The legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make

---

4. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

5. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶ 5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

9 4 0 4 3 5 8 4 7 0 0

> a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[6]

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the

---

6. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9 4 0 4 3 5 8 4 7 0 1

> same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase "contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S.

9404358470 2

v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[7] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the

7. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 7 0 3

Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognised that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v.

9 4 0 4 3 5 8 4 7 0 4

Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has

9404358470 5

sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The

9 4 0 4 3 5 8 4 7 0 6

Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5970 at 11,575.

9404358470 7

III. FACTUAL AND LEGAL ANALYSIS

A. The Complaint

The complaint alleges that the directors of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, may have participated in contributions to Maui County Council members in violation of 2 U.S.C. § 441e. The complaint included the recipients' state disclosure reports covering the five $1,000 contributions, all of which list Sports

Shinko as the contributor.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	12-09-89	152 (in-kind)

The complaint states that Sports Shinko was registered in Hawaii on December 10, 1987 as a golf course operator. In addition, the complaint states that six of Sports Shinko's seven directors are foreign nationals. The one U.S. citizen director is attorney Franklin Mukai. The complaint also asserts that all of Sports Shinko's officers are foreign nationals.

Complainant alleges that Sports Shinko cannot have made contributions with its own funds because it is not yet profitable, i.e., the original capital expenditure by the foreign parent corporation has not yet been recovered. Furthermore, Sports Shinko's earnings arise from memberships sold in Japan. The complaint explains that memberships in a Sports Shinko entity in Japan are sold to Japanese nationals for the privilege of playing golf on Sports Shinko golf courses in the U.S. Tours are sold to these customers and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko courses, and stay in Sports Shinko hotels where available (the complaint notes that the construction of a hotel at Sports Shinko's location is in progress). Revenues from these Japanese operations are allocated to profit centers in the U.S., presumably on the basis of services rendered. Some revenues are derived locally from golf course and

9 4 0 4 3 5 8 4 7 0 8

restaurant-bar operations. Complainant asserts that locally-generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

In addition, complainant asserts that although two U.S. citizens, attorney Martin Luna and director Franklin Mukai, are said to have been the only persons involved in the contribution decisions, this is not possible because one director cannot unilaterally appropriate and expend funds of the corporation. Such decisions would require, complainant continues, the involvement of other directors and/or officers of the corporation, all of whom are foreign nationals. Complainant asserts that foreign nationals must have participated in the decision to make contributions at all and in the decision as to the aggregate amount of contributions to be made. In addition, officers of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of contribution checks.

B. Responses and Analysis

1. Response to Allegations

In Sports Shinko's response to the complaint, it indicates that it is doing business as the Pukalani Country Club.[8] The response states that Sports Shinko is incorporated in the state of Hawaii and is a wholly-owned subsidiary of a Japan corporation. The response further indicates that of its five directors at the time of the contributions, one is a U.S. citizen (Franklin Mukai),

8. Pukalani Country Club was initially notified as a separate respondent to the complaint. The Commission will treat the Country Club and Sports Shinko as one respondent.

9404358470 9

three are foreign nationals, and one is "lawfully admitted to the United States in a managerial capacity." Of Sports Shinko's six officers, four are foreign nationals and two are "lawfully admitted to the United States in managerial capacities." This admission, however, appears to be based on the possession of special visas, and does not alter these individuals' status as foreign nationals. As noted above, the term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b)(2), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national". See 2 U.S.C. § 441e(b)(2). Because the individuals admitted to the U.S. via special visas are neither U.S. citizens nor resident aliens, for the purposes of the Act they are foreign nationals. Therefore, four out of five directors and all six officers are foreign nationals.

Regarding the making of the contributions, Sports Shinko's response states that it created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions. Mr. Mukai was later authorized by Sports Shinko to appoint Martin Luna, an American attorney and a member of the law firm representing Sports Shinko, to consult with him regarding such contributions. Sports Shinko asserts that

9 4 0 4 3 5 8 4 7 1 0

Messrs. Mukai and Luna were the sole authorizers of any political contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions. Sports Shinko provided a copy of the corporate authorization, dated October 1, 1990, signed by all five directors, which created the committee and funded its political and charitable contributions account in the amount of $50,000. The committee is granted sole discretion over the disbursement of the funds in the account. The Board appointed Mr. Mukai as the sole member of the committee, to consult with Martin Luna. Mr. Mukai signed the contribution checks.

Finally, regarding the $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that its foreign national assistant treasurer provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that the assistant treasurer was not aware that the rounds of golf were to be used in connection with a political fundraising event.

2. Contribution Decision-making

Sports Shinko asserts that its contributions were made in keeping with the Commission's interpretation of section 441e regarding domestic subsidiaries of foreign national corporations, i.e., that no foreign nationals had decision-making authority and that the funds used were domestically-derived. See A.O.s 1989-20 and 1985-3; 11 C.F.R. § 110.4(a)(3). With respect to the former, Sports Shinko states that all determinations dealing with

9 4 0 4 3 5 8 4 7 1 1

political contributions "were properly delegated to the director who is a United States citizen." In addition, "the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions..."

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorizing the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this

9 4 0 4 3 5 8 4 7 1 2

arrangement partly on the basis that foreign national board members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000. The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8.

Prior similar Advisory Opinions are codified in the Commission's section 110.4(a)(3) regulation, which specifies the application of 2 U.S.C. § 441e to foreign national individuals: "a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any ... corporation ... such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the

9404358471 3

administration of a political committee." The foreign national directors' votes regarding Sports Shinko's committee appear to constitute such participation. Takeshi Kinoshita is a foreign national member of the board of directors. Therefore, there is reason to believe that Takeshi Kinoshita violated 2 U.S.C. § 441e.

9404358471 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Tomio Kawasaki
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, HI 96768

RE: MUR 3460
Tomio Kawasaki

Dear Mr. Kawasaki:

On December 18, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on June 22, 1993, found that there is reason to believe you violated 2 U.S.C. § 441e, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

9404358471 5

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Questions
Designation of Counsel Form
Factual & Legal Analysis

9404358471 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3460
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Tomio Kawasaki
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9404358471 7

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 7 1 8

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 7 1 9

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

9 4 0 4 3 5 8 4 7 2 0

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

9404 358 4721

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Tomio Kawasaki MUR 3460

I. BACKGROUND

The Commission received a complaint on December 16, 1991, alleging that the directors of Sports Shinko (Pukalani) Co., Ltd., a domestic subsidiary of a foreign corporation, may have participated in contributions to six members of the Maui County Council in violation of 2 U.S.C. § 441e.

II. LEGAL ANALYSIS

A. The Law

The basis of the complaint is the Act's prohibition on contributions from foreign nationals at 2 U.S.C. § 441e. This provision states:

> (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with any election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3):

> A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.

The term "foreign national" is defined at 2 U.S.C.

9404358472 2

§ 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b), a "foreign principal" includes:

> (2) a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Act further provides that resident aliens are excluded from the definition of "foreign national." See 2 U.S.C. § 441e(b)(2).

B. Challenges to Jurisdiction

As an initial matter, the issue of the Commission's section 441e jurisdiction is addressed. Respondents in this matter have submitted responses arguing that the Commission is without jurisdiction because the contributions in question are not prohibited by Hawaii state law.[1] These arguments rest upon two independent legal bases. First, respondents argue that the Commission lacks jurisdiction because section 441e does not explicitly prohibit contributions to state and local elections. Additionally, it is argued that the Commission cannot assert jurisdiction in this matter without violating the Tenth Amendment to the United States Constitution. Each argument is discussed

1. Hawaii law permits contributions from corporations and does not explicitly prohibit contributions from foreign nationals. See Hawaii Revised Statutes § 11 et. seq.

9404358472 3

separately below.[2]

1. State and Local Committees Accepting Contributions from Foreign Nationals are Within the Purview of Section 441e

As noted above, respondents first argue that section 441e's prohibition is inapplicable to state and local elections because this section does not expressly address such elections. Respondents note that section 441e addresses "contributions" and "candidates," terms which are defined at 2 U.S.C. § 431 as applicable to federal elections and office. Although respondents acknowledge that the Commission's Regulations do prohibit contributions by foreign nationals to state and local elections, they argue the regulation at 11 C.F.R. § 110.4(a) is overly broad.[3] As discussed below, the Commission's long-standing interpretation of section 441e is supported by the language and structure of the statute, as well as the relevant legislative history. Therefore, section 441e's prohibitions are appropriately applied to state and local elections.

Initially it is clear that section 441e expressly prohibits contributions by foreign nationals to "any political office," (emphasis added). The phrase "any political office" appears but

9 4 0 4 3 5 8 4 7 2 4

---

2. A respondent in this matter also notes that the Hawaii Campaign Spending Commission has advised political candidates and contributors that contributions to state and local elections are allowed under Hawaii law.

3. Since the operative language of 11 C.F.R. § 110.4(a) was first adopted in 1976, the Commission has consistently taken the position in both enforcement matters and in advisory opinions that section 441e applies to state and local elections, as well as federal elections. See, e.g., A.O.s 1979-59, 1985-3, 1982-10, 1985-3, 1989-20; and MURs 1859, 1159, and 2165.

twice in the Act: at this section and in section 441b(a) (prohibition of contributions from national banks). The Commission has promulgated regulations for both these sections, consistently interpreting each as applying to federal, state and local elections. See 11 C.F.R. §§ 110.4 and 114.2. In contrast, the Act contains numerous references to "Federal office," defined at 2 U.S.C. § 431(3) to refer solely to federal elections.[4] Consequently, section 441e's reference to "any political office" is correctly read as applying to federal, state, and local elections, and is distinguished by its plain language from sections of the Act dealing solely with federal elections.[5] The legislative history of section 441b's statutory predecessor (18 U.S.C. § 610) is unequivocal that "any political office" was intended to apply to federal, state and local elections:

> The effect of this provision is to make it unlawful for any corporation, [organized by authority of any laws of Congress], no matter what its character may be, to make

---

4. See, e.g., section 432(e)(1) (designation of principal campaign committee); section 439a (use of contributed amounts for certain purposes); section 441a(a)(1)(A) and (2)(A) (limitations on contributions to authorized committees); section 441g (limitations on contributions in currency); section 441h (fraudulent misrepresentations of campaign authority).

5. It has been argued that section 441c, which in subsection (a)(1) prohibits federal contractors from contributing "to any political party, committee, or candidate for public office," contains language that is similar to if not broader than section 441e's language, yet is applied only to federal elections. Subsection (b), however, which permits federal contractors to maintain separate segregated funds for the purpose of influencing elections, explicitly refers to elections for "Federal office," and the Commission long ago reasoned that this limitation must be imported into subsection (a) as well to prevent an anomalous result. See A.O. 1975-99, 1 Fed. Election Camp. Fin. Guide, ¶ 5171 at pp. 10,113 - 114, codified at 11 C.F.R. § 115.2(a) (prohibition on federal contractors applicable only to federal elections).

9 4 0 4 3 5 8 4 7 2 5

> a contribution "in connection with any election to any political office" without regard to whether the election be national, State, county, township, or municipal. The Congress has the undoubted right thus to restrict and regulate corporations of its own creation.

U.S. v. Clifford, 409 F. Supp. 1070, 1073 (E.D.N.Y. 1976), quoting S. Rep. No. 3065, 59th Congress, 1st Sess. 2 (1906). Accordingly, there remains little doubt of Congressional intent as to the scope of this phrase, and no serious question but that Congress intended both section 441e and the national bank prohibition at section 441b to apply to state and local elections.[6]

Finally, respondents argue that because "contribution" as defined at § 431(8) refers to "any election for Federal office" section 441e's reference to "contribution" can only refer to federal elections. This is simply not the case. Rather, it is well settled that the

> natural presumption that identical words used in different parts of the same Act are intended to have the

---

6. While not as explicit, the legislative history of section 441e also confirms Congress' intent to reach beyond federal election. Section 441e's operative language originated in an amendment to the Foreign Agents Registration Act of 1938 ("FARA"), 52 Stat. 631-633, as amended in relevant part in 1942, 1966 and 1984, codified at 22 U.S.C. §§ 611-621. The 1966 amendments sought "to protect the interests of the United States by requiring complete public disclosure by persons acting for or in the interests of foreign principals where their activities are political in nature or border on the political." H.R. Rep. No. 1470, 89th Cong., 1st Sess., reprinted in 1966 U.S. Code Cong. & Admin. News 2397, 2398. Moreover, when the provision was amended as part of the Federal Election Campaign Act Amendments of 1974, 88 Stat. 1263, the author of the amendment noted Congress' concern with foreign influence over "American political candidates," and broadly stated that the provision "would ban the contributions of foreign nationals to campaign funds in American political campaigns." 120 Cong. Rec. 8782 (March 28, 1974) (statement of Senator Bentsen), reprinted in Legislative History of the Federal Election Campaign Amendments of 1974 at 264. See also id. ("I am saying that contributions by foreigners are wrong and they have no place in the American political system.").

9404358472 6

> same meaning .... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent. Where ... the conditions are different, or the scope of the legislative powers exercised in one case is broader than that exercised in another, the meaning well may vary to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed.

Atlantic Cleaners & Dyers v. United States, 286 U.S. 427, 433 (1932). See also Brock v. Peabody Coal Co., 822 F.2d 1134, 1151 (D.C. Cir. 1987) (R. Ginsburg, J., concurring); Bituminous Coal Operators' Ass'n. v. Hathaway, 406 F. Supp. 372, 375 (W.D. Va. 1975), aff'd, 547 F.2d 240 (4th Cir. 1977).

In this instance we have demonstrated that Congress used specific statutory language ("any political office") to reach beyond federal elections in only two instances: the prohibition of national bank contributions at section 441b(a) and the prohibition of foreign national contributions at section 441e. Thus, upon consideration of "the circumstances under which the language ... [is] employed," Atlantic Cleaners, 286 U.S. at 433, the phrase "contribution of money or other things of value" in section 441e must be read more broadly than "contribution" as defined at section 431(8). Indeed, respondents' reading of section 441e would render superfluous the phrase "any political office," and would do so in the face of legislative history as to its intended scope. It is a cardinal principle of statutory construction, however, that statutes should be interpreted to give force to the language chosen by Congress, and interpretations which render statutory language meaningless are to be avoided. See, e.g., U.S.

9404358472 7

v. Fausto, 484 U.S. 439, 451-52 (1988).

In sum, the statutory structure and legislative history demonstrates that Congress intended "any political office" to apply to federal, state and local elections.[7] Therefore, respondents' argument of statutory construction must fail.

2. Tenth Amendment Concerns

Respondents in this matter also argue that the Commission's assertion of jurisdiction in this matter violates the Tenth Amendment to the United States Constitution. This amendment reserves to the states "powers not delegated to the United States by the Constitution, nor prohibited by it to the states." Citing Oregon v. Mitchell, 400 U.S. 112 (1970), respondents argue that because states have been recognized as having the right to establish and maintain separate and independent governments, and "to determine within the powers of the constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices...," id. at 125, the State of Hawaii is constitutionally entitled to permit foreign nationals to fund its elections.

Oregon struck down the age requirements provision for the Voting Rights Act Amendments of 1970, finding age limitations valid as to national elections but invalid as to state elections. The Court reasoned that the Article 1, Section 2 of the

7. The Commission's consistent interpretation giving force to this statutory language would be afforded great deference by the courts. See, e.g., F.E.C. v. Democratic Senatorial Campaign Committee, 454 U.S. 27, 36-37 (1981).

9 4 0 4 3 5 8 4 7 2 8

Constitution reserves to the state the power to regulate state and local elections. Thus, respondents' assertion that Oregon relies on the Tenth Amendment is flawed. In fact, Oregon merely addressed states' powers to regulate participation, by age, in state and local elections, but did not address the quite different issue presented in this matter, i.e., expanding the electoral process to include foreign nationals. Such inclusion interjects the state into aspects of foreign policy and immigration that are acknowledged areas of federal domain. See Toll v. Moreno, 458 U.S. 1, 10 (1982) (reaffirmation of the federal constitutional power over aliens via Article I, § 8 cl.4 [authority to establish uniform Rule of naturalization] and Article I, § 8 cl.3. [power to regulate commerce with foreign nationals and inherent power over foreign affairs]). Moreover, the Oregon court recognized that the federal government can indeed regulate certain aspects of state elections impinging upon federally protected interests, i.e. literary tests, poll taxes, and other vestiges of racial discrimination. In this instance the Act is similarly interjected in an area of apparent state domain to assert a constitutionally recognized federal interest over foreign affairs.

Respondents' reliance on the Tenth Amendment adds nothing to their argument. The Supreme Court in 1988 reaffirmed that "Tenth Amendment limits on Congress' authority to regulate state activities . . . . are structural, not substantive--i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity." South Carolina v.

9 4 0 4 3 5 8 4 7 2 9

Baker, 485 U.S. 505, 512 (1988), citing Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) (overruling National League of Cities v. Usery, 426 U.S. 833 (1976)). Therefore, respondents' jurisdictional arguments are without foundation.

C. The Commission's Interpretation and Application of Section 441e

This matter involves contributions by a domestic subsidiary of a foreign corporation. Initially, it is clear that the Act prohibits contributions from persons, including corporations, who are foreign nationals. 2 U.S.C. § 441e. See A.O. 1983-31. Furthermore, in its advisory opinions, the Commission has addressed the issue whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local campaigns for political office. In addressing this issue the Commission has looked to two factors: the source of the funds used to make the contributions and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic subsidiary where the source of funds is the foreign national parent, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. See, e.g., A.O.s 1989-20, 1985-3 and 1981-36. The Commission recently further refined this factor in A.O. 1992-16. Here, the Commission ruled that the domestic subsidiary must be able to demonstrate through a reasonable accounting method that it has

9 4 0 4 3 5 8 4 7 3 0

sufficient funds in its account, other than funds given or loaned by its foreign national parent, from which the contribution is made. In addition, the foreign parent must consider the political contributions of its subsidiary when granting further subsidies to or further capitalization of the subsidiary. The amount that the foreign parent distributes to the subsidiary cannot replenish all or any portion of the subsidiary's political contributions during the period since the preceding payment. A.O. 1992-16. The general concept in this opinion is that the domestic subsidiary cannot be a mere corporate shell.

Moreover, even if the funds in question are from a domestic subsidiary, the Commission also requires that the nationality status of the decision makers be examined. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See A.O.s 1985-3 and 1982-10. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

In an opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals to operate the SSF and to exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The

9 4 0 4 3 5 8 4 7 3 1

Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission has further considered the nationality status of the decision-makers in the corporate context. In A.O. 1989-20, which involved a domestic subsidiary that wished to set up a committee through which to make contributions, all of the officers and directors of the subsidiary were foreign nationals and the contribution decision-makers were to be other individuals, all U.S. citizens. Although the Commission ruled that the proposal would fall afoul of section 441e because the foreign parent was the main source of funds for the subsidiary, the Commission also considered the decision-making factor, stating that "[s]ince all of the directors and officers of [the subsidiary] are foreign nationals, it appears that the company will not be able to ... contribute to the proposed committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5970 at 11,575.

9404358473 2

III. FACTUAL AND LEGAL ANALYSIS

A. The Complaint

The complaint alleges that the directors of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), a domestic subsidiary of a foreign corporation, may have participated in contributions to Maui County Council members in violation of 2 U.S.C. § 441e. The complaint included the recipients' state disclosure reports covering the five $1,000 contributions, all of which list Sports

Shinko as the contributor.

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-23-90	$1,000
	5-06-91	500
Friends of Joe Tanaka	10-31-90	1,000
Friends of Alice Lee	11-02-90	1,000
Friends of Rick Medina	11-14-90	1,000
Goro Hokama	12-21-90	1,000
Pat Kawano	12-09-89	152 (in-kind)

The complaint states that Sports Shinko was registered in Hawaii on December 10, 1987 as a golf course operator. In addition, the complaint states that six of Sports Shinko's seven directors are foreign nationals. The one U.S. citizen director is attorney Franklin Mukai. The complaint also asserts that all of Sports Shinko's officers are foreign nationals.

Complainant alleges that Sports Shinko cannot have made contributions with its own funds because it is not yet profitable, i.e., the original capital expenditure by the foreign parent corporation has not yet been recovered. Furthermore, Sports Shinko's earnings arise from memberships sold in Japan. The complaint explains that memberships in a Sports Shinko entity in Japan are sold to Japanese nationals for the privilege of playing golf on Sports Shinko golf courses in the U.S. Tours are sold to these customers and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko courses, and stay in Sports Shinko hotels where available (the complaint notes that the construction of a hotel at Sports Shinko's location is in progress). Revenues from these Japanese operations are allocated to profit centers in the U.S., presumably on the basis of services rendered. Some revenues are derived locally from golf course and

9 4 0 4 3 5 8 4 7 3 3

restaurant-bar operations. Complainant asserts that locally-generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

In addition, complainant asserts that although two U.S. citizens, attorney Martin Luna and director Franklin Mukai, are said to have been the only persons involved in the contribution decisions, this is not possible because one director cannot unilaterally appropriate and expend funds of the corporation. Such decisions would require, complainant continues, the involvement of other directors and/or officers of the corporation, all of whom are foreign nationals. Complainant asserts that foreign nationals must have participated in the decision to make contributions at all and in the decision as to the aggregate amount of contributions to be made. In addition, officers of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of contribution checks.

B. Responses and Analysis

1. Response to Allegations

In Sports Shinko's response to the complaint, it indicates that it is doing business as the Pukalani Country Club.[8] The response states that Sports Shinko is incorporated in the state of Hawaii and is a wholly-owned subsidiary of a Japan corporation. The response further indicates that of its five directors at the time of the contributions, one is a U.S. citizen (Franklin Mukai),

8. Pukalani Country Club was initially notified as a separate respondent to the complaint. The Commission will treat the Country Club and Sports Shinko as one respondent.

9 4 0 4 3 5 8 4 7 3 4

three are foreign nationals, and one is "lawfully admitted to the United States in a managerial capacity." Of Sports Shinko's six officers, four are foreign nationals and two are "lawfully admitted to the United States in managerial capacities." This admission, however, appears to be based on the possession of special visas, and does not alter these individuals' status as foreign nationals. As noted above, the term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, inter alia, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under § 611(b)(2), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national". See 2 U.S.C. § 441e(b)(2). Because the individuals admitted to the U.S. via special visas are neither U.S. citizens nor resident aliens, for the purposes of the Act they are foreign nationals. Therefore, four out of five directors and all six officers are foreign nationals.

Regarding the making of the contributions, Sports Shinko's response states that it created a political fund and committee and appointed its sole U.S. citizen director, Franklin Mukai, to make any and all decisions about who would receive political and charitable contributions. Mr. Mukai was later authorized by Sports Shinko to appoint Martin Luna, an American attorney and a member of the law firm representing Sports Shinko, to consult with him regarding such contributions. Sports Shinko asserts that

9 4 0 4 3 5 8 4 7 3 5

Messrs. Mukai and Luna were the sole authorizers of any political contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions. Sports Shinko provided a copy of the corporate authorization, dated October 1, 1990, signed by all five directors, which created the committee and funded its political and charitable contributions account in the amount of $50,000. The committee is granted sole discretion over the disbursement of the funds in the account. The Board appointed Mr. Mukai as the sole member of the committee, to consult with Martin Luna. Mr. Mukai signed the contribution checks.

Finally, regarding the $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that its foreign national assistant treasurer provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that the assistant treasurer was not aware that the rounds of golf were to be used in connection with a political fundraising event.

2. Contribution Decision-making

Sports Shinko asserts that its contributions were made in keeping with the Commission's interpretation of section 441e regarding domestic subsidiaries of foreign national corporations, i.e., that no foreign nationals had decision-making authority and that the funds used were domestically-derived. See A.O.s 1989-20 and 1985-3; 11 C.F.R. § 110.4(a)(3). With respect to the former, Sports Shinko states that all determinations dealing with

9 4 0 4 3 5 8 4 7 3 6

political contributions "were properly delegated to the director who is a United States citizen." In addition, "the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions..."

The Commission has considered the relationship between a corporation's board of directors and its contributions. In an Advisory Opinion involving a corporation and its separate segregated fund, the Commission ruled that foreign national corporate board members must abstain from voting on matters concerning the SSF, including the selection of individuals who are to operate the SSF and who will exercise decision-making authority regarding contributions and expenditures. A.O. 1990-8. The Commission noted that these conditions are necessary "to ensure the exclusion of foreign nationals from direct or indirect participation in the decision making process related to the administration and conduct of the committee." 2 Fed. Election Campaign Fin. Guide (CCH) ¶ 5986 at 11,624.

The Commission recently reiterated this requirement in A.O. 1992-16, the facts of which even more closely resemble those in the present matter. In this Opinion, a corporation proposed that its board of directors consider a resolution authorizing the establishment of a committee made up of the two U.S. citizen board members and empowering the committee to make all election-related decisions on behalf of the company. The board was to play no direct role in determining the aggregate amount of political contributions. The Commission conditioned its approval of this

9 4 0 4 3 5 8 4 7 3 7

arrangement partly on the basis that foreign national board members abstain from voting on matters concerning the committee and its activities. The Commission also conditioned its approval on the basis that the foreign national board members abstain from voting on the selection of individuals to operate the committee and exercise decision-making authority with respect to committee contributions and expenditures. A.O. 1992-16.

In the present matter, although Sports Shinko's immediate decision-makers may have been U.S. citizens Franklin Mukai and Martin Luna, it is clear that Sports Shinko's board of directors, 4 of 5 of whom are foreign nationals, participated in the making of these contributions. The board voted 1) to create the contribution committee, 2) to specify that the committee would consist of director Franklin Mukai, and 3) to fund the committee in the amount of $50,000. The board's votes on these matters vital to the committee clearly constitutes "voting on matters concerning" the committee, including the "selection of individuals to operate" the committee and to "exercise decision-making authority" regarding contributions and expenditures. A.O. 1990-8.

Prior similar Advisory Opinions are codified in the Commission's section 110.4(a)(3) regulation, which specifies the application of 2 U.S.C. § 441e to foreign national individuals: "a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any ... corporation ... such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the

9 4 0 4 3 5 8 4 7 3 8

administration of a political committee." The foreign national directors' votes regarding Sports Shinko's committee appear to constitute such participation. Tomio Kawasaki is a foreign national member of the board of directors. Therefore, there is reason to believe that Tomio Kawasaki violated 2 U.S.C. § 441e.

9404358473 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Franklin Mukai
c/o
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460

Dear Mr. Mukai:

On December 18, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 22, 1993, the Commission found, on the basis of the information in the complaint, that there is no reason to believe you violated 2 U.S.C. §§ 441e or 441f. Accordingly, the Commission closed its file in this matter as it pertains to you.

In furtherance of the Commission's investigation of this matter, however, the Office of the General Counsel is enclosing questions. Please send the responses to this Office within 30 days. In light of the above findings, the Commission no longer considers you a respondent in this matter, but rather a witness only.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Attachment
Questions and Document Requests

9404358474 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Franklin Mukai
Sports Shinko (Pukalani) Co., Ltd.
360 Pukalani Street
Pukalani, Maui, HI 96768

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

9 4 0 4 3 5 8 4 7 4 1

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1989 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 4 0 4 3 5 8 4 7 4 2

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding, and the nationality of such person and whether such person is a United States citizen or a permanent resident alien of the United States. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

9 4 0 4 3 5 8 4 7 4 3

"Nationality status" with respect to individuals shall mean country of citizenship and the country of permanent residence, if other than the country of the citizenship.

"Nationality status" with respect to corporations shall mean the country of incorporation.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

2 4 0 4 3 5 8 4 7 4 4

QUESTIONS AND DOCUMENT REQUESTS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

9 4 0 4 3 5 8 4 7 4 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 1, 1993

Martin Luna
275 Ekoa Place
Wailuku, Maui, HI 96793-1501

RE: MUR 3460

Dear Mr. Luna:

On December 18, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 22, 1993, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe you violated 2 U.S.C. §§ 441e or 441f. Accordingly, the Commission closed its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404358474 6

OGC 9608

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
AUG 5 9 14 PM '93

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

2145 WELLS STREET

WELLS STREET PROFESSIONAL BUILDING, SUITE 201

POST OFFICE BOX 1086

WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4535

FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-8464
FAX (808) 329-8450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

July 29, 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 AUG -5 AM 11: 12

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

Thank you for spending time with me this morning on the telephone to discuss procedures in this matter.

As I informed you, we will be preparing a response in this matter for Respondents Sports Shinko (Pukalani) Co., Ltd., Koichi Soejima, Toshio Kinoshita, Tomio Kawasaki and Takeshi Kinoshita. Our clients will be sending the Designation of Counsel to you.

Respondents received the Notice of Reason to Believe on July 8, 1993 and a response is therefore due on or before August 9, 1993 in accordance with 11 C.F.R. § 111.2(9).

Several of the above respondents are based in Japan and another is in California. Given the need to coordinate preparation of responses, answers to the interrogatories and copying of responsive documents with them, we would request a twenty (20) day extension of the time to respond until August 30, 1993 (August 29, 1993 falls on a Sunday).

9404358474 7

Please let me know if you are agreeable to this extension request.

Very truly yours,

Gilbert S. Coloma-Agaran

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

cc: Sports Shinko (Pukalani) Co., Ltd.
Koichi Soejima
Toshio Kinoshita
Tomio Kawasaki
Takeshi Kinoshita

FEC93712.GCA

9 4 0 4 3 5 8 4 7 4 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 6, 1993

Grant Y. M. Chun, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
2145 Wells Street
Wells Street Professional Building, Suite 201
Wailuku, Maui, HI 96793

RE: MUR 3460
Sports Shinko (Pukalani)
Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Chun:

This is in response to your letter dated July 29, 1993, which we received on August 5, 1993, requesting an extension of 20 days to respond to the interrogatories and document requests. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 30, 1993.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358474 9

OOC 9611
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
Aug 5 11 09 AM '93
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
RECEIVED
93 AUG -5 PM 3:23

To: FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR3460

The following is submitted in response to the question you raised in your letter of July 1, 1993.

1. I have served as a Director of Sports Shinko (Pukalani) Co., Ltd. since December 10, 1987 (incorporation date) to present.

2. Although I signed the Board of Directors resolution you referred to in your letter, I cannot determine the exact date I signed it. I believe I signed the resolution in late 1991 or early 1992.

3. To the best of my knowledge, I am not aware of any other resolutions relating to Sports Shinko contributions.

FRANKLIN K. MUKAI

Subscribed and sworn to before me
this 2 day of August, 1993.

Notary Public, State of Hawaii

My commission expires: 5/6/95

X9323986

9404358475 0

#96 80

Friends of Vince Bagoyo, Jr.
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

August 6, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

I am the treasurer of Friends of Vince Bagoyo, Jr. Enclosed are copies of the documents in response to your questions and document requests. Mr. Bagoyo is sending you our executed response from his home on Lanai.

Very truly yours,

LLOYD KIMURA

Enc.

9404358475 1

Friends of Vince Bagoyo
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

93 AUG -9 PM 3:57

August 6, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

This responds to the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories and document requests included with that letter. We received the correspondence on July 8, 1993.

We request that the Commission take no further action in this matter.

Friends of Vince Bagoyo, Jr. did not intend to violate the Federal Election laws and regulations. As indicated in its initial response to this complaint, we returned $1000.00 when Friends of Vince Bagoyo, Jr. became aware of the complaint. Since our initial response in this matter, Friends of Vince Bagoyo, Jr. has become aware that we inadvertently overlooked returning a subsequent $500.00 donation which was received in April 1991.

Friends of Vince Bagoyo, Jr. relied on an opinion from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. When the contribution was questioned in 1991, we requested an opinion from Sports Shinko's counsel. Sport Shinko's counsel assured us that the contribution was legal. Friends of Vince Bagoyo, Jr. nevertheless returned $1,000.00 to Sports Shinko on December 27, 1991.

9 4 0 4 3 5 8 4 7 5 2

Counsel for Sports Shinko now informs us that its interpretation in 1990 and 1991 failed to consider Advisory Opinions 1990-8 and 1992-16 which are cited in the Commission's Factual and Legal Analysis.

Friends of Vince Bagoyo, Jr. was not aware of those advisory opinions and did not know whether foreign nationals affiliated with Sports Shinko had "participated" in making the contribution. Specifically, we did not have any knowledge that foreign nationals had participated in administering the contributions by designating the decision-makers for contributions. We had no knowledge of Sports Shinko's internal operations or its corporate structure. We accepted the contributions based on the assurances of Sports Shinko's counsel noted above.

We respectfully request that the Commission take no further action.

Very truly yours,

VINCE BAGOYO, JR.

Subscribed to and sworn to before
me this _____ day of August, 1993.

_____
Notary Public, State of Hawaii

My Commission Expires: _____

FEC93701.GCA

2 4 0 4 3 5 8 4 7 5 3

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. Friends of Vince Bagoyo, Jr. ("the Committee") received the following contributions from Sports Shinko:

DATE	AMOUNT
10/13/90	$1000.00
4/18/91	$ 500.00

Copies of the checks are attached.

2. The Committee refunded $1000.00 to Sports Shinko on December 27, 1991. A copy of the check from the Committee to Sports Shinko is attached.

The Committee will be refunding $500.00 to Sports Shinko.

3. Attached are copies of relevant pages from the Committee's campaign spending reports and copies of the checks.

4. Vince Bagoyo, Jr. I was the candidate supported by the Committee. I obtained copies of documents from the treasurer of the Committee, Lloyd Kimura.

9 4 0 4 3 5 8 4 7 5 4

NO. 3178

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

60-102
1013

CHECK DATE	CHECK NO.
04/18/91	3178

CHECK AMOUNT
*****500.00 ***

PAY TO
ORDER
OF

FRIENDS OF VINCE BAGOYO
ATTN: Mr. Lloyd Kimura
P. O. Box 1235
Wailuku, Maui, Hawaii 96793

AUTHORIZED SIGNATURE

⑈003178⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000050000⑈

9 4 0 4 3 5 8 4 7 5 5

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

90-160
1213

NO. 2402

CHECK DATE	CHECK NO.
10/13/90	2402

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

BAGOYO, VINCE G., JR.

AUTHORIZED SIGNATURE

⑈002402⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

9 4 0 4 3 5 8 4 7 5 6

FRIENDS OF VINCE **BAGOYO**®

ANNUAL GOLF TOURNEMENT!

Royal Kaanapali

SITE: Kaanapali Golf Course, North Course
DATE: Saturday, June 8, 1991
TIME: 7.00 a.m.
INCLUDES: Green fees, golf cart, Closest to the hole, and a chance at some great prizes. Awards banquet (lots of ono kau-kau) at the Lahaina Civic Center immediately after.
FORMAT: Three men or women scramble, 5 drives per player, scotch putting. Minimum (Total team) handicap -35
Women's maximum handicap - 36 / Men's -24
Most recent handicap to be used (no sand-bagging).
Committee reserves the right to adjust handicap's.
DEADLINE FOR ENTRY IS June 2, 1991
COST: *JUST $70.00 PER PERSON (WHAT A DEAL!)*

** A PORTION OF THE PROCEEDS WILL GO TOWARDS MR. BAGOYO'S SCHOLARSHIP PROGRAMS.*

SPONSORSHIP [illegible] = ALL MEMBER

BAGOYO'S SECOND ANNUAL GOLF TOURNEMENT ENTRY FORM

Name: YASUO NISHIDA Phone: [redacted]
Address: 160 Hoauna St. Wailuku Handicap: 25
Club affiliation: Pukalani Golf Club S.S.# [redacted]

Name: SHIGERU KURAMATA Phone: [redacted]
Address: 2336 Mainai Wailuku Handicap: [illegible]
Club affiliation: [illegible] S.S.# [redacted]

Name: Yasuko Nishida Phone [redacted]
Address: 160 Hoauna St. Wailuku Handicap: 26
Club affiliation: [illegible] S.S.# [redacted]

Please make checks payable to: Friends of Vince Bagoyo, Attn: Mr. Lloyd Kimura
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

Contact: Mr Lloyd Kimura Ph. 242-9100, Mizo Ph. 661-7070

9404358847757

PUKALANI
COUNTRY CLUB

PUKALANI COUNTRY CLUB
(SPORTS SHINKO GROUP)

360 PUKALANI STREET
PUKALANI, MAUI
HAWAII 96768

No list provided

. Alii Sponsor

SPORTS SHINKO (PUKALANI) CO., LTD. 3178

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
FRS	04/18/91	Bagoyo	$500.00	$500.00		$500.00

CHECK NO.	SEQ NO	VENDOR #	TOTALS		
3178		Bagoyo	9 4 0 4 3 5 8 4 7 5 8		

Bank of Hawaii

WAILUKU BRANCH, WAILUKU, HAWAII

No. 01136 88-108/1213

12/27 1991

PAY TO THE ORDER OF Sports Shinko $ 1,000.00

one thousand and no DOLLARS

FRIENDS OF VINCE BAGOYO JR.
520 POLULANI DR.
WAILUKU, HAWAII 96793

For returning contribution

Lloyd Lemuel Vina Bagoyo

⑈001136⑈ ⑆121301028⑆ 0060-047291⑈ ⑈0000100000⑈

PL-126

9404358475 9

For Deposit In
BANK OF HAWAII
to the credit of
Sports Shinko (Pukalani) Co., Ltd
0065-009919

01/22/92
121301028
9317868

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR
1991

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

This Report Covers The Period From 1/1/91 thru 6/30/91
(Date) (Date)

ECTION A
AME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(ust be same as appearing on organizational report)

AME Friends of Vince Bagogo, Jr.
DDRESS P.O. Box 1235
TY, STATE Wailuku, HI 96793
S 242-9100 RES 244-0426
Treasurer's Telephone

THIS REPORT IS A

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☒ Post General Report
- ☒ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other

ECTION B — SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

Contributions of $100 or Less	3,855.00
Contributions Aggregating Over $100 (Line 19)	16,505.00
Other Receipts (Line 20)	1,365.47
Total Contributions This Period (Add Lines 1 thru 3)	21,725.47
Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	-0-
Total Contributions to Date (Add Lines 4 & 5)	21,725.47
Balance on Outstanding Loans (Line 21)	
Political Expenditures of Personal Funds (Line 22)	
Total Receipt to Date (Add Lines 6 thru 8)	21,725.47

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	1,817.67
11 Fundraising Expenditures (Line 24 Col. 3)	8,650.80
12 Total Expenditures This Period (Add Lines 10 and 11)	10,468.47
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	-0-
14 Total Expenditures to Date (Add Lines 12 & 13)	10,468.47
15 SURPLUS (If Line 9 Minus Line 14 is Positive)	11,257.00
16 DEFICIT (If Line 9 Minus Line 14 is Negative)	
CASH BALANCE AS OF 6/30/91 $	11,257.00

ECTION C — AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF INDIVIDUAL	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
/30	ITT Sheraton Corp. Honolulu, HI		500.00		500.00

17. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE 500.00
18. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE 16,005.00
19. TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 16,505.00

9404358476 0

ECTION D — OTHER RECEIPTS (Public Funding, Interest Received, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
'13	golf tournament		Change Fund	100.00
'6	Hawn Tel	Hawaiian Telephone P.O. Box 227 Hon. HI 96808	Refund of Ser. Charge	521.12
		12/31/90 cash balance forward		744.35

) TOTAL OTHER RECEIPTS THIS PERIOD ..... $ 1,365.47

ECTION E — LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)
/15/91	Lloyd Y. Jennie Kimura 520 Polulani Drive Wailuku, HI 96793	-0-	1,000.00	-0-	-0-

1 CURRENT BALANCE OF LOAN ..... $ _____

2 CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $ _____

SECTION F — EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
/1/91	Avelino Dela Cruz Kahului, HI	Reimburse Fund raiser	275.00	
/1/91	Boy Scout of America 200 Liholiho street Wailuku, HI 96793	Donation	250.00	
1/30/91	Maui Electric Co. 210 W. Kaa Avenue Kahului, HI 96732	Utility (final Hdqtr.	15.53	
1/25	Hawaiian Telephone P.O. Box 221 Hon. HI 96808	Utility (final Hdqtr	116.35	
/28/91	Bank of Hawaii Wailuku, HI 96793	Service Charge	4.00	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
3 EXPENDITURES	383.88	1,433.79	1,817.67
4 EXPENDITURES INCIDENTAL TO FUNDRAISERS	275.00	8,375.00	8,650.00

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge

Candidate's Signature _____ 7-29-91 Date Treasurer's Signature _____ 7/29/91 Date

9 4 0 4 3 5 8 4 7 6 1

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
VINCE BUCCO JR

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
3/15/91	Maui Filipino Council Kahului, HI 96732	Ad- Donation	130.00	
3/15/91	Kihei-Wailea Rotary	Donation	85.00	
4/12/91	Aloha Airlines	Travel	123.90	
4/10/91	Maui Soda P.O. Box 1170 Wailuku, HI 96793	Refreshments	202.80	
4/17/91	Hawaii Election Campaign Fund	Penalty	50.00	
4/17/91	Ebura Jewelry P.O. Box 975 Wailuku, HI 96793	Donation	139.09	
4/30/91	Bank of Hawaii	Bank Charges	3.00	
5/7/91	Golf Plus, Inc. Waiehu Golf Course Wailuku, HI 96793	Donation	50.00	
	Molokai Filipino Comm. Assn Kaunakakai, Molokai	Donation	500.00	

Total Amount of Invoices Paid This Page 1,283.79

Total Amount of Invoices Received but Unpaid This Page ..... _____

SUBTOTAL of Expenditures This Page (lines 1 & 2) 1,283.79

Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... _____

TOTAL This Period (last page this line only) ..... _____

* If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 7 6 2

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
VINCE NAGOKO JR.

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
5/31/91	Edwin O. Bello, Jr Kihei, HI 96753	Scholarship Donation	50.00	
6/6/91	Cash	Charge fund golf tournament	100.00	
	Cash	Various golf tournament exp.	350.00	
6/25/91	Toshi Nishimura 84 Puunoa Pl. Lahaina, HI 96793	Rent	50.00	
6/25/91	Lloyd Y. Kimura 520 Polulani Dr. Wailuku, HI 96793	Repay loan	1,000.00	
6/25/91	Hawai Appliance 332 Wahua Ave. Kahului, HI 96732	Golf prizes	1,200.00	
6/28/91	Amfac-JMB Kaanapali Resort Lahaina, HI 96761	Golf fees	5,775.00	

Total Amount of Invoices Paid This Page 8,525.00

Total Amount of Invoices Received but Unpaid This Page ..... _____

SUBTOTAL of Expenditures This Page (lines 1 & 2) 8,525.00

Total from Report of Expenditures of Public Funds (if applicable, last page this line only) 9,808.79

TOTAL This Period (last page this line only) ..... _____

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358847763

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY Vince Bagoyo, Jr.

DATE CONTRIBUTED	NAME AND ADDRESS OF DONOR	CONTRIBUTIONS IN KIND, DESCRIPTION OF PURPOSE	(COLUMN 1) AMOUNT OF THE CASH CONTRIBUTION	(COLUMN 2) VALUE OF THE IN-KIND CONTRIBUTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
14	Palauea Bay Partners P.O. Box 3204 Hoolehua, HI 96729		500.00		500.00
14	Patterson Construction P.O. Box 3204 Hoolehua, HI 96729		500.00		500.00
'6	R.T. Tanaka, Eng. 871 Kolu St. Suite 201 Wailuku, HI 96793		300.00		300.00
'6	Miyabara & Associates 928 Nuuanu Ave. Suite 401 Honolulu, HI 96817		500.00		500.00
'6	Peter Baldwin 55 So. Wakea Avenue Kahului, HI 96732		210.00		210.00
'6	Maui Finance Co. 212 1 Main street Wailuku, HI 96793		500.00		500.00
'6	HoWARD Nakamura 240 Koeli Street Wailuku, HI 96793		210.00		210.00
'6	Waile Development 161 Wailea Ike Road Kihei, HI 96753		500.00		500.00
'6	Sports Shinko Group 360 Pukalani Street Pukalani, HI 96768		500.00		500.00
'6	Goodfellows Brothers 1993 So. Kihei Rd. 0216 Kihei, HI 96753		1000.00		1000.00
'6	Lloyd Lee 520-A S. Oahu Street KAHULUI, Hi 96732		210.00		210.00
			TOTAL COLUMN 1: 4,930.00	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

UBTOTAL of Contributions Over $100 This Page 4,930.00

OTAL This Period (last page this line only) .....

9 4 0 4 3 5 8 4 7 6 4

STATE OF HAWAII
CAM...IGN SPEND... COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY Vince Bagoyo, Jr.

DATE COVERED	NAME AND ADDRESS OF DONOR	OCCUPATION / IF A MINOR, OCCUPATION OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTAL FROM DONOR
/6	M. Horita Realty 2024 No. King Street Honolulu, HI 96819		210.00		210.00
/6	Maui Beach Hotel 1710 Kaahumanu Ave. Kahului, HI 96732		500.00		500.00
/6	C. Brewer & Co. P.O. Box 1826 Honolulu, HI 96805		500.00		500.00
/6	IDG 103 Kaahumanu Avenue Kahului, HI 96732		210.00		210.00
/24	Mills/Dowling 1997 E. Main street Wailuku, HI 96793		300.00		300.00
/24	E.T. Ige Construction, Inc. 250 W. Waiehu Bch Road Wailuku,. HI. 96793		500.00		500.00
/24	JDH Construction, Ltd. 360 Hoohana St. #200 Kahului, HI 96732		500.00		500.00
/24	ECM, Inc. 485 Waiale Drive Wailuku, HI 96793		500.00		500.00
/29	D&I 70 Hana Hiway Kahului, HI 96732		500.00		500.00
/29	R. Sato & Associates 2048 S. King Street Honolulu, HI 96826		500.00		500.00
/29	PBR Hawaii 1042 Fort St. Mall #300 Honolulu, HI 96813		210.00		210.00
			TOTAL COLUMN 1: 4,430.00	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

SUBTOTAL of Contributions Over $100 This Page 4,430.00

TOTAL This Period (last page this line only) .....

9 4 0 4 3 5 8 4 7 6 5

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY Vince Bagoyo, Jr.

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF A MINOR, EMPLOYER OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
/29	Diamond Resorts of Hawaii 555 Kaukahi Street Kihei, HI 96753		210.00		210.00
/29	Hotel Hana P.O. Box 158 Hana, HI 96713		1000.00		1000.00
/3	Case & Lynch P.O. Box 494 Honolulu, HI 96809		210.00		210.00
/3	Gima Yoshimori & Asso. 2145 Wells street #303 Wailuku, HI 96793		210.00		210.00
/3	Interstate Maui 270 Waiehu Beach Rd. #214 Wailuku, HI 96793		420.00		420.00
/3	Masaru & Shirley Yokouchi 2145 Wells St. #301 Wailuku, HI 96793		500.00		500.00
/3	Walter Correa Wailuku, HI 96793		150.00		150.00
/6	Ing, Kushi, Ige, Attorneys 2145 Wells Street #201 Wailuku, HI 96793		200.00		200.00
/6	W.B. Moffett P.O. Box 635 Lahaina, HI 96791		250.00		250.00
/6	Lanai, Co., Inc. P.O. Box 2780 Honolulu, HI 96803		500.00		500.00
/6	T. Fujimoto Nursery 1063 E. Main St. #C-208 Wailuku, HI 96793		210.00		210.00
			TOTAL COLUMN 1: 3860.00	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

UBTOTAL of Contributions Over $100 This Page 3,860.00

OTAL This Period (last page this line only) .....

9 4 0 4 3 5 8 4 7 6 6

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY Vince Bagoyo, Jr.

DATE CONTRIB	NAME AND ADDRESS OF DONOR	CHECKOUT (Amount of Contribution Used for Payment)	(COLUMN 1) AMOUNT OF CONTRIBUTION	(COLUMN 2) VALUE OF IN-KIND CONTRIBUTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
'6	M & S Trucking P.O. Box 576 Kahului, HI 96732		420.00		420.00
'6	Ken Kato P.O. Box 37 Kihei, HI. 96753		225.00		225.00
6	M. Kirkeby 50 Puu Anoano #1205 Lahaina, HI 96761		250.00		250.00
17	Bradley Dev. Co.		210.00		210.00
14	Bank of Hawaii P.O. Box 2900 Honolulu, HI 96846		210.00		210.00
'14	Mike Krupnick P.O. Box 11585 Lahaina, HI 96761		210.00		210.00
'14	Art Rego 221 Hololani Street Pukalani, HI 96768		210.00		210.00
14	Kaanapali Beach Hotel Resort 2525 Kaanapali Parkway Lahaina, HI 96761		420.00		420.00
14	John Murakami 230 Awapuhi Place Wailuku, HI 96793		210.00		210.00
14	Manuel Ancheta P.O. Box 898 Wailuku, HI 96793		210.00		210.00
4	Kanu Consultants 397 Ani Street Kahului, HI 96732		210.00		210.00
			TOTAL COLUMN 1: 2785.00	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

SUBTOTAL of Contributions Over $100 This Page 2,785.00

TOTAL This Period (last page this line only) 16,005.00

9 4 0 4 3 5 8 4 7 6 7

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

This Report Covers The Period From 10/23 (Date) thru 11/6/90 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME Friends of Vince Bagoyo, Jr.
ADDRESS P.O. Box 1235
CITY, STATE Wailuku, HI 96793
BUS 242-9100 RES 244-0426
Treasurer's Telephone

THIS REPORT IS A:
- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- XX Post General Report
- ☐ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other

SECTION B SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	1,245.00
2 Contributions Aggregating Over $100 (Line 19)	7,912.29
3 Other Receipts (Line 20)	-0-
4 Total Contributions This Period (Add Line 1 thru 3)	9,157.29
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	66,881.87
6 Total Contributions to Date (Add Lines 4 & 5)	76,039.16
7 Balance on Outstanding Loans (Line 21)	-0-
8 Political Expenditures of Personal Funds (Line 22)	-0-
9 Total Receipt to Date (Add Lines 6 thru 8)	76,039.16

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	6,571.9
11 Fundraising Expenditures (Line 24 Col. 3)	2,000.0
12 Total Expenditures This Period (Add Lines 10 and 11)	8,571.9
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	63,747.3
14 Total Expenditures to Date (Add Lines 12 & 13)	72,319.31
15 SURPLUS (If Line 9 Minus Line 14 is Positive)	3,719.85
16 DEFICIT (If Line 9 Minus Line 14 is Negative)	
CASH BALANCE AS OF 11/6/90 :	3,719.85

SECTION C AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF INDIVIDUAL	NATURE OF THE BUSINESS	AMOUNT OF THIS CONTRIBUTION	AMOUNT YTD TO DATE
Var	Herbert K. Horita Realty, Inc. 2024 No. King Street Honolulu, HI 96819			1311.00	1311.0
10/31	Libert K. Landgraf P.O. Box 519 Hana, Maui 96713			701.22	701.2

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE 2012.22
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE 5900.07
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) 7912.29

9404358476 8

SECTION D — OTHER RECEIPTS (Public Funding, Interest Rec', Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
		Not Used		

9. TOTAL OTHER RECEIPTS THIS PERIOD ..... $

SECTION E — LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)
	Not Used				

11. CURRENT BALANCE OF LOAN ..... $
12. CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $

SECTION F — EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
/23/90	Gilbert & Asso. 381 Hoohana sTreet Kahului, HI 96732	Ads	256.06	
/23	Marianne Pool 408 Kinsole Circle Kihei,HI 96753	Photos	83.33	
/22	Four Sistera Bakery Vineyard Street Wailuku, HI 96793	Bakeries	49.92	
/23	Aloha Island Air Kahului Airport	Airfare-Lanai	167.85	
/23	Lanai Democrataic Precint Club Lanai, HI	Donation	50.00	

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
3. EXPENDITURES	605.16	5,966.76	6,571.92
4. EXPENDITURES INCIDENTAL TO FUNDRAISERS		2,000.07	2,000.07

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Candidate's Signature — Date — Treasurer's Signature — 12/6/90 Date

9 4 0 4 3 5 8 4 7 6 9

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY

DATE RECEIVED	NAME AND ADDRESS OF DONOR	CONTRIBUTION IN KAIMONA OF PARENT	COLUMN 1: AMOUNT OF THIS MONEY CONTRIBUTION	COLUMN 2: VALUE OF THIS IN-KIND CONTRIBUTION DESCRIPTION	COLUMN 3: AGGREGATE TOTALS FROM DONOR
10/23	Anthony P. Takitani 1877 Wili Pa Loop Ste 1 Wailuku, HI 96793		200.00		200.00
10/23	Sports Shinko Co. 360 Pukalani street Pukalani, HI 96768		1000.00		1000.00
10/23	R.L. & Carol Ball 107 W. Kuiaha Road Haiku, HI 96808		200.00		200.00
10/23	Michael T. McCormack 1580 Makaloa St. #500 Honolulu. HI 96814		1000.00		1000.00
11/6	Libert K. Landgraf P.O. Box 519 Hana, HI 96713		500.00		500.00
11/6	Dairy Road Shall 370 Dairy Road Kahului, HI 96732		300.00		300.00
11/6	Nathan & Jasmine Knee P.O. Box 1258 Wailuku, HI 96793		500.00		500.00
11/6	Group 70 Limited 924 Bethel Street Honolulu, HI 96813		200.00		200.00
Var	Dale & Beverly Moore Kaunakakai, Molokai 96748			Supplies,Food Drinks,Airfare Fuel Meter 1,560.98	1560.98
Var	Friendly Isle Realty, Inc. P.O. Box 893 Kaunakakai, Molokai 96748			Door Prizes Leis 276.09	276.09
Var	Various Misc. Donations			Soda, Meals, Food 163.00	163.00
			TOTAL COLUMN 1: 3900.00	TOTAL COLUMN 2: 2000.00	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

1. SUBTOTAL of Contributions Over $100 This Page 5900.07
2. TOTAL This Period (last page this line only) 5900.07

9404358477 0

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY

INVOICE DATE 1990	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
6/21	Dave's T.V. Kaunakakai, Hi., 96748	Door Prizes	$145.97	
6/28	Miriam's Flower Hoolehua, Hi., 96729	Leis for 6/22 function	$130.12	
	Donation in Kind:			
6/15	Mrs. Modesta Domingo Kualapuu, Hi., 96757	1 gallon bamboo shoots	Value Est. $15.00	
8/31	Mrs. Angel Teopilo Kaunakakai, Hi., 96748	2 case soda	$18.00	
6/22	Pancho Alcon Kaunakakai, Hi., 96748	5 case soda	$45.00	
6/21	Mark Viglione Kaunakakai, Hi., 96748	5 qtr. oil	$35.00	
8/11	Mrs. Beverly Moore Box 88 Kikai, Hi., 96748	Canvassing Lunch for WKTS/chld	$50.00	

Total Amount of Invoices Paid This Page $439.09

Total Amount of Invoices Received but Unpaid This Page 0

SUBTOTAL of Expenditures This Page (lines 1 & 2) $439.09

a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) .....

TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358477 1

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11/08/90	Cash	General expense	425.60	
11/02/90	Cash	General expense	220.00	
11/06/90	Maui Electric Co. P.O. Box 398 Kahului, HI 96732	Utility HQ	15.71	
11/06/90	Hawaiian Telephone Wailuku, HI 96793		114.31	
10/24/90	4 Sisters Bakery 1968 Vineyard St. Wailuku, HI 96793	Pastries	97.92	
VAR	Gilbert & Associates 380 Hoohana St. Kahului, HI 96732	Ads	949.41	
11/10/90	Hawaiian Telephone	Utility HQ	131.59	
10/25/90	Gilbert & Associates 380 Hoohana St. Kahului, HI 96732	Retainer fee	2,000.00	

Total Amount of Invoices Paid This Page 3,954.54

Total Amount of Invoices Received but Unpaid This Page ..... -0-

SUBTOTAL of Expenditures This Page (lines 1 & 2) 3,954.54

Total from Report of Expenditures of Public Funds (if applicable, last page this line only) .....

TOTAL This Period (last page this line only) .....

If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358477 2

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
6/8/90	Flag & Things Honolulu, HI	Decorations	148.15	
6/8/90	Molokai Drugs Kaunakakai, HI 96748	Poster boards for signs	16.06	
6/8/90	Take's Variety Kaunakakai, HI 96748	Paint	5.90	
6/12/90	County of Maui Kaunakakai, HI 96748	Permit fees fund raiser	100.00	
6/16/90	Hawn Airlines Honolulu, HI	Airfare	44.95	
5/90	Hawaiian Air	Airfare	89.90	
6/16/90	Molokai Drugs Kaunakakai, HI 96748	19" Color TV	296.40	
5/16/90	Consolidated Warehouse Honolulu, HI	Lucky # ticket roll	5.70	
5/16/90	Costco Honolulu, HI	Door prizes	350.00	

Total Amount of Invoices Paid This Page 1,057.06

Total Amount of Invoices Received but Unpaid This Page ..... -0-

SUBTOTAL of Expenditures This Page (lines 1 & 2) 1,057.06

Total from Report of Expenditures of Public Funds (if applicable, last page this line only) .....

TOTAL This Period (last page this line only) .....

* If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 7 7 3

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
6/21/90	Molokai Drugs Kaunakakai, HI 96748	Decorations	24.88	
6/21/90	Misaki Inc. Kaunakakai, HI 96748	Juice	24.84	
6/21/90	Friendly Mkt. Center Kaunakakai, HI 96748	Food	14.89	
6/10/90	Consolidated Warehouse Honolulu, HI	Paper Goods	85.31	
6/21/90	Friendly Mkt. Center Kaunakakai, HI 96748	Food	42.15	
6/21/90	Friendly Mkt. Center Kaunakakai, HI 96748	Food	53.06	
6/22/90	Kaunakakai Groceteria Kaunakakai, HI 96748	Food Containers	41.39	
6/26/90	Misaki Inc. Kaunakakai, HI 96748	Chicken	108.89	
6/23/90	Coca Cola Bottling Co. Kaunakakai, HI 96748	Soda	76.96	

1. Total Amount of Invoices Paid This Page 472.37

2. Total Amount of Invoices Received but Unpaid This Page ..... -0-

3. SUBTOTAL of Expenditures This Page (lines 1 & 2) 472.37

4a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) .....

5. TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 7 7 4

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
6/25/90	Aloha Island Air Kaunakakai, HI 96748	Air Freight	13.15	
8/23/90	Misaki Inc. Kaunakakai, HI 96748	Road Signs	18.42	
VAR	Herbert K. Horita Realty, Inc. 2024 N. King St. Honolulu, HI 96819	Rent	1,311.00	
10/31/90	Libert K. Landgraf P.O. Box 519 Hana, HI 96713		701.22	

Total Amount of Invoices Paid This Page 2,043.77

Total Amount of Invoices Received but Unpaid This Page ..... -0-

SUBTOTAL of Expenditures This Page (lines 1 & 2) 2,043.77

Total from Report of Expenditures of Public Funds (if applicable, last page this line only) 7,966.83

TOTAL This Period (last page this line only) 7,966.83

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 7 7 5

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Aug 9 10 10 AM '93

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

93 AUG -9 AM 10:49

OGC #9626

FRIENDS OF ALICE LEE
Post Office Box 1606
Kahului, Hawaii 96732

August 3, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

We received on July 8, 1993 the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories included with that letter.

We respectfully request that the Commission take no further action in this matter.

The Friends of Alice Lee ("the Committee") clearly did not intend to violate the Federal Election laws and regulations and we will be returning the money contributed. The Committee relied on an opinion from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. As Mr. Thomas notes in his letter, the Committee's reliance on such assurances is a mitigating factor.

The Committee has been informed that its reliance was misplaced. Specifically, we understand that Advisory Opinion No. 1990-8 and the corporate make-up of Sports Shinko raises questions about the legality of the contributions. That Advisory Opinion, cited in the Commission's Factual and Legal Analysis, indicates that participation by a foreign national includes selection of the contribution decision-makers. Assuming that our reading of Advisory Opinion No. 1990-8 and the Committee's information that Sports Shinko has only one American on its board are correct, the Committee erroneously accepted the contribution. The Committee's acceptance,

9404358477 6

however, was based on the assurances of others that Sports Shinko had followed all legal requirements. At the time of the contribution, the Committee was not aware that foreign nationals had participated in making the contribution and was not aware of who the directors and officers were of Sports Shinko.

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. The Committee received the following contributions from Sports Shinko:

DATE	AMOUNT
10/13/90	$1000.00

2. The Committee will be refunding $1000.00 to Sports Shinko.

3. Attached is a copy of the relevant page from the campaign spending report of the Committee.

4. I am the candidate supported by the Committee.

Very truly yours,

Subscribed to and sworn to before me this 3rd day of August, 1993.

Camille N. Sakamoto
Notary Public, State of Hawaii

My Commission Expires: 9-7-94

L.S.

2404358477 7

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY : FRIENDS OF ALICE LEE

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION / EMPLOYER OR FIRM	(COLUMN 1) AMOUNT OF THIS MONEY CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTAL FROM DONOR
11/02	CASTLE & COOKE PROPERTIES, INC. P.O. BOX 2780 HONOLULU, HI 96803		500.00		
11/05	LIBERT K. LANDGRAF C/O KEOLA HANA MAUI P.O. BOX 519 HANA, HI 96713		1000.00		
11/02	SPORTS SHINKO CO. LTD 360 PUKALANI ST. PUKALANI, HI 96768		1000.00		
			TOTAL COLUMN 1:	TOTAL COLUMN 2:	NOTE: IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED.

1 SUBTOTAL of Contributions Over $100 This Page 2500.00

2 TOTAL This Period (last page this line only) .....

9404358477 8

#9636

FEDERAL ELECTION COMMISSION
93 AUG -9 AM 11:19

Council Chair
Goro Hokama

Council Vice-Chair
Thomas P. Morrow

Council Members
Kimo Apana
Lynn Britton
Patrick S. Kawano
Alice L. Lee
Rick Medina
Manuel "Junior" Moniz
Dennis Y. Nakamura

Gwen Y. Ohashi
Director of Council Services

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

August 3, 1993

Mr. Scott E. Thomas
Chairman
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Thomas:

This responds to the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories included with that letter. We received the documents on July 8, 1993.

The Campaign of Goro Hokama has no intention of violating the Federal Election laws and regulations. As indicated in its initial response to this complaint, the Committee relied on an opinion from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. The opinion was given by counsel for Sports Shinko. The Committee also expressed its willingness to refund the contribution at the time it initially responded.

As Mr. Thomas notes in his letter, the Committee's reliance on the assurances from Sports Shinko and its counsel are mitigating factors.

Counsel for Sports Shinko now informs the Committee that its interpretation in 1990 failed to consider Advisory Opinion No. 1990-8 and 1992-16. Read together, we understand that only contributions may only be accepted from a domestic subsidiary of a foreign national parent if the decision-makers are not foreign nationals and the people selecting the decision-makers, in accordance with corporate formalities, are not foreign nationals. Our understanding is that Sports Shinko cannot qualify in this regard and therefore the contributions should not have been accepted.

9 4 0 4 3 5 8 4 7 7 9

The Committee was not aware that foreign nationals had participated in making the contribution by selecting the members of Sports Shinko's decision-making committee. The Committee was not aware of who the directors and officers were of Sports Shinko. The Committee accepted the contribution based on the assurances of Sports Shinko's counsel.

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. The Committee received the following contributions from Sports Shinko:

DATE	AMOUNT
12/21/90	$1000.00

2. The Committee offered to refund the $1000.00 in its initial response to the complaint.

3. The Committee has decided not to further have this matter reviewed and have decided to return the contribution of $1000.00 to "Sports Shinko" thru their attorney, Mr. Martin Luna of Carlsmith Ball Wichman Murray Case Mukai and Ichiki, 2145 Wells Street, Suite 201, Wailuku, Maui, Hawaii 96793. Xerox copy of check #1178 dated August.

I am sorry to have caused you and your Commission to have had to review the contributions received by my campaign committee.

Sincerely,

Goro Hokama

GORO HOKAMA
Council Chair

GH:116:ml3
Attachment

9 4 0 4 3 5 8 4 7 8 0

9 4 0 4 3 5 8 4 7 8 1

GORO HOKAMA CAMPAIGN FUND
167 Ku Drive
Wailuku, HI 96793

NO. 1178

89-101
1213

August 3 1993

Pay To The Order of Sports Shribs $ 1,000.00

One thousand and no/100 Dollars

First Hawaiian Bank

MAIN BRANCH
WAILUKU, HAWAII

Goro Hokama

Return 1990 campaign
Contribution thru Sports Shrine

⑈001178⑈ ⑆121301015⑆ 80⑈013426⑈

OGC 9661

RICK MEDINA/COUNCILMAN

August 3, 1993

AUG 9 2 10 PM '93
RECEIVED
FEDERAL ELECTION
COMMISSION

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

This responds to the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories included with that letter. We received the letter on July 8, 1993.

We respectfully request that the Commission take no further action in this matter. Friends of Rick Medina ("the Committee") clearly did not intend to violate the Federal Election laws and regulations. As indicated in its initial response dated December 31, 1991, to this complaint, the Committee relied on an opinion from the attorneys for Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. As Mr. Thomas notes in his letter, the Committee's reliance on such assurances is a mitigating factor. These assurances from counsel for Sports Shinko were requested for and obtained at the time the initial contribution was made in October 1990. The Committee was not familiar with the principals of Sports Shinko and was not privy to the structure of its decision-making. When the contribution was questioned in 1991, the Committee requested an opinion in writing from Sports Shinko's counsel. The Committee received that written opinion on or about December 31, 1991.

We were not aware of Advisory Opinion No. 1990-8, cited in the Commission's Factual and Legal Analysis, which effectively bars domestic subsidiaries of foreign national parent corporations from making contributions when foreign national members of its board of directors must participate in the creation of a committee to decide on contributions.

The Committee was not aware that foreign nationals had participated in making the contribution by selecting the

9 4 0 4 3 5 8 4 7 8 2

members of Sports Shinko's decision-making committee. Also, the Committee was not aware of who the directors and officers were of Sports Shinko. As stated above, the Committee accepted the contribution based on the assurances of Sports Shinko's counsel. The Committee would not have accepted the contribution if it had been made aware of that advisory opinion and the above facts.

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. The Committee received the following contributions from Sports Shinko:

DATE	AMOUNT
10/13/90	$1000.00
11/18/91	$ 500.00

2. The Committee will be refunding $1500.00 to Sports Shinko.

3. Attached are letters from counsel for Sports Shinko opining that the contribution complied with legal requirements, our initial response in this matter, correspondence with the Maui County Board of Ethics, the Committee's campaign spending reports showing the Sports Shinko contributions, and a copy of Mr. Barr's initial complaint.

4. I am the candidate supported by the Committee.

If you require further information, please do not hesitate to contact me.

Very truly yours,

Ricardo Medeiros

Enc.

Subscribed to and sworn to before me this 3rd day of August, 1993.

Carmen H. Sakamoto
Notary Public, State of Hawaii

L.S.

My Commission Expires: 9-7-94

9 4 0 4 3 5 8 4 7 8 3

Allen W. Barr
188 Haulani Street
Pukalani, Maui, Hawaii 96768
(808) 572-0417

December 11, 1991

General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Sir:

Please act upon this formal complaint. Federal election laws were violated in the 1990 general election on Maui. A foreign principal made contributions to at least five candidates for local election. This violates 2 U.S.C. #441e and 2 U.S.C. #441f.

The contributions were made by Sports Shinko Group, a Japanese corporation, through an American attorney, to five members of the Maui County Council. The following establishes the basis and validity of this complaint.

1.

As reported in their respective campaign spending reports, the following contributions are at issue:

Friends of Vince Bagoyo, Jr., received $1,000.00 from Sports Shinko Co., Pukalani, on October 23, 1990.

Friends of Joe Tanaka received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on October 31, 1990.

Friends of Alice Lee received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on November 2, 1990.

Friends of Rick Medina received $1,000.00 from Sports Shinko (Pukalani) Co., Ltd. on November 14, 1990.

Goro Hokama received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on December 21, 1990.

Copies of the relevant campaign spending reports are enclosed for your convenience. Originals may be examined at the Office

9 4 0 4 3 5 8 4 7 8 4

of the Lt. Governor, State of Hawaii, in Honolulu. Official copies are also located in the Office of the County Clerk, County of Maui, Kalana O Maui Building, 7th Floor, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 243-7749].

All five recipients may be reached at the Office of the County Council, Kalana O Maui Building, 7th Floor, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 243-7838].

2.

The contributions were made on behalf of Sports Shinko Group, in apparent violation of 2 U.S.C. §441f, by Wailuku attorney B. Martin Luna, a member of the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, whose Wailuku address is 2145 Wells Street, Wells Street Professional Building, Suite 301, Post Office Box 1086, Wailuku, Maui, Hawaii 96793. [Telephone: (808) 242-4535. Fax (808) 244-4974.]

3.

Sports Shinko (Pukalani) Co., Ltd., 360 Pukalani Street, Pukalani, Maui, Hawaii 96768 [Telephone: (808) 572-0779] is a wholly owned subsidiary of Sports Shinko, Tokyo and Osaka, Japan and is a member of the Sports Shinko Group. The corporation was registered in Hawaii on December 10, 1987, as a golf course operator. Record is available at the State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration Division, in Honolulu.

There are seven directors listed for Sports Shinko (Pukalani) Co., Ltd. Corporate president and treasurer, Toshio Kinoshita is a Japanese national listing an address in Tokyo. [Tokyo Head Office, Muraki Building No. 10.10 2 Chome Yaesu Chuo-Ku, Tokyo, Japan, Phone (03)271-4157, Fax (03)271-6586]. Corporate vice president, Takeshi Kinoshita, is a Japanese national listing an address in Del Mar, California. (Mr. Kinoshita is reportedly the manager of a golf course operation in that area.) Corporate secretary, Tsugio Fukuda, is a Japanese national listing an address in Tokyo. Director Tomio Kawasaki is a Japanese national listing an address in Osaka, Japan.

9 4 0 4 3 5 8 4 7 8 5

[Osaka Head Office, Naniwa Building No. 4.12 Manzai-Cho Kita-Ku, Osaka, Japan, Phone (06)313-1851, Fax (06)315-8396]. Executive Vice President and Director Iwane Yamamoto is a Japanese national listing an address in Honolulu. (Mr. Yamamoto is reportedly the manager of the Mililani Country Club in Oahu, Hawaii.) Director Yasuo Nishida is a Japanese national listing a Wailuku, Maui address. Mr. Nishida is manager of the Pukalani Country Club on Maui. The seventh director is Franklin Mukai, an American citizen and principal in the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, Pacific Tower Suite 2200, Honolulu, Hawaii 96813. [Telephone: (808)523-2500].

4.

The undersigned, sworn complainant examined the Sports Shinko contributions in consideration of Federal Election Commission Advisory Opinion 1989-29, dated December 19, 1989, to Edean S. Hayashida, Chairman, GEM Political Action Committee, GEM of Hawaii, Inc., Honolulu. The factual situation in the instant case is substantially different. It is in cognizance of these differences that this complaint is being filed.

AO 1989-29 references on page two Advisory Opinion 1989-20 (prohibiting contributions to non-Federal candidates by a domestic subsidiary from the funds of its foreign parent). Sports Shinko (Pukalani) Co., Ltd. is a domestic subsidiary of a foreign parent. Mr. Luna is indirectly quoted in The Maui News, August 20, 1991, page A3 (copy enclosed), as saying "money for the contributions came from Pukalani Country Club revenues." However, even if the contributions were made from a Pukalani Country Club checking account and current revenues from Pukalani Country Club operations are deposited into that account, it is no more than an accounting fiction to argue that that makes the contributions come out of Pukalani Country Club revenues.

Discounting the possible effects of depreciation and interest received from deposits of money originally transferred to the United States from Japan, the Sports Shinko corporate profit center at Pukalani Country Club is not yet profitable. The original $17.5 million capital expenditure for Sports Shinko (Pukalani) Co., Ltd. holdings and working capital advanced for Pukalani operations has not been recovered. Further, memberships in a Sports Shinko entity in Japan are sold to Japanese

9 4 0 4 3 5 8 4 7 8 6

nationals for the privilege of playing golf on Sports Shinko golf courses in the United States. Tours are sold to these and possibly other Japanese nationals to come to the United States, play golf on Sports Shinko golf courses, and stay in Sports Shinko hotels or "lodges" where available. (Building a hotel in Pukalani is in process). Revenues from these Japanese operations are allocated to profit centers in the United States, presumbably on the basis of services rendered. Some revenues are derived locally from golf course and restaurant-bar operations. Locally generated revenues have been and will continue to diminish as a percentage of total revenues as sales in Japan increase.

Appropriate use of subpoena powers would readily prove the allegations in the preceeding paragraph if Sports Shinko officials are not willing to stipulate to their validity. The implication of the above paragraph is clearly that the political contributions must be taken as made from funds of a foreign principal.

5.

AO 1989-29 references on page two Advisory Opinion 1980-7 (permitting a state-chartered corporation to make contributions in non-Federal elections provided that it is not merely an instrumentality of its Federally chartered parent). Complainant does not know whether Sports Shinko is Federally chartered. However, it is clear from foregoing allegations that Sports Shinko (Pukalani) Co., Ltd., is a state-chartered corporation which is merely an instrumentality of its parent, which parent corporation has its principal place of business in a foreign country, i.e., Japan.

6.

According to AO 1989-29, in order for Sports Shinko's contributions to comply with #441e, the foreign national parent, nor any other foreign nationals, including directors, officers, or other personnel of its company, must not participate in any decisions by Sports Shinko to contribute to campaigns for state or local office. Mr. Luna is indirectly quoted in The Maui News article referenced above (and copy enclosed) that only he [an American] and board member Franklin Mukai, a native of Kauai, made decisions about political contributions. The claim is on its face absurd!

9404358478 7

First, with respect to Mr. Mukai: Mr. Mukai is an American and a Director of Sports Shinko (Pukalani) Co., Ltd. He is also a principal in the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, which firm represents Sports Shinko (Pukalani) Co., Ltd. As merely a director, Mr. Mukai cannot unilaterally appropriate and expend the funds of the corporation. Such decisions would require the authorization of either or both the Board of Directors or an officer of the corporation. Such decisions, therefore, would necessarily involve the participation of foreign nationals, since all other members of the board and all officers of the corporation are foreign nationals. Mr. Mukai may have, with Mr. Luna, decided which particular candidates for Maui County Council received how much in contributions. However, foreign nationals must have participated in the decision to make contributions at all and in the decision as to the amount in aggregate of contributions to be made. (If Mr. Mukai was acting as attorney for Sports Shinko rather than as a director, some of the comments below about Mr. Luna apply).

Now with respect to Mr. Luna: Mr. Luna is an American and a member of the law firm of Carlsmith Ball Wichman Murray Case Mukai & Ichiki, Attorneys at Law, a Partnership including Law Corporations, which firm represents Sports Shinko (Pukalani) Co., Ltd. He is not a director, officer or employee of Sports Shinko. As a past county chairman of the Democratic Party of Maui and long time participant in Maui politics, Mr. Luna is an excellent choice to advise Sports Shinko which candidates should receive contributions for best effect. However, as an attorney making decisions on behalf of his client, he is acting as if he were the client, and decision makers within the client corporation are foreign nationals. Therefore, Mr. Luna is making his decisions as if he were a foreign national. (Also see Section 7, below).

In addition to the political decisions as to which candidates would receive contributions, an officer of Sports Shinko would be responsible for and have to authorize the expenditure and issuance of check(s) in payment. Since all officers of Sports Shinko (Pukalani) Co., Ltd., are foreign nationals, again a foreign national would be participating in decision(s) to contribute to campaigns for state or local office. If the actual contribution were made by the attorney(s) out of a client trust account, that would merely add a step to the process, but not change the material fact that a foreign national participated in the decision(s).

9 4 0 4 3 5 8 4 7 8 8

Foreign nationals hired two American attorneys to make illegal contributions. For the Commission to conclude that Sports Shinko's political contributions were legal would be to conclude that all a foreign national has to do to circumvent the law (2 U.S.C. #441e) is to use an American attorney. Such a conclusion would, in practical effect, repeal the law.

7.

Mr. Luna, and possibly also Mr. Mukai, even if he acted as a director, violated 2 U.S.C. #441f by making contributions in the name of another person. Even if elsewhere in law attorneys are empowered to act on behalf of their clients in other matters, #441f specifies "No person shall make a contribution in the name of another person . . ."

In addition, if one or more of the Council members accepted the contribution from Mr. Luna, it would appear each such Council member also violated #441f in that it specifies "no person shall knowingly accept a contribution made by one person in the name of another person." If a Council members did not accept the contribution from Mr. Luna or someone illegally making the contribution in the name of Sports Shinko, then the contribution must have been accepted directly from an authorized representative of the corporation. In that case, a foreign national made the contribution.

It would require a strained legal extrapolation to allow circumvention of #441f even if the contributions were otherwise legal.

8.

In addition to the political contributions by Sports Shinko herein identified, there are other contributions which are flawed for the same reasons. Complainant did not examine and copy all campaign spending reports of all candidates. However, complainant is aware that an additional contribution of $500.00 was made by Sports Shinko to Councilman Vince Bagoyo on May 6, 1991, and an in-kind contribution of $152 (rounds of golf) was made by Pukalani Country Club to Councilman Pat Kawano back on December 9, 1989.

The particular contributions first identified by complainant were so identified because they came during a period when the

9 4 0 4 3 5 8 4 7 8 9

Maui County Council was considering legislation pertaining specifically to Sports Shinko's interests. Complainant believes the contributions were made specifically to influence that legislative decision, which decision was made to favor Sports Shinko. If the Federal Election Commission has jurisdiction and is interested in this aspect of the case, complainant has additional information which should be known to the Commission -- including information of several contributions by Mr. Luna, Mr. Mukai and other consultants to and beneficiaries of Sports Shinko's operations and developments, which contributions were also made during the same period. Complainant will supply this additional information upon request.

9.

Thank you for your consideration of this complaint. There are undoubtedly matters which appear much more important to a public official stationed in our nation's capital. However, this matter may actually be of greater importance than it first appears. I rather imagine Sports Shinko is also making political contributions to candidates in Honolulu, California, Florida and any other places in America where it has golf course/hotel operations. Your investigation would probably unfold a national problem.

Please feel free to contact me if you would like additional information or questions answered.

Very truly yours,

/s/ Allen NOTARIZED

Allen W. Barr

:

Enclosures

bcc: RICK MEDINA

Rick,
I wish life had gone a different way. Why does it cost so much more to do what is right than to do what is expedient? Once again, doing what I believe is right is bringing me stress and sorrow.

Allen

9404358479 0

Council Chair
Howard S. Kihano

Council Vice-Chair
Patrick S. Kawano

Council Members
Vince G. Bagoyo, Jr.
Gene Hokama
Alice L. Lee
Rick Medina
Wayne K. Nishiki
Joe S. Tanaka
Lokelani Teruya Drummond

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

Gwen Yoshimi-Ohana
Director of Council Services

December 31, 1991

Mr. Jonathan Bernstein
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

SUBJECT: MUR 3460

Dear Mr. Bernstein:

According to B. Martin Luna, Legal Counsel representing Sports Shinko (Pukalani) Co., Ltd., the political contribution is legal because Sports Shinko (Pukalani) Co., Ltd., is a bonafide Hawaii Corporation. We have attached Mr. Luna's letter to verify this statement; also attached is a copy of Articles of Incorporation of Sports Shinko (Pukalani) Co., Ltd.

Based on the foregoing information, the campaign committee, "Friends of Rick Medina" decided to accept the contribution, which was duly reported to the State Campaign Spending Commission.

If you have any further questions, please call me at 808-243-7672.

Sincerely,

RICK MEDINA
Councilmember

atts.

9404358479 1

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
2145 WELLS STREET
WELLS STREET PROFESSIONAL BUILDING, SUITE 201
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4835
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 985-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-9631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4966
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-8644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-8464
FAX (808) 329-9490

MAUI OFFICE
TELEPHONE (808) 242-4835
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

December 31, 1991

Councilmember Rick Medina
Maui County Council
200 S. High Street
Wailuku, HI 96793

RE: Campaign Contributions from
Sports Shinko (Pukalani) Co., Ltd.

Dear Councilmember Medina:

This letter is written to confirm that Sports Shinko (Pukalani) Co., Ltd. made monetary contributions to you and several other candidates seeking State and County offices in 1990. We informed you and several others who inquired at that time that these campaign contributions were made in accordance with the applicable federal campaign spending laws and guidelines.

Specifically, Sports Shinko (Pukalani) Co., Ltd. is a Hawaii corporation, duly registered to do business in the State of Hawaii. Funds used for the purpose of campaign contributions were earned here in Hawaii through the company's operation of its Pukalani Country Club golf course. Moreover, the decisions to make these contributions were made by an American citizen.

Given the above factors, we believe that the contributions were legally made. Please feel free to contact me should you have any questions on this matter.

Sincerely yours,

Paul M. Usoka

for B. MARTIN LUNA

BML:mmi

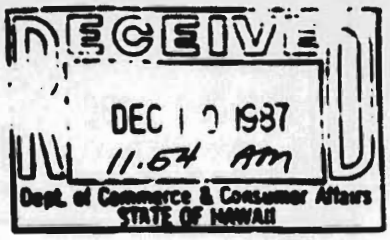
10777

9 4 0 4 3 5 8 4 7 9 2

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAII

In the Matter of Incorporation of SPORTS SHINKO (PUKALANI) CO., LTD.	)



ARTICLES OF INCORPORATION

OF

SPORTS SHINKO (PUKALANI) CO., LTD.

9 4 0 4 3 5 8 4 7 9 3

KNOW ALL MEN BY THESE PRESENTS:

That I/we, the undersigned, desiring to become incorporated as a corporation under and in accordance with the laws of the State of Hawaii, and to obtain the rights and benefits conferred by said laws upon corporations, do hereby associate ourselves together and unite and form a corporation, and do make and enter into the following Articles of Incorporation, the terms whereof it is agreed shall be equally obligatory upon the parties hereto and upon all who from time to time may hold stock in the corporation.

I.

The name of the corporation shall be SPORTS SHINKO (PUKALANI) CO., LTD.

II.

The location of the principal office of the corporation shall be at Pukalani, Hawaii, and the specific address of the initial office of the corporation shall be 55 Pukalani Street, Pukalani, Hawaii 96768.

The corporation may have such other offices within and without the State of Hawaii as its business may from time to time require, and as its Board of Directors may designate.

III.

1. The primary specific purpose and other purposes for which this corporation is organized are as follows:

(a) To own and operate golf courses.

7404358479 4

(b) To undertake and carry on any business, investment, transaction, venture or enterprise, whether manufacturing, agricultural, mercantile, trading, real estate, service, contracting, fiduciary, or otherwise, which may be undertaken and carried on by natural persons such as ranchers, financiers, merchants, manufacturers, contractors, agriculturists, brokers, agents, or otherwise; either directly in its own name or indirectly by agents or through the medium of the ownership of stock or other interest in any other business or enterprise established to carr-- on any of such pursuits, and so to do not only as principal, but also as agent, contractor, or attorney for any other person, firm or corporation;

(c) To buy or otherwise acquire, own, hold, use, improve, develop, subdivide, mortgage, lease or take on lease, sell, convey and in any and every other manner deal in and with and dispose of real estate, buildings and other improvements, hereditaments, easements and appurtenances of every kind in connection therewith, or any estate or interest therein, of any tenure, or description, to the fullest extent permitted by law, and also any and all kinds of chattels, goods, wares, merchandise, and agricultural, manufacturing and mercantile products and commodities, and patents, licenses, debentures, securities, stocks, bonds, commercial paper, and other form of assets, rights, and interests and evidences of property or indebtedness, tangible or intangible;

2 4 0 4 3 5 8 4 7 9 5

(d) To loan money on real estate, bonds, stocks, notes and all other personal property and upon any and all character of collateral security;

(e) To manage or administer as agent, representative, or factor, the whole or any part of the business or property of any individual, partnership or corporation carrying on any authorized business, and to sell or dispose of, arrange for the administration or management of, by any agent, the whole or any part of the corporation's business of property;

(f) To act as agent, representative, broker, factor, advisor or manager of any individual, partnership or corporation and, as such, to promote, develop and extend their business and to aid in any lawful enterprise;

(g) To buy, sell, lease, assemble, import, export, process and deal in any and all classes of materials, merchandise, supplies and commodities of every kind and nature; and

(h) To undertake and carry on any business, investment, transaction, venture, or enterprise which may be lawfully undertaken or carried on by a corporation and any business whatsoever which may seem to the corporation convenient or suitable to be undertaken whether directly or indirectly to promote any of its general purposes or interests or render more valuable or profitable any of its property, rights, interests, or enterprises; and, for any of the purposes mentioned in these Articles, to acquire by purchase, lease or otherwise, interests in or the

9 4 0 4 3 5 8 4 7 9 6

property rights, franchises, charters, concessions, grants, rights or privileges belonging to any partnership or corporation engaged in or authorized to conduct any business or undertaking which may be carried on by this corporation or possessed of any property suitable or useful for any of its own purposes, and carry on the same and undertake all or any part of the obligations and liabilities in connection therewith, on such terms and conditions and for such consideration as may be agreed upon, and to pay for the same either all or partly in cash, stocks, bonds, debenture, or other forms of assets and securities, either of this corporation or otherwise; and to effect any such acquisition or carry on any business authorized by these Articles, either by directly engaging therein, or indirectly by acquiring the shares, stocks or other securities of such other business or entity, and holding and voting the same and otherwise exercising and enjoying the rights and advantages incidental thereto.

2. In furtherance of said purposes, the corporation shall also have the following powers:

(a) To have succession by its corporate name in perpetuity; to sue and be sued in any court; to make and use a common seal and to alter the same at its pleasure; to hold, purchase and convey such property as the purposes of the corporation shall require, without limit as to amount and to mortgage, pledge and hypothecate the same to secure any debt of the corporation; to appoint such subordinate officers or agents as the business of the

2404358479 7

corporation shall require; to make and adopt and from time to time amend or repeal By-Laws not in conflict with any existing law or these Articles for the management of its properties, the election and removal of its officers, the regulation of its affairs and the transfer of its stock and for all other purposes permitted by law;

(b) To borrow money or otherwise incur indebtedness without limit as to amount and in excess of the capital stock of the corporation with or without security and to secure any indebtedness by deed or trust, mortgage, pledge, hypothecation or other lien upon all or any part of the real or personal property of the corporation and to execute bonds, promissory notes, bills of exchange, debentures or other obligations or evidences of indebtedness of all kinds, whether secured or unsecured;

(c) To issue shares of the capital stock and/or obligations of the corporation and/or options for the purchase of either thereof in payment for property acquired or for services rendered to the corporation or for any other objects in and about its business;

(d) To purchase on commission or otherwise, subscribe for, hold, own, sell on commission or otherwise, or otherwise acquire or dispose of and generally to deal in stocks, scrips, bonds, notes, debentures, commercial papers, obligations and securities, including, so far as permitted by law, its own issued shares of capital stock or other securities, and also any other securities, or evidences of indebtedness whatsoever, or any

9404358479 8

interest therein, and while the owner of the same to exercise all the rights, powers and privileges of ownership;

(e) To draw, make, accept, endorse, assign, discount, execute and issue all such bills of exchange, bills of lading, promissory notes, warrants and other instruments to be assignable, negotiable or transferable by delivery or to order, or otherwise, as the business of the corporation shall require;

(f) To lend and advance money or to give credit, with or without security, to such person, firms, or corporations, and on such terms as may be thought fit; and if with security, then upon mortgages, deeds of trust, pledges or other hypothecations or interest therein or thereto;

(g) To aid in any manner any corporation of which any of the bonds or other securities or evidences of indebtedness or stock are held by this corporation, and to do any acts or things to preserve, protect, improve or enhance the value of any such bonds or other securities or evidences of indebtedness or stock, including specifically the right and power to enter into and take the management of any business enterprise of any kind or nature, and while so managing any such business, to do the acts and things incidental or necessary thereto;

(h) To enter into partnership contracts, as a general partner or as a limited partner with any other person or persons, natural or corporate, to enter into agreements of joint venture with any such natural or corporate person or persons and to enter

9 4 0 4 3 5 8 4 7 9 9

into and perform contracts, undertakings and obligations of every kind and character to the same extent as if this corporation were a natural person;

(i) To promote, assist, subscribe or contribute to any association, organization, society, company, institution or object, charitable or otherwise, calculated to benefit the corporation or any persons in its employ or having dealings with the corporation, or deemed to be for the common or public welfare;

(j) To become a party to and effect a merger or consolidation with another corporation or other corporations, to enter into plans of reorganization and readjustment and to enter into agreements and relationships not in contravention of law with any persons, firms, or corporations;

(k) To become surety for or guarantee any dividends, bonds, stocks, contracts, debts, or other obligations or undertakings of any other person, firm, or corporation, and to convey, transfer or assign, by way of pledge or mortgage, all or any of the corporation's property or rights, both present and future, to secure the debts or obligations, present and future, of such persons, firms or corporations and on such terms and conditions as the corporation may determine;

(l) To the extent permitted by applicable federal law, to indemnify and purchase and maintain insurance on behalf of any fiduciary or any employee benefit plan or trust maintained for the

9 4 0 4 3 5 8 4 8 0 0

benefit of employees of the corporation or another corporation in which it owns shares; and

(m) To do all or any of the above things in any part of the world, directly or indirectly, and as principal, agent, factor, contractor or otherwise, and by or through trustees, agents or otherwise, and either alone or in conjunction with others.

3. The enumeration herein of the purposes of this corporation shall be construed as powers as well as purposes and shall be liberally construed both as to purposes and powers and the expression of one thing shall not be deemed to exclude another although it be of like nature not expressed and the enumeration of specific purposes and powers shall not be deemed to limit or restrict in any manner the meaning of the general purposes and powers nor exclude by inference any powers or purposes which this corporation is empowered to exercise, whether expressly by force of the laws of the State of Hawaii now or hereafter in effect, or impliedly by the reasonable construction of said laws.

IV.

1. The authorized capital of the corporation shall be divided into TWENTY THOUSAND (20,000) shares of no par value common stock.

94043584801

2. The name(s) of the initial subscriber(s) of capital stock, the number of shares subscribed for by such subscriber(s), the subscription price thereof and the amount of capital paid in in cash and/or property and/or surplus are as follows:

Name	No. of Shares of Stock Subscribed	Total Subscription Price	Total Amount of Capital Paid in	Total Amount of Paid-In Surplus
SPORTS SHINKO (HAWAII) CO., LTD., a Hawaii corporation	1,000	$1,000	$1,000 (cash)	-0-

3. Subject to the pre-emptive rights of the holders of common stock as set forth in paragraph 4 of this Article IV, the Board of Directors is authorized to determine the consideration and the terms and conditions upon which and the persons to whom authorized and unissued shares whether originally authorized or created additionally, may be issued and sold and what portion of consideration shall constitute capital and what portion, if any, paid-in surplus, subject to applicable provisions of these Articles and of law.

4. In case of any increase of the outstanding capital stock of the corporation by the issuance or reissuance of any

9 4 0 4 3 5 8 4 8 0 2

shares of any class, or by the issuance of any obligation or securities convertible into shares of capital stock, such stock, obligations or securities shall, unless otherwise provided by the vote of the holders of not less than two-thirds (2/3) of the common stock issued and outstanding, before being sold or offered to others, be offered to the holders of the common stock of the corporation as of the date of issuance as shown by the stock books of the corporation upon such terms, which terms shall not be less favorable than the terms upon which said shares are thereafter sold to others, as shall be determined by the Board of Directors in proportion to the shares of common stock respectively held by such shareholders at such date.

V.

The corporation shall have a Board of Directors of not less than the number of shareholders there are in the corporation at any given time; provided, that, if the corporation has three or more shareholders, the corporation shall have three or more directors. The members of the Board of Directors shall be elected or appointed at such times, in such manner and for such terms as may be prescribed by the By-Laws. No director need be a shareholder of the corporation.

The Board of Directors of the corporation, without the approval of the shareholders of the corporation, or of any percentage thereof, may authorize the borrowing of money or the

2 0 4 3 5 8 4 8 0 3

incurring of debts, even though as a result thereof the amount of the corporation's indebtedness may exceed the capital stock.

VI.

No contract or other transaction between the corporation and any other corporation or any firm, association, or other organization, and no act of the corporation, shall in any way be affected or invalidated by the fact that any of the directors or officers of the corporation are parties to such contract or transaction or act or are pecuniarily or otherwise interested in the same or are directors or officers or members of any such other corporation, provided, that the interest of such director or officer shall be disclosed or shall have been known to the Board of Directors authorizing or approving the same, or to a majority thereof. Any director of the corporation who is pecuniarily or otherwise interested in or is a director or officer or member of such other corporation or any such firm, association or other organization, may be counted in determining a quorum of any meeting of the Board of Directors which shall authorize or approve any such contract, transaction or act, and may vote thereon with like force and effect as if he were in no way interested therein. Neither any director nor officer of the corporation, being so interested in any such contract, transaction, or act of the corporation which shall be approved by the Board of Directors of the corporation, nor any corporation, firm, association, or other organization in which such director, or officer may be interested,

9404358804

shall be liable or accountable to the corporation, or to any shareholder thereof, for any loss incurred by the corporation pursuant to or by reason of such contract, transaction, or act, or for any gain received by any such other party pursuant thereto or by reason thereof.

VII.

The names and residence addresses of the initial directors who are to serve until their successors are elected as provided by the By-Laws are as follows:

Name	Residence Address
TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
KATSUHEI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
FRANKLIN K. MUKAI	1140 Waiholo Street Honolulu, Hawaii 96821

VIII.

The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the By-Laws, a secretary, and a treasurer, each of whom shall be elected or appointed by the Board of Directors at such time and in such manner as may be prescribed by the By-Laws. Such other officers and assistant officers and agents as may be deemed

9404358480 5

necessary may be elected or appointed by the Board of Directors or chosen in such other manner as may be prescribed by the By-Laws. Any two or more offices may be held by the same person; provided that the corporation shall have not less than two persons as officers. No officer or subordinate officer need be a shareholder of the corporation. The same person may hold at the same time an office and also be a director.

IX.

The following persons shall act as the initial officers of the corporation until their successors are appointed as provided for in the By-Laws:

Office	Name	Residence Address
Pres./Treas./Secy.	TOSHIO KINOSHITA	6-20-8 Seijo Setagaya-ku, Tokyo, Japan
Vice President	MASAO WAKAMORI	4-18-18 Katahira, Asao-ku Kawasaki, Kanagawa Pref. Japan
Vice President	KATSUMI KUBO	1439-18 Kamariya-cho Kanazawa-ku, Yokohama Japan 236
Asst. Secretary	TAKASHI YOSHIDA	3-25-4 Shonan-Dai Fujisawa-City, Japan
Asst. Treasurer	YASUO NISHIDA	94-214 Kakaili Place Mililani Town, HI 96789

X.

The corporation shall be liable for its debts to the extent of all its property, but no shareholder shall be liable for the debts of the corporation beyond the amount which may be due and unpaid upon the share, or shares, owned by him.

9404358480 6

XI.

The duration of the corporation shall be perpetual.

XII.

The corporation may distribute to its shareholders out of capital surplus, a portion of its assets in cash or in property in accordance with law.

I/WE CERTIFY under the penalties of Section 415-136, Hawaii Revised Statutes, that I/we have read the above statements and that the same are true and correct.

WITNESS my/our hand(s) this 9th day of December, 1987.

FRANKLIN K. MUKAI

940435848 07

LINDA CROCKETT LINGLE
Mayor
TELEPHONE 243-7855

MAUI COUNTY BOARD OF ETHICS
c/o DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE 243-7740

May 14, 1992

Honorable Ricardo Medina, Councilmember
Maui County Council
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

RE: **Dismissal of Board of Ethics Complaint No. 91-2**

Dear Mr. Medina:

This letter is to notify you that the above-referenced complaint filed against you with the Board of Ethics ("the Board") has been dismissed. The Board concluded that a violation of Article 10 of the Maui County Code could not be found.

A deleted opinion will be rendered in this matter and will be forwarded to you.

If you have any questions, feel free to contact the Board's Counsel, Maile Lu'uwai.

Sincerely,

Paul K. Kaneshiro
for

PAUL K. KANESHIRO
Chairperson for the
Board of Ethics
of the County of Maui

PKK:lc
c:\ethics\medina4

9404358408

Paul Elkins
P. O. Box 185
Pukalani, Maui, Hawaii 96788

July 5, 1991

The Honorable Howard Kihune, Chairman
Maui County Council
Kalana O Maui Building
Wailuku, Maui, Hawaii 96793

Re: Council Votes on Sports Shinko Affairs

Dear Chairman Kihune:

The Maui County Council has been considering over the past several months -- nearly a year -- various ordinances and resolutions relating to Sports Shinko and its plans to build a hotel in Pukalani. A related matter is on the Council agenda this morning.

It has come to my attention, from reliable sources, that certain members of the Council have been playing golf free at Sports Shinko's Pukalani Country Club and that members of the Council received campaign contributions toward last year's elections from Sports Shinko, a foreign owned entity.

Is there not a conflict of interest and possible legal impropriety for these members to vote on matters relating to Sports Shinko? There certainly appears to be.

The Maui County Charter's Code of Ethics prohibits public officials from having even an appearance of a conflict of interest in their official actions. Also, the state attorney general and office of elections ruled a couple years ago that federal law prohibited American political candidates from receiving campaign contributions from foreign nationals and foreign owned corporations.

Before the Council takes any further actions relating to Sports Shinko and its interests, shouldn't this conflict of interest and possible illegal campaign contributions be declared and those members of Council affected be disqualified from voting on actions related to Sports Shinko?

9 4 0 4 3 5 8 4 8 0 9

In particular, it has been reported to me that you and Council members Ricardo Medina and Alice Lee, and possibly others, have played golf free at Pukalani Country Club. You will immediately know the truth of these allegations.

Campaign spending reports show the following campaign contributions:

Friends of Vince Bagoyo, Jr. received $1,000.00 from Sports Shinko Co., Pukalani, on October 23, 1990.

Goro Hokama received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on December 21, 1990.

Friends of Patrick Kawano received a $152.00 in kind contribution from Pukalani Country Club on December 9, 1989.

Friends of Alice Lee received $1,000.00 from Sports Shinko Co., Ltd., Pukalani, on November 2, 1990.

Friends of Rick Medina received a $1,000.00 contribution from Sports Shinko (Pukalani) Co., Ltd on November 14, 1990.

Friends of Joe Tanaka received $1,000.00 from Sports Shinko Pukalani Co., Ltd. on October 31, 1990.

In view of Council's failure to act in October, 1990 on the down planning and down zoning of hotel zoned land in Pukalani owned by Sports Shinko, the timing of several of those contributions gives an appearance of impropriety, even if the contributions themselves are ruled technically legal.

Because of the immediate relevance of these concerns, I have sent copies of this letter to the Corporation Council, County Ethics Commission, County Clerk, and state Attorney General. I urge Council to take no further actions related to Sports Shinko until possible conflicts of interest, improper actions and possible illegal contributions are determined and resolved.

Very truly yours,

Paul Elkins

Paul Elkins

cc: Corporation Council
Ethics Commission
County Clerk
Attorney General

9 4 0 4 3 5 8 4 8 1 0

STATE OF HAWAII)
) SS.
COUNTY OF Maui)

On this 2nd day of September, 1991, before me personally appeared Paul Elkins, to me know to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Witness my hand and seal.

Kari Lisbie

My commission expires: 9/17/94

2404358811

SPECIAL TO THE MAUI NEWS - August 16, 1991
STATEMENT OF PAUL ELKINS

(P. O. Box 185, Pukalani, Maui 96788
572-1740)

The Maui County Board of Ethics apparently needs its procedures revamped to allow it to operate as a "watchdog" for the public.

Article 10 of the County Charter (Code of Ethics) assigns as its first duty: "The board shall: a. Initiate, receive, hear and investigate complaints of violations of this Article." The very first thing the public is led to expect is that the board will take the iniative.

I was therefore dismayed to read in the Maui News (8/9/91) that because my complaint was not notarized, the board "postponed reviewing [my] charges that several council members should not have voted on Sport Shinko's Pukalani hotel project because they received campaign contributions from the company and reportedly played golf in Pukalani as guests of the firm." (Be reminded several thousand dollars were given to a majority of the council members, a thousand each, at just the time council was considering the issue).

My original complaint was delivered to both the Corporation Counsel and the Board of Ethics on July 5. The Corporation Counsel and his office are charged with providing staff to the Board of Ethics, so I delivered two copies, one addressed to each. I was specifically asked: Is this a complaint? After saying 'yes', I was not asked if it is notarized or told that it needs to be.

On July 30 I sent a follow-up letter since I had heard nothing. I specifically asked: "If some additional form or procedure is required, please notify me at your earliest convenience." I have still no response from the Corporation Counsel's office on behalf of himself or the Board of Ethics. My only information comes from the Maui News!

The reason for having complaints notarized is to assure it is not bogus and the complainant is not a ficticious person. I hand delivered copies to the Council Chairman's and Corporation Counsel's office. Both persons sat with copies in front of them as I delivered my complaint publically before the entire council.

9 4 0 4 3 5 8 4 8 1 2

Campaign spending records are on the 7th floor of the county building. That's two floors below the Corporation Counsel's office and one floor below where the testimony was given. It would require only ten or fifteen minutes to check to assure the accuracy of my complaint about campaign contributions.

There is no issue of the authenticity of my complaint. It is certainly known who filed the complaint, and it does not matter who put forth the idea. Once suggested, the Board of Ethics staff could easily verify the facts on contributions. If the complaint had been overheard in an elevator or parking lot, an investigation could be initiated without a complainant.

Requiring a notarized complaint, therefore, can only be a put off, to avoid the issue and discourage citizens from even asking the Board of Ethics to pay attention to its purpose.

At its August 8, 1991 meeting, the board voted to invite all elected and appointed officials to a quarterly orientation on the Code of Ethics. There is no reason to assume such a "lesson" will make any difference in the behavior of public officials. Only one of our local elected officials is new this year to a position of "public trust" (Leinaala Drummund), and she stands alone in an inconsequential minority.

Board member David Keala reportedly said at the meeting that the Board of Ethics is being asked to tell county officers when they are in violation of the Code of Ethics, when it should be clear what kind of behavior is inappropriate. Exactly what is required is a board that will look for unethical behavior among county officials and hold violators to account.

Board member Maureen Marrs reportedly noted that requests for an advisory opinion on whether a violation has occurred are referred to the board in cases where the subject should know there is a problem: "Then we say it's a conflict of interest. I think they're hoping we won't say that."

Of course! Most long time politicians come to believe they are immune to being held to account. They expect the public to not know or not care or not believe ill of them. The failure of ethics commissions to find violations is "proof" public officials are not corrupt. In 'worst cases' the ethics commissions cover politicians by issuing an opinion which, when followed, relieves the politician from liability for violating the Code of Ethics.

9 4 0 4 3 5 8 4 8 1 3

Section 10-2.5 of Maui's Charter says: "If any officer or employee, or former officer or employee, obtains an advisory opinion from the board and governs himself accordingly, or acts in accordance with the opinions of the board, he shall not be held liable for violating any of the provisions of this Article." There was no specification of timing in that. If a politician stops doing a wrong upon receiving the board's opinion, he is not liable!

When has an ethics commission anywhere -- even beyond Hawaii -- initiated impeachment or criminal action against a politician to hold him or her to account? The expected function of ethics commissions is to protect politicians, not punish them. I invite evidence to the contrary -- evidence that ethics commissions do hold politicians to account, not just argument that they could.

Investigating Council members free golf is a more complicated matter and does require more than heresay to warrant investigation. But again, it was and is clearly known who filed the complaint. Notarization is still a put off. A reputable citizen willing to raise an issue should be allowed to buffer others who are more fearful. I believe reliable the sources of my information. I understand the reluctance of those individuals to be identified and associated with the complaint. Intimidation and fear of retribution are alive and well on Maui. The very requirement for notarization is a form of intimidation to some people.

Consider the risk I take. If Council members, after due investigation, are found "innocent", it will reflect poorly on my integrity as complainant. Yet I took that risk confident that my integrity will come out intact.

It would not take an investigator long to establish the facts of free golf. The Board of Ethics is empowered to "administer oaths and subpoena witnesses and to compel the production of books and papers pertinent thereto." Elected officials are not above being asked questions under oath. Using the board's powers would highten public "trust and confidence in the integrity of government" (the stated purpose of the Code of Ethics).

bcc: Board of Ethics

9 4 0 4 3 5 8 4 8 1 4

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSI

ELECTION YEAR
1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

RECEIVED

This Report Covers The Period From 11/07/90 (Date) thru 12/31/90 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: Friends of Rick Medina (Ricardo "Rick" Medina)
ADDRESS: 373 Liholiho Street
CITY STATE: Mailuku, Hawaii 96793
BUS: _____ RES: 244-5195
Treasurer's Telephone

THIS REPORT IS A

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☒ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other _____

SECTION B — SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	$405.00
2 Contributions Aggregating Over $100 (Line 19)	1,150.00
3 Other Receipts (Line 20)	68.58
4 Total Contributions This Period (Add Line 1 thru 3)	$1,623.58
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	43,478.58
6 Total Contributions to Date (Add Lines 4 & 5)	$45,102.16
7 Balance on Outstanding Loans (Line 21)	-
8 Political Expenditures of Personal Funds (Line 22)	-
9 Total Receipts to Date (Add Lines 6 thru 8)	$45,102.16

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	$1,252.45
11 Fundraising Expenditures (Line 24 Col. 3)	-
12 Total Expenditures This Period (Add Lines 10 and 11)	$1,252.45
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	36,375.79
14 Total Expenditures to Date (Add Lines 12 & 13)	$37,628.24
15 SURPLUS of Line 6 Minus Line 14 is Positive	$7,473.92
16 DEFICIT of Line 6 Minus Line 14 is Negative	
CASH BALANCE AS OF 12/31/90	$7,473.92

SECTION C — AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION (If individual)	AMOUNT OF THIS CASH CONTRIBUTION	VALUE OF THIS NON-MONETARY CONTRIBUTION	AGGREGATE TOTAL TO DATE
11/14/90	Sports Shinko (Pukalani) Co., Ltd. 360 Pukalani Street Pukalani, Hawaii 96768		1,000.00	-	1,000.00
12/18/90	David H. Nakamura 324 Liholiho Street Mailuku, Hawaii 96793	Attorney	150.00	-	150.00

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE → 1,150.00
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE -
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) $1,150.00

9 4 0 4 3 5 8 4 8 1 5

SECTION D OTHER RECEIPTS (Public Funding, Interest Received, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
2/06/90	Checking A/C 805-932262	Territorial Savings & Loan Association P. O. Box 1481, Honolulu, Hawaii 96806	Checking account interest earned	$30.89
2/31/90	Checking A/C 805-932262	Territorial Savings & Loan Association P. O. Box 1481, Honolulu, Hawaii 96806	Checking account interest earned	26.20
2/13/90		Radio Station KMAI 311 Ano Street, Kahului, Hawaii 96732	Refund-Overpayment on radio spots	11.49

20 TOTAL OTHER RECEIPTS THIS PERIOD ..... $ 68.58

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHARGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Personal Funds)

21 CURRENT BALANCE OF LOAN ..... $

22 CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11/13/90	Rick Madina 373 Liholiho Street Wailuku, Hawaii 96793	Re-inburgement-4 Shamo from Pay N'Save Gen. Elec. get-together	$27.92	-
11/13/90	Rick Madina 373 Liholiho Street Wailuku, Hawaii 96793	Re-inburgement-Fish Poki from Nakamatsu Fish Mkt.(Gen. Elec. Mtg)	50.00	-
11/13/90	Rick Madina 373 Liholiho Street	Re-inburgement-Food Ingredients(VIP Food Ser.-Gen. Elec. Mtg)	53.50	-
11/14/90	Maui Electric Co., Ltd. P. O. Box 398 Kahului, Hawaii 96732	Electric Charges to 11/01/90	39.42	-
11/14/90	South Maui Times P. O. Box 40 Kihei, Hawaii 96753	Newspaper Ads-10/25/90 & 10/31/90 issues (1/2th page)	345.80	-

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
23 EXPENDITURES	$516.64	$735.81	$1,252.45
24 EXPENDITURES INCIDENTAL TO FUNDRAISERS	-	-	-

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Ricardo Madina 1/30/91 — Candidate's Signature: Ricardo Madina — Date

Y. Kume 1/30/91 — Treasurer's Signature: Yoshikatsu Kume — Date

9404358481 6

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
Friends of Rick Medina

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
/14/90	Mrs. Alice Kashanui P. O. Box 729 Kaunakakai, Hawaii 96748	Trophy donated to Teen Molokai	46.50	-
/14/90	Takamiya Market, Ltd. 359 Market Street Wailuku, Hawaii 96793	Gift Certificates-Maui Okinawa GC Rick Medina Tourney	45.00	-
/14/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-The Winning Edge(Xerox, Computer Copies, etc.	29.35	-
/14/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-Luncheon Meeting at Aurelio's (Kihune/Bagoyo)	32.94	-
/28/90	Hawaiian Lions Foundation c/o Mililani Lions Club(Peter K. Kaeo) Honolulu, Hawaii	Donation	30.00	-
1/28/90	Ka Lima O Maui 95 Mahalani Street Wailuku, Hawaii 96793	2 cases of Soda for Ka Lima O Maui 35th Anniversary Picnic	14.10	-
2/11/90	Ooka Super Market Wailuku, Hawaii 96793	2 cases of Oranges donated to Christ The King Church	64.20	-
2/12/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement for entertaining Campaign workers at Hawaiian Restaurant (11/12/90)	49.84	-
2/12/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement for entertaining Campaign workers(Charthouse)	181.64	-

Total Amount of Invoices Paid This Page $492.57

Total Amount of Invoices Received but Unpaid This Page ..... -

SUBTOTAL of Expenditures This Page (lines 1 & 2) $492.57

a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 8 1 7

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
Friends of Rick Medina

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
2/12/90	Takamiya Market, Inc. 359 Market Street Wailuku, Hawaii 96793	Replacement cost of 3 catering pans lost	$90.00	-
2/13/90	Maui Electric Co., Ltd. P. O. Box 398 Kahului, Hawaii 96732	Electric Charges to 11/16/90	27.24	-
2/21/90	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-Cash adv. to M. Sombelon for mailouts & stamps	126.00	-

Total Amount of Invoices Paid This Page $243.24

Total Amount of Invoices Received but Unpaid This Page ..... -

SUBTOTAL of Expenditures This Page (lines 1 & 2) $243.24

a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

TOTAL This Period (last page this line only) $235.8

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358481 8

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

ELECTION YEAR 1990

REPORT OF CAMPAIGN RECEIPTS AND EXPENDITURES

This Report Covers The Period From 7/01/91 (Date) thru 12/31/91 (Date)

SECTION A
NAME AND ADDRESS OF CANDIDATE'S COMMITTEE:
(Must be same as appearing on organizational report)

NAME: Friends of Rick Medina (Ricardo "Rick" Medina
ADDRESS: 373 Lihoiho Street
CITY, STATE: Wailuku, Hawaii 96793
BUS: _____ RES: _____
Treasurer's Telephone

THIS REPORT IS A:

- ☐ Pre Primary Report
- ☐ Pre General Report
- ☐ Post Primary Report
- ☐ Post General Report
- ☒ Supplemental Report
- ☐ Amended Report
- ☐ Final Termination Report (Balance Must be Reduced to Zero)
- ☐ Other _____

SECTION B — SUMMARY OF RECEIPTS AND EXPENDITURES
(Fill Out Sections C, D, E & F Before Section B)

RECEIPTS

1 Contributions of $100 or Less	$6,704.44
2 Contributions Aggregating Over $100 (Line 19)	15,424.95
3 Other Receipts (Line 26)	179.57
4 Total Contributions This Period (Add Line 1 thru 3)	$22,308.96
5 Total Contributions From Prior Report (Sec. B Line 6 of Prior Report)	46,449.80
6 Total Contributions to Date (Add Lines 4 & 5)	$68,758.76
7 Balance on Outstanding Loans (Line 21)	—
8 Political Expenditures of Personal Funds (Line 28)	—
9 Total Receipt to Date (Add Lines 6 thru 8)	$68,758.76

EXPENDITURES

10 Expenditures (Line 23 Col. 3)	$3,813.7
11 Fundraising Expenditures (Line 24 Col. 3)	7,664.2
12 Total Expenditures This Period (Add Lines 10 and 11)	$11,477.9
13 Total Expenditures From Prior Report (Sec. B Line 14 of Prior Report)	41,176.3
14 Total Expenditures to Date (Add Lines 12 & 13)	$52,654.1
15 SURPLUS (If Line 6 Minus Line 14 is Positive)	$16,104.6
16 DEFICIT (If Line 6 Minus Line 14 is Negative)	
CASH BALANCE AS OF 12/31/91	$ 16,104.62

SECTION C — AGGREGATE CONTRIBUTIONS OVER $100

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF DONOR	AMOUNT OF THIS CASH CONTRIBUTION	AMOUNT OF THIS NON-CASH CONTRIBUTION	AGGREGATE TOTAL TO DATE
9/05/91	Richard Drayson 456 So. Alu Drive Wailuku, Hawaii 96793	CPA	$250.00		
11/08/91	Aloha Airlines P. O. Box 30028 Honolulu, Hawaii 96820		150.00		
11/19/91	Kealoha Construction 320-L Hukilike Street Kahului, Hawaii 96732		250.00		
11/19/91	Kenneth & Beverly Kurokawa P. O. Box 65 Kula, Hawaii 96790		250.00		
11/19/91	Richard Miyabara P. O. Box 464 Lahaina, Hawaii 96761	Architect	250.00		
11/19/91	Alvin and Sandra Yoshimori 2062 Iwalani Street Pukalani, Hawaii 96768	Architect	250.00		
11/22/91	Goodfellow Brothers, Inc. P. O. Box 598 Wenatchee, Washington 98807		500.00		
11/20/91	Howard Fukunaga c/o Fuku Construction Wailuku, Hawaii 96793	Contractor	125.00		

17 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PAGE → $2,025.
18 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 FROM SUPPORTING SCHEDULE 13,399.
19 TOTAL AGGREGATE CONTRIBUTIONS OVER $100 THIS PERIOD (Add Lines 17 & 18) $15,424.

9404358819

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

FUNDRAISING EXPENDITURES

NAME OF CANDIDATE OR COMMITTEE
FRIENDS OF RICK MEDINA
373 Liholiho Street
Wailuku, Hawaii 96793

TYPE OF EVENT & LOCATION: Cocktails/Pupus-Maui Sun Ride
DATE OF EVENT: 11/20/91
CHARGE PER PERSON: $25.00

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11/20/91	Mills/Dowling 1997 E. Main Street Wailuku, Hawaii 96793	Door Prize-1 Golf Travel Bag	$200.00	-
11/20/91	John Palmer 150 Dickenson Street Lahaina, Hawaii 96761	Door Prize-Sunset Cruise aboard Capt. Nemo's Sea Smoke	33.97	-
11/20/91	Stouffer Wailea Beach Resort 3550 Wailea Alanui Wailea, Hawaii 96753	Door Prize-Sunday Brunch for two	52.00	-
11/20/91	Waikapu Golf Course 2500 Honoapiilani Highway Wailuku, Hawaii 96793	Door Prize-4 rounds of golf	140.00	-
11/20/91	Wailea Golf Course 161 Wailea Ike Place Wailea, Hawaii 96753	Door Prize-4 rounds of golf	260.00	-
11/20/91	Alvin Yoshimori 2145 Wells Street - Suite 303 Wailuku, Hawaii 96793	Door Prize-Electric Snak/Sandwich Maker	60.00	-
11/21/91	Maui Sun Hotel 175 East Lipoa Street Kihei, Hawaii 96753	Cost of Food & Beverage for 11/20/91 Fundraiser	5,512.37	-

1. Total amount of invoices paid this page $6,258.34
2. Total amount of invoices received but unpaid this page ..... -
3. SUBTOTAL of Expenditures this page (lines 1 & 2) $6,258.34
3a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -
4. TOTAL This Period (last page this line only) $7,664.26

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9 4 0 4 3 5 8 4 8 2 0

9 4 0 4 3 5 8 4 8 2 1

SECTION D OTHER RECEIPTS (Public Funding, Interest Received, Other)

DATE	SOURCE	ADDRESS	DESCRIPTION	AMOUNT
'/06/91	Checking A/C #03-07551-2	Territorial Savings and Loan Association 275 Kaahumanu Avenue, Kahului, Hawaii 96732	Checking Account Interest Earned	$24.7
3/06/91	"	" " " "	" "	20.7
9/06/91	"	" " " "	" "	20.1
)/07/91	"	" " " "	" "	20.3
1/06/91	"	" " " "	" "	14.4
2/06/91	"	" " " "	" "	28.4
2/31/91	"	" " " "	" "	50.6

20 TOTAL OTHER RECEIPTS THIS PERIOD ..... $ 179.

SECTION E LOANS AND CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS

DATE	NAME AND ADDRESS OF LENDER OR CANDIDATE	BALANCE AT BEGINNING OF PERIOD	CHANGES DURING PERIOD	BALANCE (Loans)	BALANCE (Exp. of Pers. Funds)

21 CURRENT BALANCE OF LOAN ..... $ _____

22 CURRENT BALANCE OF CANDIDATE'S POLITICAL EXPENDITURES OF PERSONAL FUNDS ..... $ _____

SECTION F EXPENDITURES

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
7/08/91	TRI Productions, Inc. 2062 Vineyard Street Wailuku, Hawaii 96793	T-Shirts for Campaign Workers	$269.28	-
7/15/91	South Maui Times 900 Eha Street Kahului, Hawaii 96732	1/2 Page Ad-Makawao Rodeo	25.65	-
7/15/91	Pau Hana Inn P. O. Box 546 Kaunakakai, Hawaii 96748	Hotel Accomodation-Molokai Trip	185.07	-
7/15/91	C. R. Kendall Scholarship Fund c/o H. G. E. A. Wailuku, Hawaii 96793	Donation	40.00	-
7/15/91	Maui Beach Hotel Kahului, Hawaii 96732	Donation-2 Dinner Certificate for BBS Backers Golf Tourney	36.00	-

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

	COLUMN 1 +	COLUMN 2 =	COLUMN 3
	TOTAL THIS PAGE	TOTAL FROM SUPP. SCHEDULE	TOTAL THIS PERIOD
23 EXPENDITURES	$476.00	$3,337.71	$3,813.
24 EXPENDITURES INCIDENTAL TO FUNDRAISERS		7,664.26	7,664.

OAHU CANDIDATES - Submit original and 1 copy
NEIGHBOR ISLAND CANDIDATES - Submit original and 2 copies

Certification: I hereby certify that the above and all attached Schedules are complete, correct and true statements to the best of my knowledge.

Ricardo Medina

Ricardo Medina — Date

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION / IF A MINOR, ENTER NAME OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
11/20/90	Winona Iwata 2137 Hewahewa Place Wailuku, Hawaii 96793	Retired	200.00		
11/22/90	Bennett, Drane, Karamatsu Electrical Engineers, Inc. 1210 Auahi Street -Suite 204 Honolulu, Hawaii 96814		250.00		
11/22/90	Castle & Cooke Land Co. P. O. Boz 2780 Honolulu, Hawaii 96803		1,000.00		
11/22/90	ECM, Inc. P. O. Boz 6064 Kahului, Hawaii 96732		200.00		
11/22/90	F & M Cpntractors, Inc. P. O. Box 1129 Wailuku, Hawaii 96793		250.00		
11/22/90	Miyabara Associates 928 Nuuanu Avenue - Suite 401 Honolulu, Hawaii 96817		250.00		
11/22/90	Nishimura, Katayama, Oki & Santo, Inc. 826 Kaheka Street - Suite 302 Honolulu, Hawaii 96814		250.00		
11/22/90	Warren S. Unemori Engineering, Inc. 2145 Wells Street - Suite 403 Wailuku, Hawaii 96793		250.00		
11/22/90	A & B Hawaii PAC P. O. Box 3440 Honolulu, Hawaii 96801		300.00		
11/22/90	Ing, Kushi & Ige Attorneys At Law 2145 Wells Street - Suite 204 Wailuku, Hawaii 96793		200.00		
11/22/90	Frontfield Properties, Ltd. 2700 Grosvenor Center 737 Bishop Street Honolulu, Hawaii 96813		150.00		
			TOTAL COLUMN 1. $3,300.00	TOTAL COLUMN 2 -	NOTE IN KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USE

1 SUBTOTAL of Contributions Over $100 This Page $3,300.00

2 TOTAL This Period (last page this line only) .....

9404358482 2

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION OF A MINOR, ENTER NAME OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
11/22/9[illegible]	Stan & Sally Gima 334 Hololani Street Pukalani, Hawaii 96768-8617	Architect	250.00		
11/22/9[illegible]	David M. K. Yuen P. O. Box 37011 Honolulu, Hawaii 96837	Mortgage Broker	200.00		
11/26/9[illegible]	Edwin Ige Ige Constructon P. O. Box 7 Kahului, Hawaii 96732	Construction Executive	200.00		
11/26/9[illegible]	Richard Sato & Associates 2046 So. King Street Honolulu, Hawaii 96826		250.00		
11/26/9[illegible]	Kazuichi & Grace Hamasaki 426 Liholiho Street Wailuku, Hawaii 96793	Retirees	150.00		
11/26/9[illegible]	Interstate Maui Realty, Inc. 270 Waiehu Beach Road - Suite 214 Wailuku, Hawaii 96793		500.00		
11/26/9[illegible]	Ralph Masuda 2200 Main Street Wailuku, Hawaii 96793	Consultant	250.00		
11/26/9[illegible]	Maui Contractors Association PAC 1124-C Lower Main Street Wailuku, Hawaii 96793		250.00		
11/26/9[illegible]	Howard & Pauline Fukunaga P. O. Box R Wailuku, Hawaii 96793	Contractor	250.00		
11/26/9[illegible]	McCormack Properties, Ltd. P. O. Box 3204 Honolulu, Hawaii 96801		500.00		
11/26/9[illegible]	PBR HAWAII 1042 Fort Street Mall-Suite 300 Honolulu, Hawaii 96813		250.00		
			TOTAL COLUMN 1. $3,050.00	TOTAL COLUMN 2 -	NOTE IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1 SUBTOTAL of Contributions Over $100 This Page $3,050.00

2 TOTAL This Period (last page this line only) .....

9 4 0 4 3 5 8 4 8 2 3

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

DATE RECEIVED	NAME AND ADDRESS OF DONOR	CORPORATION IF A DONOR ENTER NAME OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
11/26/91	Pit Stop Enterprises, Inc. Kuau Pit Stop P. O. Box 1692 Kahului, Hawaii 96732		125.00		
11/26/91	Pit Stop Enterprises, Inc. Paia Pit Stop P. O. Box 1692 Kahului, Hawaii 96732		125.00		250.00
12/10/91	AMFAC/JMB Hawaii, Inc. P. O. Box 3230 Honolulu, Hawaii 96801		250.00		
12/10/91	Libert K. Landgraf P. O. Box 519 Hana, Hawaii 96713	Consultant	500.00		
12/10/91	B. Martin Luna 2145 Wells Street - Suite 201 Wailuku, Hawaii 96793	Attorney	200.00		
12/10/91	Max D. Soriano Villiers Real Estate, Inc. 1993 So. Kihei Road-Suite 104 Kihei, Hawaii 96753	Real Estate	250.00		
12/10/91	Sports Shinko(Pukalani) Co., Inc. 360 Pukalani Street Pukalani, Hawaii 96768		500.00		
12/10/91	Ronald R. Takatsuka 745 Wailupe Drive Wailuku, Hawaii 96793		250.00		
12/10/91	Ralph & Norma Villiers 2738 Ohina Street Kihei, Hawaii 96753	Real Estate Broker	150.00		
12/10/91	Wailea Resorts Co., Ltd. 161 Wailea Ike Place Wailea, Hawaii 96753		200.00		
12/11/91	Arisumi, Beppu, Baldwin & Yogi P. O. Box 386 Wailuku, Hawaii 96793	Real Estate Investment	200.00		
			TOTAL COLUMN 1 $2,750.00	TOTAL COLUMN 2 -	NOTE IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1 SUBTOTAL of Contributions Over $100 This Page $2,750.00

2 TOTAL This Period (last page this line only) .....

9 4 0 4 3 5 8 4 8 2 4

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION / IF A MINOR ENTER NAME OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) NAME OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
12/11/91	Dairy Road Shell 370 Dairy Road Kahului, Hawaii 96732		250.00		
12/11/91	Hotel Corp. of the Pacific, Inc. Agent for Maui Lu Resorts 2255 Kuhio Avenue - Suite 1800 Honolulu, Hawaii 96815-2658		250.00		
12/11/91	Albert C. Kobayashi, Inc. Gentry Business Park 94-535 Ukee Street Waipahu, Hawaii 96797		250.00		
12/11/91	March Painting 291 Dairy Road Kahului, Hawaii 96732		250.00		
12/11/91	R & M Service Co., Inc. dba Maui Blocks P. O. Box 985 Wailuku, Hawaii 96793		200.00		
12/11/91	R. T. Tanaka Engineers, Inc. 871 Kolu Street - Suite 201 Wailuku, Hawaii 96793		1,000.00		
12/11/91	Bert & Margaret Toba 628 Liholiho Street Wailuku, Hawaii 96793	Engineer	150.00		
12/24/91	ILWU Hawaii Political Action Comm. 451 Atkinson Drive Honolulu, Hawaii 96814		250.00		
12/11/91	David H. Kakimura 324 Liholiho Street Wailuku, Hawaii 96793	Attorney	250.00		
11/20/91	American Pacific Air, Inc. Kahului Airport Kahului, Hawaii 96732			180.00 Door Prize Plane Ride	
11/20/91	Ameritone-Maui 140 Alamaha Street Kahului, Hawaii 96732			125.00 Door Prize Gift Cert.(Paint)	
			TOTAL COLUMN 1 $2,850.00	TOTAL COLUMN 2 305.00	NOTE IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1 SUBTOTAL of Contributions Over $100 This Page $3,155.00

2 TOTAL This Period (last page this line only) .....

9404358482 5

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

AGGREGATE CONTRIBUTIONS OVER $100

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

DATE RECEIVED	NAME AND ADDRESS OF DONOR	OCCUPATION / IF A MINOR, ENTER NAME OF PARENT	(COLUMN 1) AMOUNT OF THIS CASH CONTRIBUTION	(COLUMN 2) VALUE OF THIS IN-KIND CONTRIBUTION / DESCRIPTION	(COLUMN 3) AGGREGATE TOTALS FROM DONOR
11/20/91	Ameritone-Maui 140 Alamaha Street Kahului, Hawaii 96732			64.95 Door Prize 1-Ladder	189.95
11/20/91	AMFAC/JMB HAWAII, INC. Kaanapali Lahaina, Hawaii 96761			200.00 Door Prize Set of Golf Clubs	450.00
11/20/91	Intercontinental Resort P. O. Box 779 Kihei , Hawaii 96753			200.00 Door Prize N/Y Eve Package	
11/20/91	Intercontinental Resort P. O. Box 779 Kihei, Hawaii 96753			80.00 Door Prize Dinner for 2	280.00
11/20/91	Mills/Dowling 1997 E. Main Street Wailuku, Hawaii 96793			200.00 Door Prize Golf Travel Bag	
11/20/91	Waikapu Golf Course 2500 Honoapiilani Highway Wailuku, Hawaii 96793			140.00 Golf Prize 4 rounds of golf	
11/20/91	Wailea Golf Course 161 Wailea Ike Place Wailea, Hawaii 96753			260.00 Door Prize 4 rounds of golf	460.00
			TOTAL COLUMN 1: -	TOTAL COLUMN 2 $1,144.95	NOTE IN-KIND CONTRIBUTIONS ARE ALSO EXPENDITURES WHEN USED

1 SUBTOTAL of Contributions Over $100 This Page $1,144.95

2 TOTAL This Period (last page this line only) $13,399.95

9 4 0 4 3 5 8 4 8 2 6

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
8/01/91	Wailuku Hongwanji Mission Fujinkai Wailuku, Hawaii 96793	1/2 Page Ad-85th Anniversary Booklet	$110.00	-
8/01/91	Alice Kaahanui Kaunakakai, Hawaii 96748	Donation-Molokai Girls' Softball	100.00	-
8/19/91	Golf Plus, Inc. Waiehu Golf Course Wailuku, Hawaii 96793	Donation-Golf Prize	79.90	-
8/19/91	Emura Jewelry & Gift Shop 49 Market Street Wailuku, Hawaii 96793	Donation-Trophy for 1991 Sampaguita Ball	70.00	-
8/19/91	Pangasinan Association of Maui c/o E. Domingo 652 Kaimana Street Kahului, Hawaii 96732	Donation-Scholarship Fund	50.00	-
8/27/91	Golf Plus, inc. Waiehu Golf Course Wailuku, Hawaii 96793	Donation-Maui Hawaiian Golf Club	50.00	-
8/27/91	M & K Distributors, Inc. 760 Kolu Drive Wailuku, Hawaii 96793	Donation-Teachers' Ass'n	32.56	-
9/05/91	International Zen Dojo 3565 Kalihi Street Honolulu, Hawaii 96819	Donation-Golf Tourney	50.00	-
9/18/91	K. F. C. A., Inc. P. O. Box 1610 Kahului, Hawaii 96732	Full Page Ad-1991 Sampaguita Ball	130.00	-

1 Total Amount of Invoices Paid This Page $672.46

2 Total Amount of Invoices Received but Unpaid This Page ..... -

3 SUBTOTAL of Expenditures This Page (lines 1 & 2) $672.46

3a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

4 TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

9 4 0 4 3 5 8 4 8 2 7

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
9/23/91	VIP Foodserive, Inc. P. O. Box 517 Kahului, Hawaii 96732	Donation-Bulk Coconut Flakes to Filipino Assn	$149.76	-
10/04/91	Hamai Appliance 332 Wakea Avenue Kahului, Hawaii 96732	Donation-Golf Tournament	605.00	-
10/09/91	Fun Promotions, Etc. P. O. Box 854 Wailuku, Hawaii 96793	Advertising materials for campaign	448.24	-
10/09/91	Wailuku Postoffice Wailuku, Hawaii 96793	Postage Stamps	58.00	-
10/22/91	Golf Plus, Inc. Waiehu Golf Course Wailuku, Hawaii 96793	Donation-Gift Cert. to 15th Annual Haw'n Statewide Golf Tourney	50.00	-
10/23/91	Lahaina Fil-Am Golf Club Lahaina, Hawaii 96761	Donation-Golf Tourney	50.00	-
10/30/91	Maui Speed Print, Inc. 70 Central Avenue Wailuku, Hawaii 96793	Printing	9.36	-
11/07/91	Lei Kihm RR-1, Box 271F Wailuku, Hawaii 96793	Re-isbursement for postage stamps adv.	58.00	-
11/08/91	Molokai Goodwill Games Kaunakakai, Hawaii 96748	Donation-Golf Tournament	55.00	-

1 Total Amount of Invoices Paid This Page $1,483.36

2 Total Amount of Invoices Received but Unpaid This Page ..... -

3 SUBTOTAL of Expenditures This Page (lines 1 & 2) $1,483.36

3a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

4 TOTAL This Period (last page this line only) ..... -

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

9404358482 8

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
12/02/91	Fun Promotions, Etc. P. O. Box 854 Wailuku, Hawaii 96793	Promotional Materials(Calendars)	$569.40	-
12/06/91	Tri-O Farms-Maui 310 Hukilike Street Kahului, Hawaii 96732	Donation-Oranges for Kahului Filipino Catholic Club Xmas Party	52.50	-
12/09/91	Rick Medina 373 Liholiho Street Wailuku, Hawaii 96793	Re-imbursement-Molokai Trip Expenses	265.53	-
12/09/91	Maui News P. O. Box 550 Wailuku, Hawaii 96793	Ad	15.00	-
12/09/91	D. Morrell Lahaina, Hawaii 96761	Donation	50.00	-
12/16/91	Gwen Ohashi Maui County Council Services Wailuku, Hawaii 96793	Donation-Council Services Xmas party	30.00	-
12/16/91	Maui Kwik Photo Kaahumanu Center Kahului, Hawaii 96732	Black & White prints	16.46	-
12/18/91	Wayne Tanaka 453 So. Kam Avenue Kahului, Hawaii 96732	150 Wallet Size prints	100.00	-
12/26/91	Val Yanagida 412 Nihoa Street Kahului, Hawaii 96732	Re-imbursement for Postage Stamps adv.	58.00	-

1. Total Amount of Invoices Paid This Page $1,156.89

2. Total Amount of Invoices Received but Unpaid This Page ..... -

3. SUBTOTAL of Expenditures This Page (lines 1 & 2) $1,156.89

3a. Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

4. TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

9 4 0 4 3 5 8 4 8 2 9

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

EXPENDITURES

NAME OF CANDIDATE, COMMITTEE OR PARTY
FRIENDS OF RICK MEDINA

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
12/30/91	American Lung Association Wailuku, Hawaii 96793	Donation-12th Annual Superkids event	$25.00	-

1 Total Amount of Invoices Paid This Page $25.00

2 Total Amount of Invoices Received but Unpaid This Page ..... -

3 SUBTOTAL of Expenditures This Page (lines 1 & 2) $25.00

3a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

4 TOTAL This Period (last page this line only) $3,337.71

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column

9404358480

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

FUNDRAISING EXPENDITURES

NAME OF CANDIDATE OR COMMITTEE

FRIENDS OF RICK MEDINA
373 Liholiho Street
Wailuku, Hawaii 96793

TYPE OF EVENT & LOCATION: Cocktails/Pupus-Maui Sun Hot
DATE OF EVENT: 11/20/91
CHARGE PER PERSON: $25.00

INVOICE DATE	VENDOR NAME AND ADDRESS	PURPOSE & DESCRIPTION	AMOUNT OF INVOICE PAID THIS PERIOD	AMOUNT OF UNPAID INVOICE*
11/04/91	Maui News P. O. Box 550 Wailuku, Hawaii 96793	Fundraiser Ads	$367.50	-
11/20/91	American Pacific Air, Inc. Kahului Airport Kahului, Hawaii 96732	Door Prize-Plane Ride	180.00	-
11/20/91	Ameritone-Maui 140 Alamaha Street Kahului, Hawaii 96732	Door Prize-Gift Cert. for 5 gal. Paint	125.00	-
11/20/91	Ameritone-Maui 140 Alamaha Street Kahului, Hawaii 96732	Door Prize-Donation-Utility Ladder	64.95	-
11/20/91	AMFAC/JMB Hawaii, Inc. Kaanapali, Hawaii 96761	Door Prize-1 set of Golf Clubs	200.00	-
11/20/91	Four Winds Boat 101 No. Kihei Road Kihei, Hawaii 96753	Door Prize-Afternoon Snorkel to Molokini for 2	78.00	-
11/20/91	Hawaiian Reef Divers 129 Lahainaluna Road Lahaina, Hawaii 96761	Door Prize-Ride on Nautilus Semi-Submersible	39.95	-
11/20/91	Intercontinental Resort P. O. Box 779 Kihei , Hawaii 96753	Door Prize-New Years Package	200.00	-
11/20/91	Intercontinental Resort P. O. Box 779 Kihei, Hawaii 96753	Door Prize-Dinner for two at the Hula Moon Restaurant	80.00	-
11/20/91	Kaanapali Beach Hotel 2525 Kaanapali Parkway Kaanapali, Hawaii 96761	Door Prize-Sunday Brunch for two	70.52	-

1 Total amount of invoices paid this page $1,405.92

2 Total amount of invoices received but unpaid this page ..... -

3 SUBTOTAL of Expenditures this page (lines 1 & 2) $1,405.92

3a Total from Report of Expenditures of Public Funds (if applicable, last page this line only) ..... -

4 TOTAL This Period (last page this line only) .....

*If this is an unpaid invoice from last period being paid this period, show the amount being paid and same amount as a negative number this column.

9404358483 1

OGC 9667
RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

AUG 10 2 10 PM '93

Councilmember Pat Kawano

August 3, 1993

93 AUG 11 AM 10: 06

9 4 0 4 3 5 8 4 8 3 2

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

This is in response to the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories included with that letter. The documents were received on July 8, 1993.

The Campaign of Pat Kawano ("the Committee") clearly did not intend to violate the law. It received assurances at the time the contributions were made that Sports Shinko (Pukalani) Co., Ltd., ("Sports Shinko") had followed the legal requirements. These assurances were provided by Sports Shinko's attorneys.

The Committee has now been informed that the interpretation which we relied upon did not consider one of the Advisory Opinions cited in the Commission's Factual and Legal Analysis: A.O. 1990-8. The Committee is not familiar with the corporate structure of Sports Shinko and does not know the members of its board or its officers. Therefore, the Committee was not aware that foreign nationals had participated in making the contribution by selecting the people who decided on the contributions. The Committee accepted the contribution based on the assurances of Sports Shinko's counsel. However, based on the Factual and Legal Analysis, the Committee understands that Sports Shinko's board included only one American. Consequently, the Committee should not have accepted the contribution since the Federal Election Commission in the

Paid for by Friends of Pat Kawano / P.O. Box 201 / Kaunakakai, Hawaii 96748

opinion also bars foreign nationals from voting "on the selection of individuals to operate the [political action committee] and exercise decision-making authority with respect to PAC contributions and expenditures." The Committee will be returning the money contributed. Given the circumstances of this matter, we would request that the Federal Election Commission take no further action in this matter.

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. The Committee received the following contributions from Sports Shinko:

DATE	AMOUNT
10/13/90	$1000.00
12/9/89	$ 152.00 (in kind)

2. The Committee will be refunding $1152.00 to Sports Shinko.

3. I do not have any documents other than my campaign spending reports.

4. I am the candidate supported by the Committee.

Very truly yours,

Patrick S. Kawano

PATRICK S. KAWANO

Subscribed to and sworn to before me this 4th day of August, 1993.

Camille N. Sakamoto

Notary Public, State of Hawaii

My Commission Expires: 9-7-94

L.S.

9404358483

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

AUG 12 1 12 PM '93

OGC 9678

Friends of Vince Bagoyo
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

93 AUG 12 PM 3:14

August 4, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

This responds to the July 1, 1993 letter from Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories and document requests included with that letter. We received the correspondence on July 8, 1993.

We request that the Commission take no further action in this matter.

Friends of Vince Bagoyo, Jr. did not intend to violate the Federal Election laws and regulations. As indicated in its initial response to this complaint, we returned $1000.00 when Friends of Vince Bagoyo, Jr. became aware of the complaint. Since our initial response in this matter, Friends of Vince Bagoyo, Jr. has become aware that we inadvertently overlooked returning a subsequent $500.00 donation which was received in April 1991.

Friends of Vince Bagoyo, Jr. relied on an opinion from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. When the contribution was questioned in 1991, we requested an opinion from Sports Shinko's counsel. Sport Shinko's counsel assured us that the contribution was legal. Friends of Vince Bagoyo, Jr. nevertheless returned $1,000.00 to Sports Shinko on December 27, 1991.

9404358484 34

Counsel for Sports Shinko now informs us that its interpretation in 1990 and 1991 failed to consider Advisory Opinions 1990-8 and 1992-16 which are cited in the Commission's Factual and Legal Analysis.

Friends of Vince Bagoyo, Jr. was not aware of those advisory opinions and did not know whether foreign nationals affiliated with Sports Shinko had "participated" in making the contribution. Specifically, we did not have any knowledge that foreign nationals had participated in administering the contributions by designating the decision-makers for contributions. We had no knowledge of Sports Shinko's internal operations or its corporate structure. We accepted the contributions based on the assurances of Sports Shinko's counsel noted above.

We respectfully request that the Commission take no further action.

Very truly yours,

VINCE BAGOYO, JR.

Subscribed to and sworn to before me this 6th day of August, 1993.

Notary Public, State of Hawaii

My Commission Expires: 11/25/94

FEC53701.GCA

9404358835

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. Friends of Vince Bagoyo, Jr. ("the Committee") received the following contributions from Sports Shinko:

DATE	AMOUNT
10/13/90	$1000.00
4/18/91	$ 500.00

Copies of the checks are attached.

2. The Committee refunded $1000.00 to Sports Shinko on December 27, 1991. A copy of the check from the Committee to Sports Shinko is attached.

The Committee will be refunding $500.00 to Sports Shinko.

3. Attached are copies of relevant pages from the Committee's campaign spending reports and copies of the checks.

4. Vince Bagoyo, Jr. I was the candidate supported by the Committee. I obtained copies of documents from the treasurer of the Committee, Lloyd Kimura.

9404358436

LINDA CROCKETT LINGLE
Mayor
TELEPHONE 243-7855

MAUI COUNTY BOARD OF ETHICS
c/o DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY BUILDING
WAILUKU, MAUI, HAWAII 96793
TELEPHONE 243-7740

May 14, 1992

Honorable Joe S. Tanaka, Councilmember
Maui County Council
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

RE: **Dismissal of Board of Ethics Complaint No. 91-2**

Dear Mr. Tanaka:

This letter is to notify you that the above-referenced complaint filed against you with the Board of Ethics ("the Board") has been dismissed. The Board concluded that a violation of Article 10 of the Maui County Code could not be found.

A deleted opinion will be rendered in this matter and will be forwarded to you.

If you have any questions, feel free to contact the Board's Counsel, Maile Lu'uwai.

Sincerely,

Christine Hankinson
for

PAUL K. KANESHIRO
Chairperson for the
Board of Ethics
of the County of Maui

PKK:lc
c:\ethics\tanaka4

9404358483 7

Bank of Hawaii
WAILUKU BRANCH, WAILUKU, HAWAII

No. 02401 [illegible]

August 04, 19 93

PAY TO THE ORDER OF SPORTS SHINKO, $1,000.00

---ONE THOUSAND AND NO/100 ---------- DOLLARS

FRIENDS OF JOE TANAKA
P O BOX 1652 PHONE 877-0946
KAHULUI, HI 96732

For Reimbursement for Donation

⑈002401⑈ ⑆121301028⑆ 0060⑈038759⑈8 3 8 4 5 3 0 4 0 9

OGC 9684

• E • A •
Tanaka

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL COPY ROOM
Aug 13 10 29 AM '93

93 AUG 13 AM 11:15

9404358439

August 03, 1993

Mr. Mark Allen, Esq.
Assistant General Counsel
Federal Election Commision
999 E. Street, N.W.
Washington, D.C. 20463

RE: MUR 3460

Dear Mr. Allen:

This responds to the July 1, 1993 letter from Mr. Scott E. Thomas, Chairman of the Federal Election Commission, and the interrogatories included with that letter.

We respectfully request that the Commission take no further action in this matter. The Friends of Joe S. Tanaka ("the Committee") clearly did not intend to violate the Federal Election laws and regulations. As indicated in its initial response to this complaint, the Committee relied on an opinion from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") regarding the legality of the contribution. As Mr. Thomas notes in his letter, the Committee's reliance on such assurances is a mitigating factor.

The Committee has retained the contribution until this matter could be resolved. The Committee is prepared to return the contribution to Sports Shinko.

Advisory Opinions cited in the Commission's Factual and Legal Analysis indicate that the Commission has since settled whether a domestic subsidiary of a foreign national parent can make contributions is a local election. A domestic subsidiary can do so only if no foreign nationals participate even in the selection of the ultimate decision makers.

At the time of the contribution, the Committee was not aware that foreign nationals had participated in making the contribution by selecting the members of Sports Shinko's decision-making committee. Nor was the Comittee aware of who the directors and officers were of Sports Shinko. The Committee accepted the contribution based on the assurances of Sports Shinko's counsel.

P.O. Box 1652 • Kahului, Maui, HI 96732 • (808) 877-0946 • Fax (808) 877-5612

RESPONSE TO QUESTIONS AND DOCUMENT REQUESTS

1. The Committee received the following contributions from the Sports Shinko:

DATE	AMOUNT
10/13/90	$1,000.00

2. The Committee will be refunding $1,000.00.

3. Attached are correspondence related to Sports Shinko's contribution.

4. Joe S. Tanaka, I am the candidate supported by the Committee.

Very truly yours,

Joe S. Tanaka

Subscribed to and sworn to before me this 4 day of August, 1993.

LaDonna Goodwin
Notary Public, State of Hawaii

My Commission Expires: 4-23-97

LaDONNA GOODWIN
NOTARY PUBLIC
★
STATE OF HAWAII

2404358840

OGC 9825

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

2145 WELLS STREET

WELLS STREET PROFESSIONAL BUILDING, SUITE 201

POST OFFICE BOX 1086

WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4535

FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-8464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3365

August 27, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

We received a letter from Mr. Scott E. Thomas, chairperson of the Federal Election Commission ("FEC") on July 8, 1993. By letter dated July 29, 1993, we requested an extension of time from August 7, 1993 to August 30, 1993 to respond to the letter, interrogatories and document requests. By letter dated August 6, 1993, you granted our extension request.

This response is made jointly on behalf of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko Pukalani") and Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Enclosed are executed Statements of Designation of Counsel from the individual respondents.

Mr. Thomas' letter concludes that there is reason to believe that Sports Shinko Pukalani and the individual respondents violated 2 U.S.C. § 441e which bars contributions in any American election by foreign nationals. The FEC's analysis and factual findings conclude that foreign nationals participated in Sports Shinko Pukalani's decisions to make contributions.

We respectfully request that the FEC take no further action in this matter. As explained below, any violation by respondents was inadvertent and based on the advice of counsel.

9404358841

AM 9:37

I. FACTUAL BACKGROUND.

Sports Shinko Pukalani is a Hawaii corporation. It does business on the island of Maui as Pukalani Country Club. Respondent now has four directors, one of whom is lawfully admitted to the United States in a managerial capacity, one is a United States citizen, and two are citizens of Japan. Sports Shinko Pukalani has six officers (three of whom are also directors), of whom three are lawfully admitted to the United States in managerial capacities, and three are citizens of Japan.

Since its position, in its initial response dated January 15, 1992, was that the contributions were proper regardless of its parent-subsidiary and affiliated corporation relationships, Sports Shinko Pukalani stated that it was a wholly-owned subsidiary of a Japanese corporation. Sports Shinko Pukalani actually is the wholly owned subsidiary of Sports Shinko (Hawaii) Co., a Hawaii corporation. Sports Shinko (Hawaii) Co. is itself a wholly owned subsidiary of Sports Shinko (U.S.A.) Co., a Delaware corporation. Sports Shinko (U.S.A.) Co., in turn, is owned by thirteen Japanese corporations. Sports Shinko Pukalani receives no subsidies for its local operations from its parent, or its parent's parent, or the shareholders of its parent's parent.

Respondents relied on the opinion of counsel for Sports Shinko Pukalani in creating a committee to make contributions to community groups and political candidates in 1990. Respondents further relied on counsel's advice in implementing and administering such committee. Based on counsel's interpretation of then-current FEC Advisory Opinions regarding 2 U.S.C. § 441e, Sports Shinko Pukalani authorized Franklin K. Mukai, an American member of its Board of Directors, to serve as the sole member of the committee. Mr. Mukai was authorized to consult with B. Martin Luna, a United States citizen and a resident of Maui, who was appointed as a consultant to Mr. Mukai for civic and charitable matters. Mr. Mukai decided on charitable contributions for Maui and Pukalani charities, including a Sports Shinko Pukalani scholarship, as well as on political contributions for local elections. In addition, Sports Shinko Pukalani allocated fifty thousand dollars from its local revenues to fund these contributions. A formal corporate resolution was executed in 1992.

9 4 0 4 3 5 8 4 8 4 2

II. DISCUSSION.

Respondents, based on the advice of counsel, believed that they had complied with the requirements of the Federal Election Law by sufficiently insulating Sports Shinko Pukalani's foreign national directors and officers from decisions regarding the use of the charitable and political committee. The only "participation" by Sports Shinko Pukalani's foreign national directors was (1) designating American director Franklin K. Mukai as the person making decisions regarding the use of the committee funds and (2) approving the allocation of fifty thousand dollars in local revenues to fund the contributions. No foreign national was involved in decisions regarding individual donations or the amounts of such donations.

A. SPORTS SHINKO PUKALANI RELIED ON THE ADVICE OF COUNSEL BASED ON ADVISORY OPINIONS AVAILABLE PRIOR TO THE FORMATION OF ITS COMMITTEE.

Under the Federal Election laws and the accompanying regulations, foreign nationals are barred from making contributions, directly or through another person, in connection with any election to political office. 2 U.S.C. § 441e; 11 C.F.R. Section 110.4(1). As the FEC has concluded, Sports Shinko Pukalani is not a foreign national. The FEC has concluded, however, that it has reason to believe a violation of 2 U.S.C. § 441e nevertheless has occurred.

Sports Shinko Pukalani acted on the advice of counsel in forming its committee. Counsel's reading of then-existing advisory opinions suggested that under certain guidelines, contributions could be made legally. For example, Sports Shinko Pukalani believes it acted consistent with Advisory Opinion No. 1989-29 dated December 19, 1989. GEM of Hawaii, Inc. ("GEM"), the wholly owned subsidiary of a Japanese corporation sought an advisory opinion regarding its political action committee. AO No. 1989-29 at p. 1. GEM had three directors, two of whom were Japanese nationals. AO No. 1989-29 at p. 1. In that Advisory Opinion, certain principles were affirmed regarding the making of political contributions by domestic subsidiaries of foreign corporations:

9404358843

1. A foreign corporate parent and foreign nationals could not directly or indirectly provide funds for any contribution;

2. No foreign national could have any decision-making role or control with respect to the making of any political contribution by the subsidiary.

Subject to the conditions set out in Advisory Opinion No. 1989-20, "GEM itself may contribute to state and local campaign committees and to GEM PAC to the extent permitted by state and local laws." AO No. 1989-29 at p. 4.

The dissent in Advisory Opinion No. 1989-29 shows that Sports Shinko Pukalani had reason to believe that it was in compliance with the FEC's interpretation of the statute and regulations. In dissent, Chairman Danny L. McDonald and then-Commissioner Thomas questioned the reasoning and approach of the majority. Comparing the facts in the GEM situation and the decision in Advisory Opinion No. 1989-20 regarding Kuilima, another wholly-owned subsidiary of a foreign national corporation, the dissenters pointed out:

> There is one difference between these cases. In Kuilima, all of the directors of the subsidiary were foreign nationals. In GEM, all of the directors of the subsidiary are foreign nationals, save for one United States citizen who sits on the board of directors and is also a corporate officer. Advisory Opinion 1989-29 at 1. Apparently that makes all the difference to the majority in deciding whether foreign nationals exercise any influence on the political committee.

AO No. 1989-29 at p. 3 (dissent). The dissenters continued:

> This makes little sense in our opinion. Under the majority's test, foreign nationals must not "participate in any way in the decision-making process with regard to making the proposed contribution." Advisory Opinion 1989-20. We fail to see how a subsidiary can meet this test when,

9 4 0 4 3 5 8 8 4 4

> as here, foreign nationals comprise 66% of the subsidiary's board of directors. In both Kuilima and GEM, foreign nationals dominate the board of directors. . . [F]oreign national control of the board of directors and their participation in all of the subsidiary's substantive decisions seems both clear and inevitable.

AO No. 1989-29 at p. 4 (dissent). Based on GEM's corporate by-laws which required a majority of its board to act, the dissenters conclude:

> Presumably, decisions to expend corporate treasury monies to establish and administer a political committee, the appointment of committee personnel as well as a variety of other matters are all decisions required to be made by the board of directors. Since two votes are required to conduct business, these decisions could not be made without the participation of the foreign national board members.

As the dissent's arguments illustrate, Sports Shinko Pukalani's counsel reasonably read Advisory Opinion No. 1989-29 to mean that establishing a committee did not constitute "participation" barred by the resolution. Otherwise, Advisory Opinion No. 1989-29 allowing GEM to go forward with its proposed actions was illusory and merely invited GEM, and others with similar factual circumstances, to violate the federal election laws. Under Advisory Opinion No. 1989-29, it was reasonable for Sports Shinko Pukalani to believe that even with a board of directors made up of seventy-five percent foreign nationals, it could legally form a committee if foreign nationals were insulated from decision-making on individual contribution decisions.

Based on Advisory Opinion No. 1989-29 and previous Advisory Opinions setting out the same guidelines and conditions, Sports Shinko Pukalani proceeded to form a committee for charitable and political contributions.

9 4 0 4 3 5 8 8 4 5

In this case, the source of funds for Sports Shinko Pukalani's contributions were derived from its local revenues. Enclosed with Respondents' answers to interrogatories are financial statements for 1989, 1990, and 1991 showing revenue from its local golf course operations. Such revenue easily exceeded the amount allocated for charitable and political contributions and the amount of political contributions actually made. Thus, even under the standard discussed in Advisory Opinion No. 1992-16, Sports Shinko Pukalani complied with the first condition since it can demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by a foreign national parent, from which the contribution is made.

With regard to the second condition, decision-making authority for individual contributions and the amount of such contributions was delegated to Mr. Mukai, a United States citizen and a director. The officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Sports Shinko Pukalani's contributions to state and local elections. Under counsel's reading of Advisory Opinion No. 1989-29, Sports Shinko Pukalani complied with the second condition. As set forth in a letter from B. Martin Luna, Esq. to Jonathan Bernstein, Esq. dated January 10, 1992, Sports Shinko Pukalani received advice that "under certain specific guidelines", Sports Shinko Pukalani "could legally contribute funds to a candidate seeking, or an incumbent holding, State of local public office." As Mr. Luna recounts:

> Based on this understanding, Sports Shinko [Pukalani] authorized Frank Mukai in consultation with me to proceed with a program for charitable and political contributions. Under this authority, Mr. Mukai and I determined which public officials and charitable organizations on Maui would receive a contribution and the amount of the contribution.

Clearly, Sports Shinko Pukalani did not intend to circumvent the federal election laws in the formation and operation of its committee.

9 4 0 4 3 5 8 8 4 6

B. SPORTS SHINKO PUKALANI WAS UNAWARE OF LATER ADVISORY OPINIONS BARRING PARTICIPATION BY FOREIGN NATIONALS EVEN IN THE ESTABLISHMENT OF A COMMITTEE.

As set forth in Advisory Opinion Nos. 1990-8 and 1992-16, foreign national directors must refrain even from participating in the formation of a committee on contributions. AO No. 1990-8 at p. 1; AO No. 1992-16 at p. 3. As the FEC wrote:

> The Commission conditions its approval of your proposal not just on the basis that the members of CIT's Board who are foreign nationals will abstain from voting on matters concerning CITPAC and its activities, but also on the basis that they will abstain from voting on the selection of individuals to operate the PAC and exercise decision-making authority with respect to PAC contributions and expenditures.

AO No. 1990-8 at p. 2. Sports Shinko Pukalani was not aware of those advisory opinions. Since a quorum of Sports Shinko Pukalani's board would require the participation of its foreign national members, Sports Shinko Pukalani could not satisfy the guidelines announced in Advisory Opinion Nos. 1990-8 and 1992-16. Sports Shinko Pukalani would not have proceeded as it did had it been made aware of the later advisory opinions.

III. CONCLUSION.

Given the circumstances, we would request that the FEC take no further action. If the FEC is inclined to continue its investigation, respondents would request pre-probable cause conciliation in accordance with 11 C.F.R. § 111.18 in order to bring this matter to an amicable and mutually satisfying

9 4 0 4 3 5 8 8 4 7

conclusion. Certifications for the interrogatory answers will be forwarded to you when received from our clients.

Very truly yours,

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

cc: Sports Shinko (Pukalani) Co., Ltd.
Mr. Toshio Kinoshita
Mr. Takeshi Kinoshita
Mr. Koichi Soejima
Mr. Tomio Kawasaki
Mr. Franklin K. Mukai
B. Martin Luna, Esq.

FEC93820.GCA

9 4 0 4 3 5 8 4 8 4 8

QUESTIONS AND DOCUMENT REQUESTS TO SPORTS SHINKO PUKALANI

1. Identify all your officers and directors, including their nationality status, for the period of January 1, 1989 through the present, including the dates of their terms.

1/1/89-12/31/89

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Vice-President	Tomio Kawasaki	Japanese
Secretary	Tsugio Fukuda	Japanese
Secretary	Koichi Soejima	Japanese
Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Franklin K. Mukai	American
	Tomio Kawasaki	Japanese
	Koichi Soejima	Japanese

1/1/90-12/31/90

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Vice-President	Tomio Kawasaki	Japanese
Secretary	Tsugio Fukuda	Japanese
Secretary	Koichi Soejima	Japanese
Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Tomio Kawasaki	Japanese
	Koichi Soejima	Japanese

1/1/91-12/31/91

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

9 4 0 4 3 5 8 4 8 4 9

1/1/92-12/31/92

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

1/1/93-present

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

2. Identify all your management personnel, including their nationality status, for the period of January 1, 1989 through the present, including the dates of their terms.

1/1/89-present

Yasuo Nishida	Japanese admitted in a managerial capacity; general manager of Pukalani County Club.
Koroku Kaminmoto	American; golf course superintendent.
Amy L. Ishikawa-Ito	American; bookkeeper.

11/21/90-present

Ruth M. DePonte	American; restaurant manager.

3. Identify all persons and entities, including their nationality status, which directly or indirectly having ownership rights in you. Describe the interest held by each. Describe the relationship between/among these persons and/or entities.

9 4 0 4 3 5 8 4 8 5 0

Sports Shinko Pukalani is a wholly owned subsidiary of Sports Shinko (Hawaii) Co., Ltd. ("Sports Shinko Hawaii"). Sports Shinko Hawaii is a Hawaii corporation.

Sports Shinko Hawaii is a wholly owned subsidiary of Sports Shinko (U.S.A.) Co., Ltd. ("Sports Shinko U.S.A."). Sports Shinko U.S.A. is a Delaware corporation.

Sports Shinko U.S.A. is owned by the following Japanese corporations: Sports Shinko Co., Ltd., Takamatsu Sports Shinko Country Co., Ltd., Inagawakokusai Co., Ltd., Amagase Onsen Country Co., Ltd., Uresino Kanko Kaihatsu Co., Ltd., Suifu Kanko Co., Ltd., Misaki Country Co., Ltd., Suho Country Co., Ltd., Tsuyama Sports Shinko Country Co., Ltd., Boushu Kaihatsu Co., Ltd., Sanyo Kosan Co., Ltd. Kinoshita Kensetsu Co., Ltd., Higashinasu Country Club Co., Ltd.

4. If you are a subsidiary of another entity, do you receive any transfers from your parent? If so, for each such transfer for the period of January 1, 1989 through the present:

a. State the amount;
b. State the purpose;
c. Identify the bank and number of the account from which the transfer was made.

No. Sports Shinko has received no transfers from January 1, 1989 through the present.

5. For each transfer you have received from any other entity for the period January 1, 1989 through the present,

a. State the amount;
b. State the purpose;
c. Identify the source;
d. Identify the bank and number of the account from which the transfer was made.

In December of 1992, Sports Shinko Pukalani had a receivable of $1,094,543.05 from Sports Shinko Pukalani Development Co., Ltd. ("Sports Shinko Development"). Sports Shinko Development, through the sale of some real estate, reduced its payable to Sports Shinko Pukalani by the amount of $1,094,543.05. All of the transactions were done through Journal Entries. No cash was transferred. Sports Shinko Development is a wholly owned subsidiary of Sports Shinko Pukalani.

6. For each contribution made by you to federal, state and local candidates or committees since January 1, 1989,

2 4 0 4 3 5 8 4 8 5 1

a. Identify by date, amount and recipient;

b. Provide all related documents, including copies of contribution checks, check registers, payment requests, approval forms, cover letters, memoranda and correspondence;

c. State whether a refund was made by recipient; if so, state the date of the refund;

d. Provide all documents that refer in any way to communications to or from recipient, such as letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

a. Date	Amount	Recipient
10/13/90	$1000.00	Joe S. Tanaka
10/13/90	$ 500.00	Thomas P. Morrow
10/13/90	$1000.00	Goro Hokama
10/13/90	$1000.00	Alice Lee
10/13/90	$2000.00	Elmer F. Cravalho
10/13/90	$1000.00	Vince G. Bagoyo Jr.
10/13/90	$2000.00	John D. Waihee III
10/13/90	$1000.00	Patrick S. Kawano
10/13/90	$1000.00	Friends of David Morihara
10/13/90	$1000.00	Rick Medina
3/14/91	$1000.00	Friends of Rosalyn Baker
4/18/91	$ 500.00	Friends of Vince Bagoyo
11/18/91	$ 500.00	Rick Medina

Mr. Morihara never cashed the check and the transaction was voided.

b. The following documents are enclosed:

(1) Checks reflecting contributions as stated in our answer to Interrogatory 6(a).

(2) Checks Stubs for 1990 contributions.

(3) Letter from Mr. Y. Nishida to Bank of Hawaii, authorizing Franklin K. Mukai to execute checks on Account No. 65-009919.

(4) Receipt for refund of $1000.00 from Friends of Vince Bagoyo, Jr. dated January 20, 1992.

(5) Flyer dated March 14, 1991 from Friends of Vince Bagoyo.

(6) Letter dated November 7, 1991 from Friends of Rick Medina.

(7) Letter from Mr. Y. Nishida to Bank of Hawaii dated November 13, 1991, authorizing Franklin K. Mukai to execute checks on Account No. 065-009919.

(8) Balance Sheets as of December 31, 1989, December 31, 1990 and December 31, 1991 for Sports Shinko Pukalani.

c. Friends of Vince Bagoyo Jr. refunded $1000.00 in January 1992. Sports Shinko Pukalani recently received refund

9 4 0 4 3 5 8 4 8 5 2

checks of $1000.00 from Campaign for Goro Hokama, $500.00 from Friends of Vince Bagoyo Jr., and $1000.00 from Joe Tanaka. Rick Medina, Pat Kawano and Alice Lee have indicated that the contributions will be refunded.

d. All responsive documents in the custody and control of Sports Shinko Pukalani have been produced in response to interrogatory 6(b).

7. For each contribution identified above, describe each step of the process by which you made each contribution, including the identification (including nationality status) of the person who made and participated in the decision to make the contribution and the persons who carried out the contribution. For example, identify the person(s) who signed the contribution checks, the person(s) who approved the checks, and any person(s) who could have overrode such contribution decision made by the persons identified above.

Franklin K. Mukai decided on the amount of the contribution and the recipient of the contribution, in consultation with B. Martin Luna. Mr. Mukai and Mr. Luna are American citizens. The checks were issued by Sports Shinko's assistant treasurer, Yasuo Nishida. Ms. Ishikawa-Ito may have physically typed or printed the checks. Ms. Ishikawa-Ito is an American citizen. Mr. Nishida is a Japanese national. No person could override the contribution decision of Mr. Mukai. However, the Board has the option of revoking the authority given to Mr. Mukai.

As set out in Stanley D. Suyat, Esq.'s letter dated January 15, 1992 to Jonathan Bernstein, Esq., Mr. Nishida donated golf rounds to the Pat Kawano tournament without being aware that the event was political.

8. Identify by name, position, and nationality status each individual associated with Sports Shinko whose name or initials appear on any documents provided in response to questions 6 and 7.

Franklin K. Mukai, director and member of contribution committee, signed the checks. Mr. Mukai is an American.

Mr. Yasuo Nishida, assistant treasurer and general manager of Sports Shinko's Pukalani golf course operations at the time, issued the checks and signed the letter giving notice to the bank of Mr. Mukai's authority to sign checks. Mr. Nishida is a Japanese National admitted to the United States in a managerial capacity.

9 4 0 4 3 5 8 4 8 5 3

Amy L. Ishikawa-Ito signed the receipts. Ms. Ishikawa-Ito is an American. Ms. Ishikawa-Ito may have physically typed or printed the checks.

9. State whether you are required to file reports with any government agency. If so, provide copies of all such reports from the period January 1, 1989 to present.

Enclosed are copies of corporate statements filed with the State of Hawaii Department of Commerce and Consumer Affairs for 1989, 1990, 1991 and 1992.

Sports Shinko Pukalani also files annual reports with the Bureau of Alcohol, Tobacco and Firearms and the Liquor Commissioner for the County of Maui regarding its restaurant and bar operations at the golf course club house, and the Department of Transportation for the State of Hawaii for its airport greeting permit, and monthly reports to the Commission on Water Resources Management for the State of Hawaii regarding the amount of water it uses from a deepwell. Copies of such reports will be produced if required by the FEC.

10. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which each director signed the resolution.

Mr. Mukai is not sure of when he executed the resolution but he believes it was in late 1991 or early 1992. Mr. Mukai executed the document before it was sent to Japan and California for the other signatures.

Mr. Toshio Kinoshita, Mr. Koichi Soejima and Mr. Kawasaki signed the document in March 1992 in Japan. Mr. Takeshi Kinoshita executed the document in March 1992 in California.

11. For the period January 1, 1989 to the present, for each of all other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which each director signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

There are no other resolutions.

9 4 0 4 3 5 8 4 8 5 4

12. Identify the source of funds used to make the contributions identified above, including from which account (bank and account number) the contributions were made and the sources of funds for this account.

The funds came from Sports Shinko account no. 65-009919 at the Bank of Hawaii. The funds are from local revenues. In 1989 to 1991, Sports Shinko generated the following revenue from its golf course operations: $1,392,697.87, $1,757,715.82, and $2,713,308.14. Balance Sheets for the relevant years have been produced.

13. Identify the persons who supervise, manage, review, or are vested with the power to vote on the selection of, those person within the corporation with the authority to make contributions. Include the nationality status of each person identified.

Mr. Toshio Kinoshita	Japanese
Mr. Takeshi Kinoshita	Japanese admitted in a managerial capacity
Mr. Franklin K. Mukai	American
Mr. Iwane Yamamoto	Japanese

14. Produce all other documents in your possession that refer, relate, or in any way pertain to Sports Shinko contributions, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

All documents are included in our answers to interrogatories 6 and 9 above, except for Sports Shinko's initial response to the Federal Election Commission complaint.

15. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

Yasuo Nishida, Assistant Treasurer. Mr. Nishida has been with Sports Shinko Pukalani since 1987. Mr. Nishida transmitted information received from Mr. Tsugio Fukuda, Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Gilbert S. Coloma-Agaran, counsel.

SPORTS SHINKO (PUKALANI) CO., LTD.

By _____
Print
Name _____
Its:

9 4 0 4 3 5 8 4 8 5 5

QUESTIONS AND DOCUMENT REQUESTS TO INDIVIDUALS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

Mr. Toshio Kinoshita has been President and a Director of Sports Shinko Pukalani since January 1, 1989 to the present. Mr. Takeshi Kinoshita has been a Vice-President of Sports Shinko Pukalani since January 1, 1989 to the present and has been a Director since January 1, 1990 to the present. Mr. Koichi Soejima was a Secretary of Sports Shinko Pukalani and a Director from January 1, 1989 to December 31, 1991. Mr. Tomio Kawasaki was a Vice-President of Sports Shinko Pukalani and a Director from January 1, 1989 to December 31, 1991.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

The individuals directors cannot recall the exact date. However, based on when the executed resolution was sent to Hawaii, they believe the resolution was executed in March 1992.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

There are none.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

The individual directors have no documents responsive other than those produced by Sports Shinko Pukalani.

9 4 0 4 3 5 8 4 8 5 6

The above answers are true and correct to the best of my knowledge:

TOSHIO KINOSHITA

TAKESHI KINOSHITA

KOICHI SOEJIMA

TAMIO KAWASAKI

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____,
_____ of the United States of America at
_____, _____, duly commissioned
and qualified, do hereby certify that on this _____ day of
_____, 19___, before me personally appeared TOSHIO KINOSHITA, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, TOSHIO KINOSHITA duly acknowledged to me that TOSHIO KINOSHITA executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United
States of America

7 4 0 4 3 5 8 4 8 5 8

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

9 4 0 4 3 5 8 4 8 5 9

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

I, TAKESHI KINOSHITA, state that I have read the answers to interrogatories and that the answers are true and correct to the best of my knowledge.

_____
TAKESHI KINOSHITA

On this _____ day of _____, 19____, before me personally appeared TAKESHI KINOSHITA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

_____
Notary Public, in and for said
County and State

My commission expires:

7404358360

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____, _____ of the United States of America at _____, _____, duly commissioned and qualified, do hereby certify that on this _____ day of _____, 19___, before me personally appeared KOICHI SOEJIMA, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, KOICHI SOEJIMA duly acknowledged to me that KOICHI SOEJIMA executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United States of America

2404358486 1

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

9 4 0 4 3 5 8 4 8 6 2

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____, _____ of the United States of America at _____, _____, duly commissioned and qualified, do hereby certify that on this _____ day of _____, 19___, before me personally appeared TOMIO KAWASAKI, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, TOMIO KAWASAKI duly acknowledged to me that TOMIO KAWASAKI executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United States of America

7 4 0 4 3 5 8 4 8 6 3

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

7 4 0 4 3 5 8 4 8 6 4

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 19____, before me appeared _____ and _____, satisfactorily proven to me, who, by me duly sworn, did say that they are the _____ and _____, respectively, of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that the instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said Officers acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public, State of Hawaii

My commission expires:

94043584865

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____ Date

Tomio Kawasaki
Signature

RESPONDENT'S NAME: TOMIO KAWASAKI

ADDRESS: 525 Baba, Kaizuka-shi
Osaka-fu 597-01 Japan

TELEPHONE: HOME(0724) 46-0404

BUSINESS(_____)_____

9404358486 6

STATEMENT OF DESIGNATION OF COUNSEL

MUR_____

NAME OF COUNSEL: GRANT Y.N. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____ Date

Signature

RESPONDENT'S NAME: TAKESHI KINOSHITA

ADDRESS: _____

TELEPHONE: HOME(_____) _____

BUSINESS(_____) _____

9 4 0 4 3 5 8 4 8 6 7

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Nukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____ Date

Toshio Kimoshita
Signature

RESPONDENT'S NAME: TOSHIO KIMOSHITA

ADDRESS: 6-20-8, Seijo, Setagaya-ku
Tokyo 157 Japan

TELEPHONE: HOME(03) 3484-5833

BUSINESS(_____) _____

9404358484868

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date _____

Signature Koichi Soejima

RESPONDENT'S NAME: KOICHI SOEJIMA

ADDRESS: 4-4-21 Yamatonishi, Kawanishi-shi
Hyogo-ken 666-01 Japan

TELEPHONE: HOME (0727) 94-1621

BUSINESS (_____) _____

9404358486 9

9404 388 4870

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF
PUKALANI

59-102
1213

NO 2402

CHECK DATE	CHECK
10/13/98	2402

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

BAGOYO, VINCE G., JR.

1 cby Mike

AUTHORIZED SIGNATURE

⑈002402⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

To payee
4pc 60-047294

For deposit
BANK [illegible]
to the credit of

[illegible]

▶ 121301028 ◀
BANK OF HAWAII
ANNEX BRANCH DEPT.
HONOLULU, HI U.S.A.
▶ 121301023 ◀

[illegible] 24 90

9 4 0 4 3 5 8 4 8 7 1

10/24/90
121301028
03147330

9 4 0 4 3 5 8 4 8 7 2

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

90 107
1213

NO 2406

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/90	2406

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

KAWANO, PATRICK S.

PROCESSED 11/05/90 001110016

AUTHORIZED SIGNATURE

⑈002406⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 4 8 7 3

AMERICAN SAVINGS BK FSB HON, MI-
CO:11CC1b 597076 11/05/90

11/07/90

121301028

93068600

9 4 0 4 3 5 8 4 8 7 4

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

59-102
1213

NO 2405

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK
10/13/90	2405

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

HOKAMA, GORO

AUTHORIZED SIGNATURE

⑈002405⑈ ⑆121301028⑆ 0065⑈009419⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 4 8 7 5

For deposit only with
FIRST INTERSTATE BANK OF HAWAII
WAILUKU BRANCH
for the account of the payee
Acct. No. 108-37-3 [illegible]

→121301081←
First Interstate Bank
of Hawaii
[illegible]
Honolulu, Hawaii 96813

121301081

12/24/96
121301081
000007000

1 5 9 3 0 5 0 3 5 1

9 4 0 4 3 5 8 4 8 7 6

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

NO 2408

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/90	2408

CHECK AMOUNT
*****1,[illegible].00

PAY TO
ORDER
OF

LEE, ALICE

AUTHORIZED SIGNATURE

⑈002408⑈ ⑆122130102⑆ 0065⑈009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 4 8 7 7

>32137069 7<
110590
072000219280

11/07/90
121301028
93085445

PROPERTY OF
THE CHIEF OF PAYEE

9 4 0 4 3 5 8 4

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

59 102
1213

NO 2409

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/98	2409

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

MEDINA, RICK

AUTHORIZED SIGNATURE

⑈002409⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

9 4 0 4 3 5 8 4 8 7 9

Price Medine

For

PERIODICAL SAVINGS
ANNUAL BINDING
BS-EM

11 / 15 / 90
121301028
92302550

9 4 0 4 3 5 8 4 8 8 0

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50 107
1713

NO 2412

SPORTS SHINKO (Puk... ..., CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/90	2412

CHECK AMOUNT
*****1,000.00

PAY TO ORDER OF

TANAKA, JOE S.

AUTHORIZED SIGNATURE

⑈002412⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000100000⑇

Tanaka

County Council 2 5 3 0

P.O. Box 1082
Kahului, Maui, HI 96732

12/26/90
121301028
0222110

9 4 0 4 3 5 8 4 8 8 1

9 4 0 4 3 5 8 4 8 8 2

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

49 102
1213

NO 4136

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
11/18/91	4136

CHECK AMOUNT
$500.00

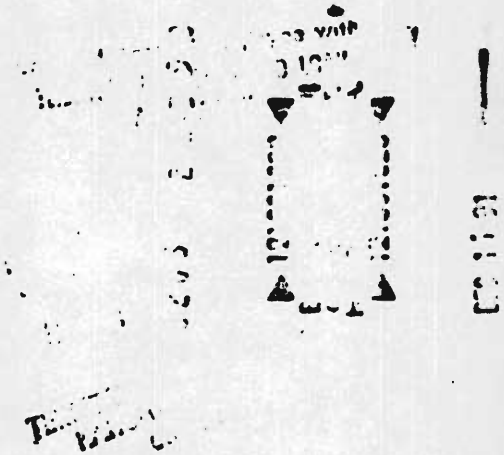
PAY TO
ORDER
OF

FRIENDS OF RICK MEDINA

AUTHORIZED SIGNATURE

⑈004136⑈ ⑆121301028⑆ 0065⑈009969⑈ ⑇0000050000⑇

9 4 0 4 3 5 8 4 8 8 3



12/11/91
12130102B
92307736

9 4 0 4 3 5 8 [illegible] 4

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-102
1213

NO 3036

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
03/14/91	3036

CHECK AMOUNT
******1,000.00

PAY TO
ORDER
OF

Friends of ROSALYN BAKER
P. O. Box 10394
Lahaina, Hawaii 96761

AUTHORIZED SIGNATURE

⑈003036⑈ ⑆122303028⑆ 0065⑈009919⑈ ⑈0000100000⑈

9 4 0 4 3 5 8 4 8 8 5

FOR DEPOSIT WITH
FIRST INTERSTATE BANK OF HAWAII
TO THE CREDIT OF
FRIENDS OF ROSALYN BAKER
18-108054

0725 81200

03/25/91
121301028
0000500

0020212403

NO 3178

SPORTS SHINKO (Pukalani) Co., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

3 4 0 4 3 5 8 PUKALANI BRANCH BANK OF HAWAII PUKALANI, HAWAII 6

59 102
1213

CHECK DATE	CHECK NO
04/18/91	3178

CHECK AMOUNT
*****500.00 ***

PAY TO
ORDER
OF

FRIENDS OF VINCE BAGOYO
ATTN: Mr. Lloyd Kimura
P. O. Box 123[illegible]
Wailuku, Maui, [illegible]ii 96793

AUTHORIZED SIGNATURE

⑈003178⑈ ⑆121301028⑆ 0065⑈009[illegible] 1⑈ ⑈0000050000⑈

9 4 0 4 3 5 8 4 8 8 7

For deposit to the
credit of Payee

0210 75923

▶ 191301029 ◀
▶ 121301028 ◀

MAY -7 91

92077232
121301028
05/07/91

9 4 0 4 3 5 8 4 8 8 8

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

NO 2404

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO.
10/13/90	2404

CHECK AMOUNT
*****2,000.00

CERTIFIED PACIFIC BANK
OF HAWAII
Cashier's Check
VC 2-0251 6

CRAVALHO, ELMER F. —PROCESSED— 30SEP1985

AUTHORIZED SIGNATURE

⑈002404⑈ ⑆121301026⑆ 0065⑈009919⑈ ⑈0000200000⑈

9 4 0 4 3 5 8 4 8 8 9

FOR DEPOSIT WITH
CENTRAL PACIFIC BANK
TO THE ORDER OF
Committee for Mayor Committee
AVG 30-02272 6

7 3 4 5

11/02/90
121301028
91047030

9 4 0 4 3 5 8 4 8 2 0

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

NO. 3036

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO.
03/14/91	3036

CHECK AMOUNT
******1,000.00

PAY TO
ORDER
OF

Friends of ROS[illegible] BAKER
P. O. Box 10394
Lahaina, Hawaii 96761

AUTHORIZED SIGNATURE

⑈003036⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 4 8 9 1

FOR DEPOSIT WITH
FIRST INTERSTATE BANK OF HAWAII
TO THE CREDIT OF
FRIENDS OF ROSALYN BAKER
18-108054

0725 87200

03/25/91
121301028
00050000

0020123403

9-404358-4892

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

NO. 2411

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO.
10/13/90	2411

CHECK AMOUNT
*******500.00

PAY TO
ORDER
OF

MORROW, THOMAS P.

65-009919

121301028

AUTHORIZED SIGNATURE

⑆121301028⑆0065⑈009919⑈ ⑈0000050000⑈

9 4 0 4 3 5 8 4 8 9 3

FOR DEPOSIT TO THE CREDIT OF
WITHIN NAMED PAYEE
50/25025

Acceptance of Endorsement
ALOHA NATIONAL BANK

▶1313-0031 4
BANK USA, N.A.
KIHEI, HI 96753

NOV 07 90

BANK USA, N.A.
▶1213-

9 4 0 4 3 5 8 4 8 9 4

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

48 NO 2413

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO.
10/13/98	2413

CHECK AMOUNT
*****2,000.00

PAY TO
ORDER
OF

WAIHEE, JOHN D. III

AUTHORIZED SIGNATURE

⑈002413⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000200000⑈

9 4 0 4 3 5 8 4 8 9 5

For deposit with
Citizens For Wallace, Inc.
Acct. # 831845 22

>321370697<
110590
0720002210 40

11/07/90
121301028
93085479

9 4 0 4 3 5 8 4 8 9 6

TANAKA, JOE S.

SPORTS SHINKO (PUKALANI) CO. LTD

2412

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
TANAKA	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2412	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

MORROW, THOMAS P.

SPORTS SHINKO (PUKALANI) CO. LTD

2411

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
MORROW	10/13/90		500.00	500.00	0.00	500.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2411	1 Only	0	500.00	500.00	0.00	500.00

9 4 0 4 3 5 8 4 8 9 7

HOKAMA, GORO

SPORTS SHINKO (PUKALANI) CO. LTD

2405

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
HOKAMA	10/13/90		1,000.00	1,000.00	0.00	1,000.00
CHECK NO	SEQ NO	VENDOR #		TOTALS		
2405	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

CRAVALHO, ELMER F.

SPORTS SHINKO (PUKALANI) CO. LTD

2404

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
CRAVALH	10/13/90		2,000.00	2,000.00	0.00	2,000.00
CHECK NO	SEQ NO	VENDOR #		TOTALS		
2404	1 Only	0	2,000.00	2,000.00	0.00	2,000.00

CHARLES, HERBERT H.F. JR. 9 4 0 4 3 5 8 4 8 9 8 SPORTS SHINKO (PUKALANI) CO. LTD 2403

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
CHARLES	10/13/90		500.00	500.00	0.00	500.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2403	1 Only	0	500.00	500.00	0.00	500.00

BAGOYO, VINCE G., JR. H SPORTS SHINKO (PUKALANI) CO. LTD 2402 H

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
BAGOYO	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2402	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

WAIHEE, JOHN D. III 9 4 0 4 3 5 8 4 8 9 9 SPORTS SHINKO (PUKALANI) CO LTD 2413

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
WAIHEE	10/13/90		2,000.00	2,000.00	0.00	2,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2413	1 Only	0	2,000.00	2,000.00	0.00	2,000.00

KAWANO, PATRICK S. SPORTS SHINKO (PUKALANI) CO., LTD. 2406

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
KAWANO	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2406	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

MORTHAR, DAVID M. 9 4 0 4 3 5 8 4 9 0 0 SPORTS SHINKO (PUKALANI) CO. LTD 2410

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
MORTHAR	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2410	1-Only	0	1,000.00	1,000.00	0.00	1,000.00

MEDINA, RICK SPORTS SHINKO (PUKALANI) CO. LTD 2409

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
MEDINA	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2409	1-Only	0	1,000.00	1,000.00	0.00	1,000.00

PUKALANI COUNTRY CLUB
(SPORTS SHINKO CIRCLE)

[illegible] PUKALANI STREET
PUKALANI MALL
HAWAII 96768
TEL [illegible]

Bank of Hawaii
Pukalani Branch
55 Pukalani St.
Pukalani, Hawaii 96768

Re: SPORTS SHINKO (PUKALANI) Co., Ltd.
Checking Account No. 0065-009919

Gentlemen:

I will be off the island during the period of October 15, 1990 through October 21, 1990. During this period, please accept this letter as authorization for Franklin Mukai to sign any checks on the above-mentioned account.

Mr. Mukai, partner of Carlsmith, Ball, Wichman, Case, Mukai and Ichiki can be reached at 523-2500.

A speciman of his signature is shown below.

If there are any questions, please do not hesitate to contact me at 572-1336, the morning of October 15, 1990.

Your cooperation on this matter is greatly appreciated.

Very truly yours,

Yasuo Nishida
General Manager

FRANKLIN MUKAI

9 4 0 4 3 5 8 4 9 0 1

DATE 01-17 1992 No. 0257

RECEIVED FROM Yamamoto

ADDRESS

DOLLARS $ 20.00

FOR Gle

AMT. OF ACCOUNT			CASH	
AMT. PAID			CHECK	
BALANCE DUE			MONEY ORDER	

BY [illegible]

DATE 01-18 1992 No.

RECEIVED FROM Gwen Kapielani

ADDRESS

DOLLARS $ 750.00

FOR A/R FM JTS

AMT. OF ACCOUNT			CASH	
AMT. PAID			CHECK	8733
BALANCE DUE			MONEY ORDER	

BY [illegible]

DATE 01-20 1992 No.

RECEIVED FROM Friends of Vivian Balogo Jr.

ADDRESS

DOLLARS $ 1,000.00

FOR Refund of Contribution made 10/90

AMT. OF ACCOUNT			CASH	
AMT. PAID			CHECK	1136
BALANCE DUE			MONEY ORDER	

BY [illegible]

DATE 01-22 1992 No.

RECEIVED FROM Rainbow Baby Club

ADDRESS

DOLLARS $ 4.00

FOR A/R

AMT. OF ACCOUNT			CASH	
AMT. PAID			CHECK	5258
BALANCE DUE			MONEY ORDER	

BY [illegible]

9404358490 2

BAGOYO COUNCIL®
P.O. Box 1235, Wailuku, Hawaii 96793

March 14, 1991

To our FRIENDS and SUPPORTERS,

As all of you know, it takes a lot of time and money to run for political office. Your help resulted in one of the most successful campaigns, and helped Vince accomplish one of the biggest voter turn out for a rookie. He is currently the Chairman of the Land Use and Economic Development Committee and has been a great champion for the Maui people in recent issues. We all hope that you feel the way we do; "Lets keep BAGOYO in office"!

Vince is having his annual golf tournament on June 8, 1991 (See attached application), and he needs your help again. We are looking for volunteers to help with the tournament, prize donations and Sponsors. To be an "ALII" Sponsor a $500.00 contribution is requested which will include entry for a three man team. If you do not play golf a $300.00 donation entitles you and a guest to attend the awards banquet. Any prize contributions should be in multiples of three because of the golfing format. If you would like to volunteer and help with the tournament please call Margo at 661-7070 or Lloyd Kimura 242-9100.

We appreciate your support and help with this event. It's going to be a lot of fun for a great cause. Mahalo!

THANKS! FROM THE 'FRIENDS OF VINCE BAGOYO'!

9404358490 3

Paid for by the Friends of Vince Bagoyo, Jr.
P.O. Box 1235, Wailuku, HI 96793
Chairperson Elizabeth Ayson

GIMA·YOSHIMORI
MIYABARA·DEGUCHI
ARCHITECTS INC

STANLEY S. GIMA AIA
Chairman
ALVIN M. YOSHIMORI AIA
President
RICHARD H. MIYABARA AIA
Vice President
WESLEY H. DEGUCHI AIA
Secretary/Treasurer
RICHARD KANADA
ALVIN M. SAKUMORI
Senior Associates
TACAR T. SAKAZAKI
CLYDE H. MORIMOTO
Associates

November 7, 1991

Mr. Yasuo Nishida
Sports Shinko Group
360 Pukalani Street
Pukalani, Hawaii 96768

Dear Mr. Nishida:

Subject: Rick's Mid-Week Break

Councilman Rick Medina is seeking reelection to the Council in 1992. We have asked him to run for office, as we feel his record over the years has earned our confidence and support.

To help Rick in his bid for a Central Maui District seat, we are having a fundraiser on Wednesday, November 20, 1991, at the new Maui Sun Hotel Banquet Hall, at 5:30 p.m. The tickets are $25.00 (donation) and will be available through his campaign committee, and at the door.

We are requesting for door prizes, and will be most appreciative of your contribution. We hope that you will be able to donate 4 rounds of golf at Pukalani Country Club. All donations will be acknowledged.

Also, please join us at "Rick's Mid-Week Break,"...relax, listen to good music, share food, refreshments and engage in stimulating conversation!

Mahalo for your continued support.

Sincerely,

Alvin M. Yoshimori
Coordinator
Friends of Rick Medina

ls

9404358490 4

MAUI: [illegible] Street Professional Ctr Suite 303 2145 Wells Street Wailuku, Maui, HI 96793 Phone (808) 242-4666 Fax (808) 242-4675
OAHU: Phone (808) 533-[illegible] Fax (808) 533-0651

PUKALANI COUNTRY CLUB

PUKALANI COUNTRY CLUB
(SPORTS SHINKO GROUP)

[illegible] PUKALANI STREET
PUKALANI, MAUI
HAWAII 96768
TEL: [illegible]

NOVEMBER 13, 1991

Bank of Hawaii
Pukalani Branch
55 Pukalani Street
Pukalani, Hi. - 96768

Re: SPORTS SHINKO (PUKALANI) CO., LTD.
Checking Account No. 0065-009919

Gentlemen:

Please be advised that Mr. Franklin Mukai (specimen signature below) will be authorized to sign checks on the above mentioned Sports Shinko checking account for the duration of November 14, 1991 to November 19, 1991.

Mr. Mukai, a partner of Carlsmith, Ball, Wichman, Case, Mukai and Ichiki can be reached at 523-2500.

If there are any further questions, please do not hesitate to contact me at 572-1336 before November 14, 1991.

Your cooperation on this matter is greatly appreciated.

Very truly yours,

Yasuo Nishida
General Manager

FRANKLIN MUKAI

9404358490 5

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO:
FILING FEE $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 31
PENALTY FOR LATE FILING

Your cancelled check is your receipt

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1989

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS:

(To correct, line out and print corrections below. If inactive during the period, state INACTIVE.)

Golf Course Operation

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) (INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE)
P/D	Toshio Kinoshita	6-20-8 Seijo Sezagaya Ku Tokyo Japan
V	Takeshi Kinoshita	13749 Condesa Drive, Del Mar, Ca. 92014
S	Tsugio Fukuda	2-22-7 Nakamura Nerima-Ku Tokyo 176 Japan
T	Yasuo Nishida	160 Hoauna St., Wailuku, Hi 96793
D	Franklin K. Mukai	1140 Waiholo St., Honolulu, Hawaii 96821

9404358

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[x] The above information is true and correct with changes so noted.

DATE: _____ _____ Treasurer
SIGNATURE OF AUTHORIZED OFFICER, (OFFICE HELD)
(If Attorney-in-fact signs, attach power of attorney)

FILE NO. 0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your records.
Rev. 12/89 (see reverse side for instructions) 018-0015-10
018-0015-17

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO:
FILING FEE: $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 31
PENALTY FOR LATE FILING

Your cancelled check is your receipt

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1990

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS:
GOLF COURSE OPERATION
(To correct, line out and print corrections below. If inactive during the period, state INACTIVE.)

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of one individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	MAILING ADDRESS (DO NOT LIST BUSINESS ADDRESS) (INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE)
•P/D	KINOSHITA,TOSHIO	6-20-8 SEIJO SETAGAY TOKYO JAPAN
•V	KINOSHITA,TAKESHI	13740 GERBERA DR DEL MAR CA 92014
•S	FUKUDA,TSUGIO	2-22-7 NAKAMURA NERI TOKYO 176 JA
•T	NISHIDA,YASUO	160 HANAMA ST WAILUKU HI 96793
•D	NUKAI,FRANKLIN K	1140 WAINELO ST HON HI 96821
V/D	KAWASAKI, Tomio	515 Baba Kaizuka-Shi Osaka, Japan
S/D	SOEJIMA, Koichi	581 Kamoku St., #908, Honolulu, Hi 96826

9404358

Do-34
Sullivan

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE:_____ _____ _____

SIGNATURE OF AUTHORIZED OFFICER, (OFFICE HELD)
(If Attorney-in-fact signs, attach power of attorney)

FILE NO.0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your records.)
Rev. 12/90 (see reverse side for instructions)

B17
B22

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO:
FILING FEE: $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 31
PENALTY FOR LATE FILING

Your cancelled check is your receipt

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1991

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS:

GOLF COURSE OPERATION

(To correct, line out and print corrections below. If inactive during the period, mark INACTIVE.)

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE
*P/D/Z	KINOSHITA,TOSHIO	6-20-8 SEIJO SETAGAY TOKYO JAPAN
*V	KINOSHITA,TAKESHI	13740 CONDESA DR DEL MAR CA 92014
*S,T	FUKUDA,TSUGIO	2-22-7 NAKAMURA NERI TOKYO 176 JA
*AT	NISHIDA,YASUO	180 HOAUNA ST WAILUKU HI 96792
*D	NUKAI,FRANKLIN K	1140 WAIMOLO ST HON HI 96821
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
S/D	YAMAMOTO, Iwane	5-45-2 Matsubara, Setagayaku, Tokyo Japan
AS	TSUJIMOTO, Takaya	1661 Pee Rd. #4204, Koloa, Kauai, Hawaii 96756

2 4 0 4 3

Doozy
Sylvest

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE: _____

_____ SIGNATURE OF AUTHORIZED OFFICER, (If Attorney-in-fact sign, attach power of attorney) _____ (OFFICE HELD)

FILE NO.0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your records.)
Rev. 12/90 (See reverse side for instructions)

B17
B22

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO:
FILING FEE: $15.00

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 31
PENALTY FOR LATE FILING

Your cancelled check is your receip

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1992

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS:
GOLF COURSE OPERATION
(To correct, line out and print corrections below. If inactive during the period, mark INACTIVE.)

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	PRESENT ADDRESS (DO NOT LIST BUSINESS ADDRESS) STREET NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE	
*P/D	KINOSHITA, TOSHIO	6-20-8 SEIJO SETAGAYA-KU	TOKYO JAPAN
*V/D	KINOSHITA, TAKESHI	12740 CONCESA DR	DEL MAR CA 92014
	FUKUDA, TSUGIO	2-22-7 NAKAMURA NERIMA-KU	TOKYO 176 JA
*AT	NISHIDA, YASUO	189 HIAMPA ST	MAILUKU HI 96793
*S	MUKAI, FRANKLIN K	1149 WAIOLOLO ST	HON HI 96821
*S/D	YAMAMOT, IWAME	5-45-2 MATSUBARA	SETAGAYAKU TOKYO JA
*AS	TSUJIMOTO, TAKUYA	1661 PEE RD #4204	KOLOA KAUAI HI 96756

9 4 0 4 3 5 8 9

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS
[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE: Feb 18, 1993

Jane Nishida
SIGNATURE OF AUTHORIZED OFFICER,
(If attorney-in-fact signs, attach power of attorney)

Assistant Treasurer
(OFFICE HELD)

FILE NO.0069566D1
Rev. 12/90

(File this original copy. Photo copy will not be accepted. Keep photo copy for your records.
(see reverse side for instructions)

B17
B22

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 16, 1993

Mr. Joe Tanaka
Friends of Joe Tanaka
213 Niihau Street
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Joe Tanaka

Dear Mr. Tanaka:

Thank you for your August 3, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contribution you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on October 13, 1990, please describe in detail the solicitation of the contribution, the transmittal of the contribution check to your committee or you, and whether the contribution was made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contribution and describe their role(s). Finally, please describe the opinion from Sports Shinko regarding the legality of the contribution that you cite in your August 3, 1993 response, and the method by which this opinion was communicated to you.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

.SEPTEMBER 16, 1993

Ms. Alice Lee
Friends of Alice Lee
Post Office Box 1606
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Alice Lee

Dear Ms. Lee:

Thank you for your August 3, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contribution you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on October 13, 1990, please describe in detail the solicitation of the contribution, the transmittal of the contribution check to your committee or you, and whether the contribution was made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contribution and describe their role(s). Finally, please describe the opinion from Sports Shinko regarding the legality of the contribution that you cite in your August 3, 1993 response, and the method by which this opinion was communicated to you.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 16, 1993

Mr. Goro Hokama
Campaign of Goro Hokama
Box H
Lanai City, Hawaii 96753

RE: MUR 3460
Campaign of Goro Hokama

Dear Mr. Hokama:

Thank you for your August 3, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contribution you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on December 21, 1990, please describe in detail the solicitation of the contribution, the transmittal of the contribution check to your committee or you, and whether the contribution was made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contribution and describe their role(s). Finally, please describe the opinion from Sports Shinko regarding the legality of the contribution that you cite in your August 3, 1993 response, and the method by which this opinion was communicated to you.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 16, 1993

Patrick S. Kawano
Campaign of Pat Kawano
200 S. High Street
Wailuku, Hawaii 96793

RE: MUR 3460
Campaign of Pat Kawano

Dear Mr. Kawano:

Thank you for your August 3, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contribution you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on October 13, 1990, please describe in detail the solicitation of the contribution, the transmittal of the contribution check to your committee or you, and whether the contribution was made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contribution and describe their role(s). Finally, please describe the assurances from Sports Shinko regarding the legality of the contribution that you cite in your August 3, 1993 response, and the method by which the assurances were communicated to your committee.

In addition, please describe the circumstances of the December 9, 1989 in-kind contribution from Sports Shinko.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 16, 1993

Mr. Rick Medina
Friends of Rick Medina
373 Liholiho St.
Wailuku, Hawaii 96793

RE: MUR 3460
Friends of Rick Medina

Dear Mr. Medina:

Thank you for your August 3, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contributions you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on October 13, 1990 and November 18, 1991, please describe in detail the solicitations of the contributions, the transmittal of the contribution checks to your committee or you, and whether the contributions were made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contributions and describe their role(s). Finally, please describe the opinion from Sports Shinko regarding the legality of the contribution that you cite in your August 3, 1993 response, and the method by which this opinion was communicated to you.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 16, 1993

Mr. Vince Bagoyo, Jr.
Friends of Vince Bagoyo
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

RE: MUR 3460
Friends of Vince Bagoyo

Dear Mr. Bagoyo:

Thank you for your August 4, 1993 response to the Commission's interrogatories and document requests. So that we can understand the circumstances of the contributions you received from Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") on October 13, 1990, and April 18, 1991, please describe in detail the solicitations of the contributions, the transmittal of the contribution checks to your committee or you, and whether the contributions were made in connection with a fundraising event. Please also identify all individuals connected with Sports Shinko involved in activity related to the contributions and describe their role(s). Finally, please describe the opinion from Sports Shinko regarding the legality of the contribution that you cite in your August 4, 1993 response, and the method by which this opinion was communicated to you.

Please submit your response within 30 days of receipt of this letter. If you would prefer to discuss this issue by telephone or if you have any questions, please contact me or Jonathan Bernstein at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358491 5

OGC 0173

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COMPUTER ROOM

OCT 19 12 48 AM '93

October 15, 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 OCT 19 PM 3:35

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: **MUR 3460**

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to my campaign on October 13, 1990.

First, my campaign did not solicit the October 1990 contribution. I do not believe that a campaign fundraising event was scheduled or held after the primary election in 1990. Consequently, I do not remember how the contribution was transmitted or who received the contribution on behalf of the campaign committee.

Second, Martin Luna informed me orally that Sports Shinko's contribution complied with federal election laws when asked about the contribution sometime before Mr. Barr's complaint. Mr. Luna confirmed this opinion shortly after I received a copy of Mr. Barr's complaint. I do not recall the details of Mr. Luna's opinion other than assurance that Sports Shinko had followed the law in making the contribution.

I hope the above provides you more insight on this matter.

Very truly yours,

Goro Hokama

GORO HOKAMA

9404358491 6

OGC 0237

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
Oct 25 4 56 PM '93

RECEIVED
FEDERAL ELECTION COMMISSION
93 OCT 25 PM 3:35

Councilmember Pat Kawano

October 15, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: MUR 3460

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to the Campaign of Pat Kawano on October 13, 1990 and in kind contribution on December 9, 1989.

The 1990 contribution was not solicited by my campaign. I do not recall how the check was transmitted or received. According to Mr. B. Martin Luna, Sports Shinko's local attorney and representative, the $1,000 contributed in October 1990 to the campaign complied with federal campaign spending laws. Mr. Luna conveyed this opinion to me orally shortly after the contribution was made. The campaign reported the contribution to the State of Hawaii Campaign Spending Commission. In connection with my August 3, 1993 response, Gil Coloma-Agaran, Esq., counsel for Sports Shinko explained how the opinion given by Mr. Luna differed from the interpretation of the Federal Election Commission.

The December 9, 1989 in-kind contribution consisted of four complimentary golf passes were solicited by the campaign as door prizes for a golf tournament fundraiser. I do not recall who made the solicitation or who was contacted at Pukalani Country Club.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Patrick S. Kawano

Paid for by Friends of Pat Kawano / P.O. Box 201 / Kaunakakai, Hawaii 96748

9404358491 7

OGC 0184

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL COPY ROOM

Oct 21 10 18 AM '93

FRIENDS OF ALICE LEE
Post Office Box 1606
Kahului, Hawaii 96732

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
93 OCT 21 PM 10: 13

October 18, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: MUR 3460

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to Friends of Alice Lee in the fall of 1990.

The contribution was not solicited by Friends of Alice Lee. I do not recall and the records of the committee do not indicate how the contribution was transmitted or received.

As set forth in my letter dated January 2, 1991, the substance of the representation was as follows:

> According to Mr. B. Martin Luna, the attorney and representative for Sports Shinko on Maui, the $1,000 contribution to the Friends of Alice Lee was done in accordance with federal campaign spending laws.

This representation was conveyed to me orally when I received the contribution and before I was served with a copy of the complaint in this matter. As stated in that same letter, the contribution was duly and properly reported to the State of Hawaii Campaign Spending Commission.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

ALICE L. LEE

9 4 0 4 3 5 8 4 9 1 8

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

Oct 22 12 27 AM '93

Mr. Joe Tanaka
Friends of Joe Tanaka
213 Wiihau Street
Kahului, Hawaii 96732

RECEIVED
FEDERAL ELECTION COMMISSION
93 OCT 23 AM 12: 05

October 18, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: MUR 3460

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to Friends of Joe Tanaka on October 13, 1990.

My campaign did not solicit the October 1990 contribution. I do not remember how the contribution was transmitted or who received the contribution on behalf of the campaign committee. Mr. B. Martin Luna informed me orally that the $1,000 contribution complied with federal campaign spending laws. Mr. Luna confirmed this opinion again orally shortly after I received a copy of Mr. Barr's complaint. However, I do not recall the details of Mr. Luna's opinion.

Please let me know if you have any further questions.

Very truly yours,

JOE TANAKA

9404358919

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
RECEIVED
93 OCT 25 PM 3:33

OGC 0228

RICK MEDINA/COUNCILMAN

October 18, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: MUR 3460

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to Friends of Rick Medina in the fall of 1990 and 1991.

1. Solicitation of Contributions

The records of the committee do not indicate that the contribution of $1,000 in October 1990 was associated with a fundraiser. I cannot recall but do not believe that the October 1990 contribution was solicited by the committee. The committee did hold a fundraiser on October 17, 1993 at Wailuku Community Center. As indicated on a general flyer for the event, tickets were $10.00 each and could be obtained by calling the campaign headquarters. A copy of the flyer is attached. Since Sports Shinko had never contributed in the past, I do not believe a flyer was sent in connection with the October 17, 1990 event.

Based on a copy of a letter in the committee's records, the second contribution was apparently made in response to a request for the donation of golf rounds as door prizes for a fundraiser. On November 7, 1991, in connection with a $25 per ticket fundraiser at the Maui Sun Hotel, Alvin Yoshimori, a coordinator for Friends of Rick Medina, apparently

9404358492 0

wrote to Mr. Yasuo Nishida of Sport Shinko to request a donation of four golf rounds at Pukalani Country Club. Mr. Yoshimori understood Mr. Nishida to be the General Manager of the golf course and would be able to forward the request to the appropriate person. A copy of the letter is enclosed. Instead of the golf rounds requested, Sports Shinko contributed $500.

2. Transmission of Contribution Check

The records of the committee do not indicate how the checks were received. I believe that the 1990 check may have been hand delivered by Mr. B. Martin Luna, Esq., attorney and representative for Sports Shinko on Maui. I do not recall if I received the check directly from Mr. Luna or whether it was given to a member of the committee. I do not know how the 1991 check was transmitted by Sports Shinko.

3. Opinion from Sports Shinko regarding the legality of the contribution

As stated in my initial response in this matter dated December 31, 1991, at the time of the contribution or shortly thereafter, B. Martin Luna, Esq., legal counsel and representative for Sports Shinko on Maui, assured me orally that the $1,000 contribution to the Friends of Rick Medina complied with federal campaign spending laws. A letter confirming this representation was sent to me after I received a copy of Mr. Barr's complaint in this matter. As set forth by Mr. Luna:

> We informed you and several others who inquired at that time that these campaign contributions were made in accordance with the applicable federal campaign spending laws and guidelines. . . .
>
> Specifically, Sports Shinko (Pukalani) Co., Ltd. is a Hawaii corporation, duly registered to do business in the State of Hawaii. Funds used for the purpose of campaign contributions were made by an American citizen.

9 4 0 4 3 5 8 4 9 2 1

A copy of that letter was enclosed with my December 31, 1991 and August 3, 1993 responses. Another copy is enclosed. The contribution was duly and properly reported to the State of Hawaii Campaign Spending Commission.

Upon receipt of the July 1, 1993 letter from the Federal Election Commission ("FEC"), Gil Coloma-Agaran, Esq., attorney for Sports Shinko explained how the FEC interpretation contradicted and differed from the original opinion of Sports Shinko's counsel.

If I can provide further information, please do not hesitate to contact me.

Very truly yours,

Rick Medina

Rick Medina
Councilmember

9 4 0 4 3 5 8 4 9 2 2

RICK MEDINA/COUNCILMAN

We cordially invite you to a mid-week break with Councilmember Rick Medina, who is seeking re-election to the Council from Central Maui.

Mark your calendars now and make plans to attend.

WHEN: WEDNESDAY, OCTOBER 17, 1990

WHERE: WAILUKU COMMUNITY CENTER

TIME: 6:00p.m. to 8:00p.m.

Come...enjoy, relax, talk story and eat! Lots of scrumptuous pupus & great beverages!

To order tickets call Rick's headquarters at 244-9221 and leave a message. Price: $10.00 each.

SEE YOU THERE!

2404358492 3

PAID FOR BY FRIENDS OF RICK MEDINA / 373 LIHOLIHO ST WAILUKU, HI 96793

GIMA·YOSHIMORI
MIYABARA·DEGUCHI
ARCHITECTS INC

November 7, 1991

Mr. Yasuo Nishida
Sports Shinko Group
360 Pukalani Street
Pukalani, Hawaii 96768

Dear Mr. Nishida:

Subject: Rick's Mid-Week Break

Councilman Rick Medina is seeking reelection to the Council in 1992. We have asked him to run for office, as we feel his record over the years has earned our confidence and support.

To help Rick in his bid for a Central Maui District seat, we are having a fundraiser on Wednesday, November 20, 1991, at the new Maui Sun Hotel Banquet Hall, at 5:30 p.m. The tickets are $25.00 (donation) and will be available through his campaign committee, and at the door.

We are requesting for door prizes, and will be most appreciative of your contribution. We hope that you will be able to donate 4 rounds of golf at Pukalani Country Club. All donations will be acknowledged.

Also, please join us at "Rick's Mid-Week Break,"...relax, listen to good music, share food, refreshments and engage in stimulating conversation!

Mahalo for your continued support.

Sincerely,

Alvin M. Yoshimori
Coordinator
Friends of Rick Medina

ls

9 4 0 4 3 5 8 4 9 2 4

OGC 0225

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Oct 25 3 43 PM '93

RECEIVED
FEDERAL ELECTION COMMISSION
93 OCT 25 PM 3:46

9404358492 5

October 18, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Allen:

SUBJECT: MUR 3460

This responds to your letter dated September 16, 1993 in which you requested further information regarding the contribution of Sports Shinko to Friends of Vince Bagoyo on October 13, 1990 and April 18, 1991.

According to Mr. B. Martin Luna, the attorney for Sports Shinko on Maui, the $1,000 contribution to the Friends of Vince Bagoyo was done in accordance with federal campaign spending laws. Mr. Luna informed me orally before I received a copy of Mr. Barr's complaint. I do not recall the details of Mr. Luna's opinion. In substance, Mr. Luna conveyed that Sports Shinko had followed the applicable regulations in making the contribution. As noted in my August 6, 1993 letter, the committee nevertheless returned the October 1990 contribution. The committee inadvertently failed to return the April 1991 contribution until August of this year.

I do not remember how the October 1990 check was transmitted or received by me. The April 1991 check was transmitted with an entry for my June 8, 1991 golf tournament fundraiser. The $500 contribution represented "ALII sponsorship" in the tournament, which included entry of a three-person team. A copy of Sports Shinko's entry was included with the documents transmitted to you with my August 6, 1993 letter.

The October 1990 contribution was not solicited by the campaign. I do not know if the April 1991 contributed was solicited. I enclose for your information the flyer associated

with the tournament. I do not know if a flyer was sent directly to Sports Shinko.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

VINCE G. BAGOYO

9404358492 6

BAGOYO COUNCIL ®
P.O. Box 1235, Wailuku, Hawaii 96793

March 14, 1991

To our FRIENDS and SUPPORTERS,

As all of you know, it takes a lot of time and money to run for political office. Your help resulted in one of the most successful campaigns, and helped Vince accomplish one of the biggest voter turn out for a rookie. He is currently the Chairman of the Land Use and Economic Development Committee and has been a great champion for the Maui people in recent issues. We all hope that you feel the way we do; "Lets keep BAGOYO in office"!

Vince is having his annual golf tournament on June 8, 1991 (See attached application), and he needs your help again. We are looking for volunteers to help with the tournament, prize donations and Sponsors. To be an "ALII" Sponsor a $500.00 contribution is requested which will include entry for a three man team. If you do not play golf a $300.00 donation entitles you and a guest to attend the awards banquet. Any prize contributions should be in multiples of three because of the golfing format. If you would like to volunteer and help with the tournament please call Margo at 661-7070 or Lloyd Kimura 242-9100.

We appreciate your support and help with this event. It's going to be a lot of fun for a great cause. Mahalo!

THANKS! FROM THE 'FRIENDS OF VINCE BAGOYO'!

9 4 0 4 3 5 8 4 9 2 7

Paid for by the Friends of Vince Bagoyo, Jr.
P.O. Box 1235, Wailuku, HI 96793
Chairperson Elizabeth Ayson

RECEIVED
F.E.C.
SECRETARIAT
93 DEC 15 AM 10: 08
SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd. et al.	)	MUR 3460
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves a domestic subsidiary of a foreign corporation that made contributions in connection with local elections in Hawaii, allegedly in violation of 2 U.S.C. § 441e. On June 22, 1993, the Commission found reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e. Also on that date, the Commission found no reason to believe that Martin Luna or Franklin Mukai violated 2 U.S.C. § 441e. In addition, the Commission found no reason to believe that Martin Luna, Franklin Mukai, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, or the Campaign of Pat Kawano violated 2 U.S.C. § 441f. Finally on June 22, 1993, the Commission took no action regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

This report contains recommendations to assure that this matter conforms to the court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993). In addition, this report sets forth a recommendation that the

9404358492 8

Commission decline to enter pre-probable conciliation with one respondent at this time.

II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the NRA opinion, and based on the complaint in this matter and responses thereto, this Office recommends that the Commission 1) revote the findings of reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e; 2) revote the findings of no reason to believe that Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f; 3) revote the determination to take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida; and 4) approve the factual and legal analyses that were attached to the General Counsel's Report dated June 4, 1993. This Office has attached the certifications in this matter dated June 22, 1993 and June 29, 1993 for the Commission's information.

Because the Commission previously found no reason to believe and closed the file regarding Martin Luna and Franklin Mukai, this Office does not recommend revoting the findings regarding these respondents.

9404358492 9

III. CONCILIATION REQUEST

Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"), Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, and the six recipient committees have all responded to this Office's discovery requests.[1] Sports Shinko has requested pre-probable cause conciliation (the request is part of a substantial response that this Office will attach to a future report). Because this Office has not fully reviewed the responses, which will determine whether further follow-up is necessary, this Office recommends that the Commission decline, at this time, to enter into conciliation with Sports Shinko (Pukalani) Co., Ltd., prior to a finding of probable cause to believe.

IV. RECOMMENDATIONS

1. Find reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

2. Find no reason to believe that Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f.

3. Take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

4. Approve the factual and legal analyses that were attached to the General Counsel's Report dated June 4, 1993.

5. Decline, at this time, to enter into conciliation with Sports Shinko (Pukalani) Co., Ltd., prior to a finding of probable cause to believe.

---

1. Messrs. Kinoshita, Kinoshita, Kawasaki, and Soejima are all foreign national directors of Sports Shinko. The candidates supported by the six recipient committees are all members of the Maui County Council.

9404358493 0

6. Approve the appropriate letters.

Date 12/14/93

Lawrence M. Noble
General Counsel

Attachments:
Certifications

Staff assigned: Mark Allen

9404358493 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd.	)	MUR 3460
et al.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 20, 1993, the Commission decided by a vote of 4-1 to take the following actions in MUR 3460:

1. Find reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

2. Find no reason to believe that Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano violated 2 U.S.C. § 441f.

3. Take no action at this time regarding Tsugio Fukuda, Iwane Yamamoto, and Yasuo Nishida.

4. Approve the factual and legal analyses that were attached to the General Counsel's Report dated June 4, 1993.

(continued)

9404358493 2

5. Decline, at this time, to enter into conciliation with Sports Shinko (Pukalani) Co., Ltd., prior to a finding of probable cause to believe.

6. Approve the appropriate letters, as recommended in the General Counsel's Report dated December 14, 1993.

Commissioners Elliott, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented. Commissioner McDonald did not cast a vote.

Attest:

12-21-93
Date

Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Dec. 15, 1993 10:08 a.m.
Circulated to the Commission: Wed., Dec. 15, 1993 4:00 p.m.
Deadline for vote: Mon., Dec. 20, 1993 4:00 p.m.

bjr

9404358493 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Grant Y. M. Chun, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
2145 Wells Street, Suite 201
Wailuku, Maui, HI 96793

RE: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Chun:

On June 22, 1993, the Federal Election Commission found that there is reason to believe Sports Shinko (Pukalani) Co., Ltd., Tomio Kawasaki, Takeshi Kinoshita, Toshio Kinoshita, and Koichi Soejima each violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that Sports Shinko (Pukalani) Co., Ltd., Tomio Kawasaki, Takeshi Kinoshita, Toshio Kinoshita, and Koichi Soejima each violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analyses previously mailed to you. Please refer to those documents for the basis of the Commission's decisions. If you need additional copies, they will be provided upon request.

9404358493 4

Also on December 20, 1993, the Commission considered your request for conciliation prior to a finding of probable cause to believe. The Commission declined at this time to enter into conciliation because additional information is necessary. You stated in your letter dated August 27, 1993, that certifications for the interrogatory answers would be forwarded when received from your clients. The Commission has not to date received such certifications. In addition, you stated that certain Sports Shinko contributions had been refunded. Please indicate whether Sports Shinko has received additional refunds. If so, provide copies of the refund checks. Such information should be submitted to the Office of the General Counsel within 30 days of receipt of this letter.

At such time when the investigation in this matter has been completed, the Commission will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358493 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Ms. Alice Lee
Friends of Alice Lee
Post Office Box 1606
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Alice Lee

Dear Ms. Lee:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Friends of Alice Lee violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Friends of Alice Lee violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

You noted in your letter dated August 3, 1993, that the Friends of Alice Lee would be refunding the October 13, 1990, contribution from Sports Shinko (Pukalani) Co., Ltd. Please indicate whether you have made the refund. If so, please provide a copy of the refund check.

9404358493 6

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter

Trevor Potter
Chairman

9404358493 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Mr. Rick Medina
Friends of Rick Medina
373 Liholiho St.
Wailuku, Hawaii 96793

RE: MUR 3460
Friends of Rick Medina

Dear Mr. Medina:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Friends of Rick Medina violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Friends of Rick Medina violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

You noted in your letter dated August 3, 1993, that the Friends of Rick Medina would be refunding the October 13, 1990, and November 18, 1991, contributions from Sports Shinko (Pukalani) Co., Ltd. Please indicate whether you have made the refund. If so, please provide a copy of the refund check.

9404358493 8

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358493 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Mr. Patrick S. Kawano
Campaign of Pat Kawano
200 S. High Street
Wailuku, Hawaii 96793

RE: MUR 3460
Campaign of Pat Kawano

Dear Mr. Kawano:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Campaign of Pat Kawano violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Campaign of Pat Kawano violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

You noted in your letter dated August 3, 1993, that the Campaign of Pat Kawano would be refunding the December 9, 1989, and October 13, 1990, contributions from Sports Shinko (Pukalani) Co., Ltd. Please indicate whether you have made the refund. If so, please provide a copy of the refund check.

9404358940

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358941

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Mr. Goro Hokama
Campaign of Goro Hokama
Box H
Lanai City, Hawaii 96753

RE: MUR 3460
Campaign of Goro Hokama

Dear Mr. Hokama:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Campaign of Goro Hokama violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Campaign of Goro Hokama violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

9404358942

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358494 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Mr. Joe Tanaka
Friends of Joe Tanaka
213 Niihau Street
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Joe Tanaka

Dear Mr. Tanaka:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Friends of Joe Tanaka violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Friends of Joe Tanaka violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

9404358949 4

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358945

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JANUARY 7, 1994

Mr. Vince Bagoyo, Jr.
Friends of Vince Bagoyo
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

RE: MUR 3460
Friends of Vince Bagoyo

Dear Mr. Bagoyo:

On June 22, 1993, the Federal Election Commission found that there is reason to believe the Friends of Vince Bagoyo violated 2 U.S.C. § 441e.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on December 20, 1993, the Commission revoted to find reason to believe that the Friends of Vince Bagoyo violated 2 U.S.C. § 441e, and to approve the Factual and Legal Analysis previously mailed to you. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

9404358949 6

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

9404358949 7

OGC 0789

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 24 PM 3:50

January 12, 1994

Mr. Trevor Potter, Chairman
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Potter:

SUBJECT: MUR 3460 FRIENDS OF ALICE LEE

Attached is a copy of the refund check to Sports Shinko Co. (Pukalani) Ltd.

Yours truly,

Alice L. Lee

ALL:ho
Attachment

9404358948

FEDERAL ELECTION COMMISSION
RECEIVED
94 JAN 24 PM 3:50

FRIENDS OF ALICE LEE
P. O. BOX 1608
KAHULUI, HI 96732

1435

January 12 19 94

PAY TO THE ORDER OF Sports Shinko Co. (Pukalani) Ltd. $ 1,000.00

One thousand and no/100********** DOLLARS

KAHULUI OFFICE
PIONEER FEDERAL
SAVINGS BANK
7 EAST KAAHUMANU AVE
KAHULUI HAWAII 96732

Return of campaign contribution

⑆321370697⑆ 8321744 1435

24043584949

OGC 0814

FEDERAL ELECTION COMMISSION
RECEIVED
OFFICE OF GENERAL COUNSEL
94 JAN 25 PM 3:01

Councilmember Pat Kawano

January 14, 1993

Mr. Trevor Potter, Chairman
Federal Election Commission
Washington, DC 20463
Attn: Mark Allen

Re: MUR 3460
Campaign of Pat Kawano

Dear Mr. Potter:

This responds to your letter dated January 7, 1994, which I received on January 11, 1994. Enclosed, as you requested, is a copy of a check in the amount of $1,150.00, refunding the December 9, 1989 and October 13, 1990 contributions from Sports Shinko (Pukalani) Co., Ltd.

If I can provide you with any further information, please do not hesitate to contact me.

Very truly yours,

Patrick S. Kawano

Patrick S. Kawano
Councilmember

cht

received
1/24/94

9404358495 0

FRIEND'S OF PAT KAWANO
P. O. BOX 1346
KAUNAKAKAI, HI 96748

1323

Jan. 12 1994

PAY TO THE ORDER OF Sports Shinko Co. Ltd. $ 1150.00

One thousand one hundred fifty & no/100 DOLLARS

VOID AFTER 90 DAYS

American Savings Bank
An Company
PUKALANI BRANCH
PUKALANI TERRACE CENTER
PUKALANI, HAWAII 96768

MEMO Refunding of 12/9/89 & 10/8/90 Arlene M. Kymna

⑆321370765⑆ 1323 45-20084.1⑈

RICK MEDINA/COUNCILMAN

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
FEB 1 11 05 AM '94

January 24, 1994

94 FEB -1 PM 3:35
RECEIVED
FEDERAL ELECTION COMMISSION

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20463

Re: MUR 3460
Friends of Rick Medina

Dear Mr. Allen:

This responds to the letter from Trevor Potter, Chairman of the Federal Election Commission, dated January 7, 1994. Enclosed is a copy of a check sent to Sports Shinko (Pukalani) Co., Ltd. to refund the October 13, 1990 and November 18, 1991 contributions from that corporation.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

RICK MEDINA

RM/fn
Enc.
L/0742

9404358495 2

RECEIVED
FEDERAL ELECTION
COMMISSION

FRIENDS OF RICK MEDINA
373 LIHOLIHO STREET
WAILUKU, HAWAII 96793

0808

1-14

Pay to the Order of Sports Shooters Co. Ltd. $1,500.00

Fifteen hundred and no/100 Dollars

Territorial Savings
Kahului Branch
Kahului Center
275 Kaahumanu Avenue
Kahului, Maui, Hawaii 96732

For (Pukalani) Regional Ruth K.O. Molina

⑆321370707⑈0808 03⑈075512⑈

94 FEB -1 PM 3:35

RECEIVED
FEDERAL ELECTION COMMISSION

9404358495 3

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-0104

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-8844
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

February 15, 1994

94 FEB 29 AM 9:09
RECEIVED
FEDERAL ELECTION COMMISSION

9404358495 4

Mr. Trevor Potter, Chairman
Federal Election Commission
Washington, DC 20463
Attn: Mark Allen

Re: MUR 3460

Dear Mr. Potter:

This responds to your recent correspondence regarding this matter.

Enclosed please find notarized certifications by Yasuo Nishida, on behalf of Sports Shinko (Pukalani) Co., Ltd. and Takeshi Kinoshita, one of the members of the Board of Directors for Sports Shinko (Pukalani) Co., Ltd., regarding the answers to interrogatories.

My client informs me that the directors resident in Japan have encountered difficulties in arranging for the execution of the certification at the United States Embassy and therefore request your further indulgence to obtain those certifications. My client may seek notarization by a Japanese notary which will require translating the answers to interrogatories into Japanese. Please let me know if the

Commission would accept a simple declaration by the Japanese members of the Board regarding the answers to interrogatories.

Very truly yours,

Gilbert S. Coloma-Agaran

GRANT Y. M. CHUN
GILBERT S. COLOMA-AGARAN

GYMC/GCA:fn
Enc.
cc: Y. Nishida
L/0823

9 4 0 4 3 5 8 4 9 5 5

STATE OF CALIFORNIA)
) SS.
COUNTY OF San Diego)

I, TAKESHI KINOSHITA, state that I have read the answers to interrogatories and that the answers are true and correct to the best of my knowledge.

TAKESHI KINOSHITA

On this 14th day of January, 1994, before me personally appeared TAKESHI KINOSHITA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Mary J. Ryman
Notary Public, in and for said County and State

My commission expires: 2/21/97

MARY J. RYMAN
COMM. # 985339
Notary Public — California
SAN DIEGO COUNTY
My Comm. Expires FEB 21, 1997

9404358495 6

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of February, 1994, before me appeared Yasuo Nishida and --, satisfactorily proven to me, who, by me duly sworn, did say that they are the Assistant Treasurer and --, respectively, of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

Mary E. Ah Sam
Notary Public, State of Hawaii
My commission expires: 4-24-95

9404358495 7

12. Identify the source of funds used to make the contributions identified above, including from which account (bank and account number) the contributions were made and the sources of funds for this account.

The funds came from Sports Shinko account no. 65-009919 at the Bank of Hawaii. The funds are from local revenues. In 1989 to 1991, Sports Shinko generated the following revenue from its golf course operations: $1,392,697.87, $1,757,715.82, and $2,713,308.14. Balance Sheets for the relevant years have been produced.

13. Identify the persons who supervise, manage, review, or are vested with the power to vote on the selection of, those person within the corporation with the authority to make contributions. Include the nationality status of each person identified.

Mr. Toshio Kinoshita	Japanese
Mr. Takeshi Kinoshita	Japanese admitted in a managerial capacity
Mr. Franklin K. Mukai	American
Mr. Iwane Yamamoto	Japanese

14. Produce all other documents in your possession that refer, relate, or in any way pertain to Sports Shinko contributions, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

All documents are included in our answers to interrogatories 6 and 9 above, except for Sports Shinko's initial response to the Federal Election Commission complaint.

15. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

Yasuo Nishida, Assistant Treasurer. Mr. Nishida has been with Sports Shinko Pukalani since 1987. Mr. Nishida transmitted information received from Mr. Tsugio Fukuda, Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Gilbert S. Coloma-Agaran, counsel.

SPORTS SHINKO (PUKALANI) CO., LTD.

By Yasuo Nishida
Print Name YASUO NISHIDA
Its: ASSISTANT TREASURER

9 4 0 4 3 5 8 4 9 5 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 2, 1994

Grant Y. M. Chun, Esq.
Gilbert S. Coloma-Agaran, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
2145 Wells Street, Suite 201
Wailuku, Maui, HI 96793

RE: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Messrs. Chun and Coloma-Agaran:

This is in response to your letter dated February 15, 1994 in which you provided notarized certifications by Takeshi Kinoshita and Yasuo Nishida on behalf of Sports Shinko (Pukalani) Co., Ltd. and inquired as to whether the Commission would accept "simple declarations" by Tomio Kawasaki, Toshio Kinoshita, and Koichi Soejima regarding the answers to the interrogatories. Under the circumstances you present, the Commission would accept such declarations so long as they include language that they are made "under penalty of perjury."

Please provide these statements as soon as possible so that the Office of the General Counsel may conclude its analysis of your clients' responses and make further recommendations to the Commission toward the resolution of this matter.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358495 9

OGC 881

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Apr 11 10 35 AM '94

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1000
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-8831
FAX (310) 437-3780

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3466
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6844
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-6460

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

April 5, 1994

94 APR 11 PM 4:05

RECEIVED
FEDERAL ELECTION COMMISSION

9404358496 0

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: Sports Shinko (Pukalani) Co., Ltd.; MUR 3460

Dear Mr. Allen:

As you know, we represent Sports Shinko (Pukalani) Co., Ltd. in this matter. Enclosed with this letter are the following:

1. the Declaration of Koichi Soejima,

2. the Declaration of Toshio Kinoshita, and

3. the Declaration of Tomio Kawasaki.

As discussed and requested in our correspondence with you, these declarations by the 1990 directors of Sports Shinko Pukalani are submitted in place of certifications for the response to interrogatories sent to you in this matter on August 27, 1993. As you instructed, the declaration of the three directors includes language that they made the statements under penalty of perjury.

Thank you for your cooperation and patience.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Gilbert S. Coloma-Agaran

Gilbert S. Coloma-Agaran

Enc.
cc: Sports Shinko (Pukalani) Co., Ltd.
Mr. Toshio Kinoshita
Mr. Takeshi Kinoshita
Mr. Koichi Soejima
Mr. Tomio Kawasaki
Mr. Franklin K. Mukai

SPSH/40300106.@CA

9404358496 1

DECLARATION OF TOMIO KAWASAKI

I, TOMIO KAWASAKI, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED: March 17, 1994

Tomio Kawasaki

TOMIO KAWASAKI

9404358496 52

DECLARATION OF TOSHIO KINOSHITA

I, **TOSHIO KINOSHITA**, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED:

TOSHIO KINOSHITA

9404358496 3

DECLARATION OF KOICHI SOEJIMA

I, KOICHI SOEJIMA, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED: March 22, 1994

Koichi Soejima
KOICHI SOEJIMA

SPSH/40300054.GCA

9404358496 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd. et al.	)	MUR 3460
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 20, 1993, the Commission revoted to find reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano each violated 2 U.S.C. § 441e. This Office now recommends that the Commission enter into pre-probable cause conciliation with some respondents and take no further action regarding others.

II. ANALYSIS

Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") is a Hawaii corporation whose ultimate parents are foreign corporations. Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima are foreign national directors of Sports Shinko. The Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano are local committees that each received contributions from Sports Shinko. The reason to believe findings were based on the apparent impermissibility of Sports Shinko's contributions due to the foreign national directors' participation in the making of the

9404358496 5

contributions by voting to create the Sports Shinko contribution committee, specifying that a certain individual would constitute the committee, and funding the committee. See the General Counsel's Report dated June 4, 1993 ("June 1993 Report"); Advisory Opinion 1990-8; 11 C.F.R. § 110.4(a)(3).

The investigation in this matter has shown that Sports Shinko made the following contributions to the respondent recipient committees:[1/]

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-13-90	$1,000
	5-06-91	500
Campaign of Goro Hokama	10-13-90	1,000
Campaign of Pat Kawano	12-09-89	152 (in-kind)
	10-13-90	1,000
Friends of Alice Lee	10-13-90	1,000
Friends of Rick Medina	10-13-90	1,000
	11-18-91	500
Friends of Joe Tanaka	10-13-90	1,000
	total	$ 7,152

The respondent committees refunded all these contributions. In addition, Sports Shinko identified four other contributions totaling $5,500 to four nonrespondent committees. See infra part II.C. Overall, Sports Shinko made $12,652 in contributions,[2/] of which $7,152 was refunded.

A. Sports Shinko and Directors

Sports Shinko and its directors responded to this Office's

1/ The contribution dates are those identified in Sports Shinko's response. The dates used in the June 1993 Report, page 6, were taken from the recipient committees.

2/ This total excludes an October 13, 1990 contribution to the Friends of David Morihara where the contribution check was never cashed and the transaction was voided.

9 4 0 4 3 5 8 4 9 6 6

discovery requests on August 27, 1993, February 23, 1994, and April 5, 1994. On December 20, 1993, the Commission denied Sports Shinko's pre-probable cause conciliation request. The investigation in this matter has shown that Sports Shinko is 100% owned by Sports Shinko (Hawaii) Co., Ltd., a Hawaii corporation, which is 100% owned by Sports Shinko (U.S.A.) Co., Ltd., a Delaware corporation which is in turn owned by 13 Japanese corporations (Attachment 1, page 14). In light of Sports Shinko's status as a domestic subsidiary of foreign parents, this Office considers the nationality status of the contribution decision-makers and the source of the funds used for the contributions. See 11 C.F.R. § 110.4(a); A.O.s 1992-16; 1990-8.

1. Contribution Decision-making

Sports Shinko described its contribution process as consisting of its sole U.S. citizen director, Franklin Mukai, deciding on the amount and the recipient of the contribution in consultation with U.S. citizen attorney Martin Luna, (Attachment 1, page 16).[3/] Sports Shinko asserts that Messrs. Mukai and Luna were the sole authorizers of any political contributions and that no foreign nationals exercised decision-making control over Mr. Mukai or participated in any manner in decisions related to the contributions. The checks were "issued" by Sports Shinko foreign national treasurer/general

3/ The complaint in this matter contained allegations against both Messrs. Mukai and Luna. On June 22, 1993, the Commission found no reason to believe that either individual violated 2 U.S.C. §§ 441e or 441f.

9404358496 7

manager Yasuo Nishida,[4] and may have been physically typed or printed by a U.S. citizen bookkeeper (Attachment 1, page 16). Mr. Mukai signed the contribution checks. No person could override Mr. Mukai's contribution decisions, although the board of directors could revoke Mr. Mukai's authority (Id.).[5]

Regarding the signing of the contribution checks, it appears that Yasuo Nishida had sole signature authority and wrote to the Bank of Hawaii authorizing Franklin Mukai to sign checks for the periods October 15, 1990 through October 21, 1990 and November 14, 1991 through November 19, 1991 (Attachment 1, pages 16, 50-51). Mr. Mukai dated nine contribution checks October 13, 1990, prior to the first authorization period, and two other contributions, in March 1991 and May 1991, outside the periods. In fact, only one of Sports Shinko's contributions was made during either period, in November 1991.[6] See the contribution charts at page 2, supra, and

9404358499 68

4/ Mr. Nishida was treasurer until December 31, 1990, and has served as assistant treasurer since that time. He was identified in the complaint as a director and this Office notified him of the complaint. Because he was not one of the individuals who signed the Directors' Resolution authorizing the contribution activity, the Commission took no action regarding Mr. Nishida. In fact, Sports Shinko did not identify Mr. Nishida as ever serving as a director during the period January 1989 to the present (Attachment 1, page 12).

5/ Sports Shinko provided copies of the contribution checks but no check registers or other corporate forms regarding any check approval process.

6/ Regarding the December 1989 $152 in-kind contribution to the Campaign of Pat Kawano, Sports Shinko does acknowledge that Yasuo Nishida provided complimentary rounds of golf in response to a request for golf tournament prizes. Sports Shinko claims that Mr. Nishida was not aware that the rounds of golf were to be used in connection with a political fundraising event (Attachment 1, page 16).

page 15, infra. In light of the two specific, limited authorization periods, this Office assumes that Mr. Mukai did not otherwise have signature authority. Mr. Mukai signing the contribution checks when he lacked the authority to do so lends an appearance of artificiality to Sports Shinko's contribution mechanism.

More broadly, this Office questions whether Sports Shinko's foreign nationals were in fact insulated from the contribution process. Sports Shinko's foreign national treasurer specifically authorized a U.S. citizen to sign checks for limited periods during which contributions were to be made and this same foreign national issued the checks, possibly a dynamic where foreign nationals effectively decided to make contributions and then used a U.S. citizen to carry out that purpose. Cf. Advisory Opinion 1990-8 (foreign nationals will abstain from voting on the selection of individuals to operate a PAC and exercise decision-making authority with respect to PAC contributions). In sum, Sports Shinko's contribution process appears to have involved foreign nationals and so is in violation of section 441e.

Regarding treasurer Yasuo Nishida, in addition to his role of authorizing Franklin Mukai to sign checks, Mr. Nishida "issued" the contribution checks. Although Sports Shinko does not state the precise meaning of this activity, between this "issuing" and his role of authorizing Franklin Mukai to sign contribution checks, this Office questions whether Mr. Nishida was in fact removed from the contribution process. In light of the focus of this matter on the respondent foreign national directors and their

9404358499 69

more overt role, however, see infra, this Office makes no recommendation regarding Yasuo Nishida.

In addition to the contribution mechanism described above, we consider the Sports Shinko directors' roles. The directors authorized a "contribution committee" to make political and charitable contributions. The directors' resolution memorializing this decision states that it is effective October 1, 1990, and is signed by all five directors at that time, Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Franklin Mukai, and Koichi Soejima (Attachment 1, page 2). This resolution created the committee and funded its political and charitable contributions account in the amount of $50,000. The directors granted the committee sole discretion over the disbursement of the funds in the account. Director Franklin Mukai was appointed as the sole member of the committee, to consult with attorney Martin Luna.

Although the resolution's effective date is October 1, 1990, director Franklin Mukai signed the resolution "in late 1991 or early 1992" and the four foreign national directors signed the resolution in March 1992, long after the contributions and after the complaint in this matter (Attachment 1, page 17).[7/] This Office does not consider this circumstance to alter the conclusion that the foreign national directors were involved in the making of the contributions. Through the resolution, the directors injected themselves into the contribution process, effectively ratifying the contributions. In fact, directors Toshio Kinoshita, Takeshi

---

7/ In fact, one signatory, Tomio Kawasaki, was no longer a director when he signed the document in 1992.

9404358497 0

Kinoshita, Tomio Kawasaki, and Koichi Soejima held positions of Sports Shinko president, vice-president, vice-president, and secretary, respectively, at the time of the contributions, leading this Office to conclude that they were aware of the contributions (Attachment 1, page 12).

Counsel for Sports Shinko and the foreign national directors states that Sports Shinko's contributions were permissible under A.O. 1989-29 but that counsel was "not aware" of A.O. 1990-8 which preceded the contributions in this matter and is on point regarding foreign national directors voting on matters concerning the contribution committee (Attachment 1, page 10). Contrary to Sports Shinko's analysis, however, it appears that their contributions are not even permissible under A.O. 1989-29. In this Opinion, the Commission stated that no foreign national, including directors, officers, or other personnel of the company could participate in any decisions by the company to contribute to its PAC or to other committees or campaigns for office. Sports Shinko's foreign national directors did participate in decisions to contribute to the contribution committee by voting to fund the contribution committee in the amount of $50,000.

As the June 1993 Report analyzed fully, Advisory Opinions 1990-8 and 1992-16 are even more directly on point. See June 1993 Report, pages 12-13. As set out in that report, Sports Shinko's directors clearly participated in the making of the contributions and this liability extends to the directors themselves. See June 1993 Report pages 13-15. Thus it appears that Sports Shinko, Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi

9404358497 1

Soejima each violated 2 U.S.C. § 441e.

2. Contribution Funds

In addition to the decision-making issue, the Commission considers the source of funds used for the contributions. See A.O. 1992-16; A.O. 1990-8. Sports Shinko stated that it did not receive any transfers from its parents since 1989 and that its earnings from the golf course for the years 1989, 1990, and 1991 were more than $1.3 million, $1.7 million, and $2.7 million, respectively, far in excess of the $12,652 contribution total for that period (Attachment 1, pages 54, 69, 82). While it appears that Sports Shinko may satisfy the funding analysis, in light of the above analysis of the contribution decision-making, it appears that Sports Shinko's contributions were made in violation of section 441e.

3. Conciliation

9404358497 2

9 4 0 4 3 5 8 4 9 7 3

9 4 0 4 3 5 8 4 9 7 4

9 4 0 4 3 5 8 4 9 7 5

9 4 0 4 3 5 8 4 9 7 6

B. Respondent Recipient Committees

On October 13, 1990, Sports Shinko contributed $1,000 to the Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano. Sports Shinko made additional $500 contributions during 1991 to the Friends of Vince Bagoyo, Jr. and the Friends of Rick Medina. This Office sent discovery requests on July 1, 1993, September 16, 1993, and January 7, 1994 to the committees in order to determine whether refunds had been made and whether there may have been a connection with Sports Shinko. All six committees responded (Attachment 2). Significantly, all six committees have refunded the contributions received from Sports Shinko.

All six committees stated that they did not solicit the 1990 contributions and that counsel for Sports Shinko assured them of

the legality of the contributions (Attachment 2, pages 1, 14, 16, 19, 20, 22, 24, 27, 30, 41, 50, and 54).[12] All the committees also stated that they did not know that foreign nationals had participated in the making of the contributions and had no knowledge of Sports Shinko's internal operations or its corporate structure.[13]

Regarding the two 1991 contributions, Sports Shinko's response included solicitation letters from Friends of Vince Bagoyo, Jr., and Friends of Rick Medina, dated March 14, 1991 and November 7, 1991, respectively (Attachment 1, pages 48-49). Sports Shinko's second contributions to these committees were dated May 6, 1991 and November 18, 1991, respectively. The Bagoyo Committee states that they are not sure whether the 1991 contribution was solicited or whether the flyer/solicitation to the golf outing fundraiser was sent directly to Sports Shinko (Attachment 2, pages 14-15). The Medina Committee solicited the 1991 contribution by letter to Sports Shinko manager Yasuo Nishida

9404358497 7

12/ It appears that Sports Shinko's assurance took place both at the time of the contributions and after the complaint was filed. For example, the Kawano, Medina, and Tanaka Committees stated that they accepted the contributions based on the assurances of Sports Shinko's counsel (Attachment 2, pages 20, 30, and 50). In addition, Sports Shinko's counsel states in a written opinion that had been requested by the Medina Committee after the complaint that Sports Shinko "informed [Medina] and several others" who inquired at the time of the contributions "that these campaign contributions were made in accordance with the applicable federal campaign spending laws and guidelines" (Attachment 2, page 33).

13/ The similarity of the responses appears to indicate communication between respondents. Some of the committee responses explicitly refer to communication from Sports Shinko after the reason to believe notifications (Attachment 2, pages 2 and 16). This Office's information does not indicate that the communication was for the purpose of misleading the Commission.

(Attachment 2, page 46). The Committee's response indicates that the solicitation was probably sent based on the 1990 contribution (Attachment 2, page 41).

Even considering the 1991 solicitations, which may have been simply based on the 1990 contributions, this Office's investigation has not revealed any significant connection between Sports Shinko and any of the committees. The only Sports Shinko individuals named in the responses are Martin Luna, who assured the committees of the legality of the contributions and may have hand delivered at least one of the 1990 contribution checks, and Yasuo Nishida, in his capacity as Sports Shinko country club manager (Attachment 2, page 42).[14/]

Although all of the committees received contributions apparently in violation of section 441e, in light of the small amounts involved, i.e., no committee received more than $1,500, the complete refunds, and the apparent lack of a significant connection between the committees and Sports Shinko, this Office recommends that the Commission take no further action and close the file regarding Friends of Vince Bagoyo, Jr., Friends of Joe

9 4 0 4 3 5 8 4 9 7 8

14/ The Medina Committee provided a copy of a July 5, 1991 complaint by Paul Elkins to the Maui County Board of Ethics, alleging a conflict of interest on the part of several of the county councilmembers whose committees are respondents in this matter. Specifically, the complaint alleges that certain members of the Council played golf for free at Sports Shinko's Pukalani Country Club and received campaign contributions from Sports Shinko while the Council was considering "various ordinances and resolutions relating to Sports Shinko and its plans to build a hotel..." (Attachment 2, page 35). The Medina and Tanaka Committees provided copies of May 14, 1992 notifications that the Board concluded that a violation could not be found (Attachment 2, pages 34 and 52).

Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano.

C. Non-respondent Recipients

In addition to the six respondent recipient committees above, Sports Shinko identified contributions to four committees totaling $5,500:

recipient	date	amount
Friends of Rosalyn Baker	3-14-91	1,000
Campaign of Elmer F. Cravalho	10-13-90	2,000
Campaign of Thomas P. Morrow	10-13-90	500
Citizens for Waihee[16]	10-13-90	2,000

As discussed supra, when this matter closes this Office will notify these committees and ask them to repay the amount of the contributions to the U.S. Treasury in place of making refunds to Sports Shinko.

III. RECOMMENDATIONS

1. Enter into conciliation with Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Nawasaki, and Koichi Soejima prior to a finding of probable cause to believe.

2. Take no further action and close the file regarding Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano.

9404358499 79

16/ This recipient was also a respondent in MUR 2892; the Commission closed the file regarding Citizens for Waihee in that matter on April 13, 1994.

3. Approve the attached conciliation agreement and the appropriate letters.

Date 6/7/94

Lawrence M. Noble
General Counsel

Attachments
1. Sports Shinko and directors' responses
2. Recipient committees' responses
3. Proposed conciliation agreement

Staff assigned: Mark Allen

9404358498 0

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/MICHAEL C. KENNEY M.C.K.
COMMISSION SECRETARY

DATE: JUNE 9, 1994

SUBJECT: MUR 3460 - GENERAL COUNSEL'S REPORT DATED JUNE 7, 1994.

The above-captioned document was circulated to the Commission on TUESDAY, JUNE 7, 1994.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	XXX
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

9404358498 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd., *et al*.	)	MUR 3460
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 9, 1994, the Commission decided by a vote of 4-2 to take the following actions in MUR 3460:

1. Enter into conciliation with Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima prior to a finding of probable cause to believe.

2. Take no further action and close the file regarding Friends of Vince Bagoyo, Jr., Friends of Joe Tanaka, Friends of Alice Lee, Friends of Rick Medina, the Campaign of Goro Hokama, and the Campaign of Pat Kawano.

(continued)

2404358498 2

3. Approve the conciliation agreement and the appropriate letters, as recommended in the General Counsel's Report dated June 7, 1994.

Commissioners McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

6-9-94
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., June 7, 1994 1:57 P.M.
Circulated to the Commission: Tues., June 7, 1994 4:00 P.M.
Deadline for vote: Thurs., June 9, 1994 4:00 P.M.

mck

9404358493

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Ms. Alice Lee
Friends of Alice Lee
Post Office Box 1606
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Alice Lee

Dear Ms. Lee:

The Federal Election Commission found reason to believe that the Friends of Alice Lee ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358498 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Mr. Rick Medina
Friends of Rick Medina
373 Liholiho St.
Wailuku, Hawaii 96793

RE: MUR 3460
Friends of Rick Medina

Dear Mr. Medina:

The Federal Election Commission found reason to believe that the Friends of Rick Medina ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 85

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Mr. Patrick S. Kawano
Campaign of Pat Kawano
200 S. High Street
Wailuku, Hawaii 96793

RE: MUR 3460
Campaign of Pat Kawano

Dear Mr. Kawano:

The Federal Election Commission found reason to believe that the Campaign of Pat Kawano ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 86

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Mr. Joe Tanaka
Friends of Joe Tanaka
213 Niihau Street
Kahului, Hawaii 96732

RE: MUR 3460
Friends of Joe Tanaka

Dear Mr. Tanaka:

The Federal Election Commission found reason to believe that the Friends of Joe Tanaka ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 87

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Mr. Vince Bagoyo, Jr.
Friends of Vince Bagoyo
P.O. Box 1235
Wailuku, Maui, Hawaii 96793

RE: MUR 3460
Friends of Vince Bagoyo

Dear Mr. Bagoyo:

The Federal Election Commission found reason to believe that the Friends of Vince Bagoyo ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358498 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Mr. Goro Hokama
Campaign of Goro Hokama
Box H
Lanai City, Hawaii 96753

RE: MUR 3460
Campaign of Goro Hokama

Dear Mr. Hokama:

The Federal Election Commission found reason to believe that the Campaign of Goro Hokama ("the Committee") violated 2 U.S.C. § 441e. The Commission emphasizes that it takes very seriously the application of section 441e to state and local, as well as federal, election campaigns. However, after considering the circumstances of the matter, the Commission determined on June 9, 1994, to take no further action against the Committee, and closed the file as it pertains to the Committee. The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

The Commission reminds you that it is a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 89

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 13, 1994

Grant Y. M. Chun, Esq.
Carlsmith Ball Wichman Murray Case Mukai & Ichiki
2145 Wells Street, Suite 201
Wailuku, Maui, HI 96793

RE: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Chun:

The Federal Election Commission found that there is reason to believe Sports Shinko (Pukalani) Co., Ltd., Tomio Kawasaki, Takeshi Kinoshita, Toshio Kinoshita, and Koichi Soejima each violated 2 U.S.C. § 441e. At your request, on June 9, 1994, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement covering Sports Shinko and the four individuals that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

Enclosure
Conciliation Agreement

9404358499 0

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

10 03 AM '94

SENSITIVE

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd. et al.	)	MUR 3460
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 9, 1994, the Commission entered into pre-probable cause conciliation with Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima in connection with these respondents' violations of 2 U.S.C. § 441e.

II. ANALYSIS

The Commission approved an agreement covering Sports Shinko and its four foreign national directors that included a civil penalty.

9404358499 1

9 4 0 4 3 5 8 4 9 9 2

III. **NOTIFICATIONS**

The General Counsel's Report dated June 7, 1994, noted four non-respondent committees' receipt of impermissible contributions from Sports Shinko: Friends of Rosalyn Baker ($1,000), Campaign of Elmer F. Cravalho ($2,000), Campaign of Thomas P. Morrow ($500), and Citizens for Waihee ($2,000). This Office noted in

that report that when this matter closes we would notify the committees and instruct them to disgorge the contributions to the U.S. Treasury. This Office obtained information from the Hawaii Campaign Spending Commission that the Cravalho Committee terminated. Therefore, this Office will notify the three active non-respondent committees by letters identifying the contributions and instructing the committees to disgorge the contributions to the U.S. Treasury in care of the Commission. This Office recommends that the Commission approve the sample letter at Attachment 2.[2/]

IV. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima.

2. Close the file.

3. Approve the appropriate letters and the attached sample letter to the non-respondent recipient committees.

8/12/94
Date

Lawrence M. Noble
General Counsel

Attachment
1. Proposed Conciliation Agreement
2. Sample letter to non-respondent recipient committees

Staff Assigned: Mark Allen

2/ In MUR 2892 (Friends of Frank Fasi), the Commission recently approved letters to non-respondent committees instructing disgorgement or refunds. As explained in the MUR 3460 General Counsel's Report dated June 7, 1994, this Office intends to instruct disgorgement instead of refunds in order to prevent a windfall to Sports Shinko, i.e., receiving refunds at the time it pays a civil penalty for violation of the Act.

9404358499 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Sports Shinko (Pukalani) Co., Ltd., *et al.*	)	MUR 3460
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 16, 1994, the Commission decided by a vote of 6-0 to take the following actions in MUR 3460:

1. Accept the conciliation agreement with Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima, as recommended in the General Counsel's Report dated August 12, 1994.

2. Close the file.

3. Approve the appropriate letters and the sample letter to the non-respondent recipient committees, as recommended in the General Counsel's Report dated August 12, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

8-17-94
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Fri., Aug. 12, 1994 10:08 a.m.
Circulated to the Commission: Fri., Aug. 12, 1994 12:00 p.m.
Deadline for vote: Wed., Aug. 17, 1994 4:00 p.m.

bjr

9404358499 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Allen W. Barr
188 Haulani Street
Pukalani, Maui, HI 96768

RE: MUR 3460

Dear Mr. Barr:

This is in reference to the complaint you filed with the Federal Election Commission on December 16, 1991, concerning foreign national contributions in connection with state and local elections in Hawaii.

The Commission found that there was reason to believe Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, Friends of Vince Bagoyo, Jr., Campaign of Goro Hokama, Campaign of Pat Kawano, Friends of Alice Lee, Friends of Rick Medina, and Friends of Joe Tanaka violated 2 U.S.C. § 441e, a provision of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On August 16, 1994, a conciliation agreement covering Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, was accepted by the Commission. Accordingly, the Commission closed the file in this matter on August 16, 1994. A copy of this agreement is enclosed for your information.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

Enclosure
Conciliation Agreement

9404358499 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Franklin Mukai
c/o Sports Shinko (Pukalani) Co., Ltd
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460
Franklin Mukai

Dear Mr. Mukai:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Ms. Rosalyn Baker
Friends of Rosalyn Baker
P.O. Box 101394
Lahaina, HI 96761

RE: MUR 3460

Dear Ms. Baker:

On August 3, 1994, the Federal Election Commission ("Commission") notified the Friends of Rosalyn Baker ("Committee") that in the course of the Commission's investigation in MUR 2892 it discovered that the Committee appeared to have received contributions in violation of 2 U.S.C. § 441e, which forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a). The above-captioned matter involved contributions by Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"). In the course of the investigation in this matter, the Commission discovered that the Committee appears to have received a contribution from Sports Shinko in violation of 2 U.S.C. § 441e.

The Committee received the impermissible $2,000 contribution from Sports Shinko dated October 13, 1990. This contribution is identified in a conciliation agreement entered into with the Commission by Sports Shinko in MUR 3460, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and the agreement is part of the public case file. In light of the impermissible nature of this contribution, the Commission instructs you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days of your receipt of this letter.

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

9404358499 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Governor John D. Waihee
Citizens for Waihee
P.O. Box 2573
Honolulu, HI 96803

RE: MUR 3460

Dear Governor:

On July 28, 1994, the Federal Election Commission ("Commission") notified Citizens for Waihee ("Committee") that it had closed the entire file in MUR 2892. The above-captioned matter involved contributions by Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"). In the course of the investigation in this matter, the Commission discovered that the Committee appears to have received a contribution from Sports Shinko in violation of 2 U.S.C. § 441e, which forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a). Please find enclosed a Commission brochure on section 441e.

The Committee received the impermissible $2,000 contribution from Sports Shinko dated October 13, 1990. This contribution is identified in a conciliation agreement entered into with the Commission by Sports Shinko in MUR 3460, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and the agreement is part of the public case file. In light of the impermissible nature of this contribution, the Commission instructs you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days of your receipt of this letter.

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosure

9404358499 8

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Patrick S. Kawano
Campaign of Pat Kawano
200 S. High Street
Wailuku, HI 96793

RE: MUR 3460

Dear Mr. Kawano:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358499 9

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

SEPTEMBER 8, 1994

Joe Tanaka
Friends of Joe Tanaka
213 Niihau Street
Kahului, HI 96732

RE: MUR 3460

Dear Mr. Tanaka:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Rick Medina
Friends of Rick Medina
373 Liholiho St.
Wailuku, HI 96793

RE: MUR 3460

Dear Mr. Medina:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Vince Bagoyo, Jr.
Friends of Vince Bagoyo, Jr.
P.O. Box 1235
Wailuku, Maui, HI 96793

RE: MUR 3460

Dear Mr. Bagoyo:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Tsugio Fukuda
c/o Sports Shinko (Pukalani) Co., Ltd
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460
Tsugio Fukuda

Dear Mr. Fukuda:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358503

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Iwane Yamamoto
c/o Sports Shinko (Pukalani) Co., Ltd
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460
Iwane Yamamoto

Dear Mr. Yamamoto:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Yasuo Nishida
c/o Sports Shinko (Pukalani) Co., Ltd
360 Pukalani Street
Pukalani, Maui, HI 96768

RE: MUR 3460
Yasuo Nishida

Dear Mr. Nishida:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500 5

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Goro Hokama
Campaign of Goro Hokama
Box H
Lanai City, HI 96753

RE: MUR 3460

Dear Mr. Hokama:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358500 6

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Alice Lee
Friends of Alice Lee
Post Office Box 1606
Kahului, HI 96732

RE: MUR 3460

Dear Ms. Lee:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358507

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Martin Luna
275 Ekoa Place
Wailuku, Maui, HI 96793-1501

RE: MUR 3460

Dear Mr. Luna:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mark Allen

Mark Allen
Attorney

9404358508

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Dwight M. Rush, Vice Chairperson
Office of Disciplinary Counsel
Supreme Court
1164 Bishop Street, Suite 600
Honolulu, HI 96813

RE: MUR 3460

Dear Mr. Rush:

On March 12, 1992 you wrote to the Office of the General Counsel requesting the investigative report in the above-captioned matter regarding B. Martin Luna. On March 20, 1992, this Office responded by letter that we could not provide Commission investigative reports until the matter is closed. The Commission determined to close this matter on August 16, 1994, and the case file including investigative reports will be made public. See 11 C.F.R. §§ 111.20 and 111.21. I am enclosing a copy of the General Counsel's Report dated June 4, 1993 that analyzes the role of Mr. Luna.

If you have any questions about this matter, please call me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

Enclosure

9404358509

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Mr. Thomas P. Morrow
Campaign of Thomas P. Morrow
283 Poko Place
Haiku, HI 96708

RE: MUR 3460

Dear Mr. Morrow:

In the ordinary course of exercising its supervisory responsibilities, the Federal Election Commission ("Commission") has discovered that the Campaign of Thomas P. Morrow ("Committee") appears to have received a contribution in violation of 2 U.S.C. § 441e, a provision of the the Federal Election Campaign Act of 1971, as amended. Section 441e forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a).

The Commission informs you that it is also a violation of 2 U.S.C. § 441e to receive contributions from domestic subsidiaries of foreign national corporations where 1) foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee, or 2) the contribution funds are not domestically-derived. See 11 C.F.R. § 110.4(a)(3); Advisory Opinions 1992-16, 1990-8, and 1989-20. You should take immediate steps to insure that contributions from domestic subsidiaries do not in any way involve foreign nationals. In addition, the Commission suggests that you include a statement regarding the section 441e ban in future fundraising solicitations. Please find enclosed a Commission brochure on section 441e.

The Committee received an impermissible $500 contribution from Sports Shinko (Pukalani) Co., Ltd. dated October 13, 1990. This contribution is identified in a conciliation agreement entered into with the Commission by Sports Shinko in enforcement matter under review ("MUR") 3460, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and the agreement is part of the public case file. In light of the impermissible nature of this contribution, the Commission instructs you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days of your receipt of this letter.

9404358501 0

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosure

9404358501 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 8, 1994

Gilbert S. Coloma-Agaran, Esq.
Carlsmith Ball Wichman Murray Case & Ichiki
One Main Plaza
Suite 400, 2200 Main Street
Post Office Box 1086
Wailuku, Maui, Hawaii 96793-0104

RE: MUR 3460
Sports Shinko (Pukalani)
Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Coloma-Agaran:

On August 16, 1994, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. § 441e, a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil

9404358501 2

penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

Enclosure
Conciliation Agreement

9404358501 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3460
Sports Shinko (Pukalani) Co., Ltd.	)	
Toshio Kinoshita	)	
Takeshi Kinoshita	)	
Tomio Kawasaki	)	
Koichi Soejima	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Allen Barr. The Federal Election Commission ("Commission") found reason to believe that Sports Shinko (Pukalani) Co., Ltd., Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima ("Respondents") each violated 2 U.S.C. § 441e.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

9404358501 4

IV. The pertinent facts in this matter are as follows:

1. Respondent Sports Shinko (Pukalani) Co., Ltd. is a corporation organized pursuant to the laws of the State of Hawaii.

2. Sports Shinko (Pukalani) Co., Ltd. is 100% owned by Sports Shinko (Hawaii) Co., a Hawaii corporation, which is 100% owned by Sports Shinko (U.S.A.) Co., a Delaware corporation. Sports Shinko (U.S.A.) Co. is owned by the Japanese corporations Sports Shinko Co., Ltd., Takamatsu Sports Shinko Country Co., Ltd., Inagawakokusai Co., Ltd., Amagese Onsen Country Co., Ltd., Uresino Kanko Kaihatsu Co., Ltd., Suifu Kanko Co., Ltd., Misaki Country Co., Ltd., Suho Country Co., Ltd., Tsuyama Sports Shinko Country Co., Ltd., Boushu Kaihatsu Co., Ltd., Sanyo Kosan Co., Ltd., Kinoshita Kensetsu Co., Ltd., and Higashinasu Country Club Co., Ltd.

3. Respondents Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima are foreign nationals as defined in 2 U.S.C. § 441e(b) and 11 C.F.R. § 110.4(a).

4. At the time of the events in this matter, Toshio Kinoshita was President of Respondent Corporation, Takeshi Kinoshita and Tomio Kawasaki were Vice-Presidents of Respondent Corporation, and Koichi Soejima was Secretary of Respondent Corporation.

5. At the time of the events in this matter, Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, and Franklin Mukai were the directors of Respondent Corporation.

6. Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, Koichi Soejima, and Franklin Mukai passed a resolution authorizing

9404358501 5

the creation of Sports Shinko (Pukalani) Co., Ltd.'s contribution committee, funding its political and charitable contributions account in the amount of $50,000, granting the committee sole discretion over the disbursement of the funds in the account, and appointing Franklin Mukai as the sole member of the committee. Respondent Corporation contends that it took this action on the advice of counsel.

7. Yasuo Nishida is a foreign national as defined in 2 U.S.C. § 441e(b) and 11 C.F.R. § 110.4(a). At the time of the events in this matter, Yasuo Nishida was Treasurer and Assistant Treasurer of Respondent Corporation and an authorized signatory on Respondent Corporation's bank accounts in Hawaii.

8. Yasuo Nishida wrote Respondent Corporation's bank and informed the bank that Franklin Mukai was authorized to sign checks on an account of Respondent Corporation. Yasuo Nishida issued the checks signed by Franklin Mukai for the following contributions:

recipient	date	amount
Friends of Vince Bagoyo, Jr.	10-13-90	$1,000
	5-06-91	500
Friends of Rosalyn Baker	3-14-91	1,000
Campaign of Elmer F. Cravalho	10-13-90	2,000
Campaign of Goro Hokama	10-13-90	1,000
Campaign of Pat Kawano	10-13-90	1,000
Friends of Alice Lee	10-13-90	1,000
Friends of Rick Medina	10-13-90	1,000
	11-18-91	500
Campaign of Thomas P. Morrow	10-13-90	500
Friends of Joe Tanaka	10-13-90	1,000
Citizens for Waihee	10-13-90	2,000
	TOTAL	$12,500

9 4 0 4 3 5 8 5 0 1 6

9. Yasuo Nishida made an in-kind contribution for Respondent Corporation of $152 to the Campaign of Pat Kawano on December 9, 1989.

10. Foreign nationals are prohibited from contributing money, or any other thing of value, to a candidate for any political office, including Federal, State, or local office, either directly or through any other person, pursuant to 2 U.S.C. § 441e(a) and 11 C.F.R. § 110.4(a). In addition, foreign nationals may not directly or indirectly participate in the decision-making process of any person, such as a corporation or political committee, with regard to such person's Federal or nonfederal election-related activities, such as decisions concerning the making of contributions in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee. 11 C.F.R. § 110.4(a)(3).

V. Sports Shinko (Pukalani) Co., Ltd. made contributions totaling $12,652 to campaigns for political office, in violation of 2 U.S.C. § 441e.

VI. Toshio Kinoshita, Takeshi Kinoshita, Tomio Kawasaki, and Koichi Soejima participated in Sports Shinko (Pukalani) Co., Ltd.'s contributions, in violation of 2 U.S.C. § 441e.

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Fifty-Seven Thousand Dollars ($57,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

9404358501 7

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral,

9404358501 8

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 9/8/94

FOR SPORTS SHINKO (PUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (PUKALANI) CO., LTD. DIRECTORS:

Toshio Kinoshita

Date

Takeshi Kinoshita

Date

Tomio Kawasaki

Date

Koichi Soejima

Date

9404358501 9

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence N. Noble
General Counsel

Date 9/7/94

FOR SPORTS SHINKO (PUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (PUKALANI) CO., LTD. DIRECTORS:

Toshio Kinoshita

Date July 15, 1994

Takeshi Kinoshita

Date 7/15/94

Tomio Kawasaki

Date 7/15/94

Koichi Soejima

Date 7/15/94

9404358502 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3460

DATE FILMED 9-26-94 CAMERA NO. 2

CAMERAMAN JMH

9404358502 1

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

Date: 9/29/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

9404358510 6

FEDERAL ELECTION COMMISSION

Press Office
999 E Street, N.W., Washington, D.C. 20463
Phone: Local 202-219-4155 Toll Free 800-424-9530

FOR IMMEDIATE RELEASE:
SEPTEMBER 30, 1994

CONTACT: KELLY HUFF
RON HARRIS
SHARON SNYDER
IAN STIRTON

FEC RELEASES TWO COMPLIANCE CASES

WASHINGTON -- The Federal Election Commission has made public its final action on two matters previously under review (MURs). This release contains only summary information. Closed files should be thoroughly read for details, including the FEC's legal analysis of the case. (Please see footnote at the end of this release.) Closed MUR files are available in the Public Records Office. They are as follows:

9404358507

MUR NO.

1. MUR 3460

RESPONDENTS:
(a) Sports Shinko (Pukalani) Co., Ltd. (HI)
(b) Tomio Kawasaki (HI)
(c) Takeshi Kinoshita (HI)
(d) Toshio Kinoshita (HI)
(e) Koichi Soejima (HI)
(f) Friends of Vince Bagoyo, Jr. (HI)
(g) Friends of Joe Tanaka (HI)
(h) Friends of Alice Lee (HI)
(i) Friends of Rich Medina (HI)
(j) Campaign of Goro Hokama (HI)
(k) Campaign of Pat Kawano (HI)
(l) Martin Luna (HI)
(m) Franklin Mukai (HI)
(n) Tsugio Fukuda (HI)
(o) Iwane Yamamoto (HI)
(p) Yasuo Nishida (HI)

Non-respondent committees which received impermissible contributions were instructed to disgorge those amounts to U.S. Treasury.

Campaign of Thomas P. Morrow (HI)
Citizens for Waihee (HI)
Friends of Rosalyn Baker (HI)

One additional non-respondent committee received impermissible funds, but no longer exists, and therefore, was not contacted by the FEC:

Campaign of Elmer F. Cravalho (HI)

-more-

COMPLAINANT: Allen W. Barr (HI)
SUBJECT: Foreign national contributions, contributions in the name of another
DISPOSITION: (a-e) Conciliation Agreement: $57,000 civil penalty*
(f-k) Reason to believe, but took no further action [re: foreign national contributions]*
No reason to believe [re: contributions in the name of another]*
(l-m) No reason to believe*
(n-p) Took no action*

2. **MUR 3925/PRE-MUR 250**

RESPONDENTS: Michael L. Keiser (IL)
COMPLAINANT: FEC Initiated (OGC)
SUBJECT: Excessive contributions, exceeding the $25,000 annual contribution limit (1990)
DISPOSITION: Conciliation Agreement: $28,000 civil penalty*

*There are four administrative stages to the FEC enforcement process:
1. Receipt of proper complaint
2. "Reason to believe" stage
3. "Probable cause" stage
4. Conciliation stage

It takes the votes of at least four of the six Commissioners to take any action. The FEC can close a case at any point after reviewing a complaint. If a violation is found and conciliation cannot be reached, then the FEC can institute a civil court action against a respondent.

\# \# \#

9404358510 8

FEDERAL ELECTION COMMISSION
Press Office
999 E Street, N.W., Washington, D.C. 20463
Phone: 202-219-4155 Toll Free 800-424-9530

FOR IMMEDIATE RELEASE
SEPTEMBER 30, 1994

CONTACT: RON HARRIS
SHARON SNYDER
IAN STIRTON
KELLY HUFF

COMMISSION ASSESSES HAWAII CORPORATION $57,000 CIVIL PENALTY

WASHINGTON -- A Hawaiian subsidiary of Japanese corporations has been assessed a civil penalty of $57,000 by the Federal Election Commission for violating the ban on campaign contributions by foreign nationals. FEC Chairman Trevor Potter stated, "This case represents another significant step in the Commission's enforcement of the prohibition on contributions by foreign nationals in U.S. elections."

The violations occurred from 1989-91 in state and local elections in Hawaii and involved the firm of Sports Shinko (Pukalani) Co., Ltd., which is indirectly owned by Sports Shinko (U.S.A.) Co., Ltd., headquartered in Delaware, which in turn is owned by a consortium of Japanese corporations. A total of $12,652 was contributed by the company to Hawaiian (non-federal) candidates.

In the Sports Shinko case, the FEC found that the Japanese directors of the company authorized a "contribution committee" to make political and charitable contributions in Hawaii, allocating $50,000 for the committee's contribution efforts. This foreign national participation in the decision to form the committee is contrary to FEC regulations.

Federal campaign law prohibits foreign nationals from contributing to any U.S. election, federal, state, or local. In addition, a domestic subsidiary of a foreign corporation may not donate funds in connection with state or local elections if these donations are financed by the foreign parent corporation or if any individual foreign nationals are involved in the decision-making process to donate to non-federal campaigns.

This case (MUR 3460) is part of the FEC's ongoing prioritization program, which includes an emphasis on illegal foreign corporate and individual contributions. The FEC,on August 3, announced the completion of an investigation into illegal campaign contributions by foreign nationals in Hawaiian state and local elections, which resulted in a total of $162,225 in civil penalties to 26 business, individual, and government entities. At that time, Chairman Potter noted that other cases were being investigated.

9404358510 9

Potter added today, "This case should send a clear message to foreign nationals who own or manage U.S. businesses that they may not participate in corporate decisions to make contributions to U.S. candidates at any level -- federal, state, or local. The FEC takes this prohibition seriously, and will continue to enforce it."

Recipient committees have either already refunded the impermissible contributions or have been ordered by the FEC to disgorge those contributions to the U.S. Treasury. No further action was taken by the FEC regarding the recipient committees, which were:

Recipient Name	Amount of Impermissible Donations Received
Friends of Vince Bagoyo, Jr.	$1,500
Friends of Rosalyn Baker	1,000
Campaign of Elmer F. Cravalho	2,000
Campaign of Goro Hokama	1,000
Campaign of Pat Kawano	1,152
Friends of Alice Lee	1,000
Friends of Rick Medina	1,500
Campaign of Thomas P. Morrow	500
Friends of Joe Tanaka	1,000
Citizens for Waihee	2,000

# # #

9404358510

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

Date: 9/29/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

94043585137

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3780

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3466
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 28 9 32 AM '94

September 21, 1994

Certified mail P 366 766 511
Return receipt requested

Mark Allen, Esq.
Asst. General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
ACCOUNTING OFFICE
SEP 27 12 33 PM '94

Re: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki, Takeshi Kinoshita,
Toshio Kinoshita and Koichi Soejima

Dear Mr. Allen:

We represent Sports Shinko (Pukalani) Co., Ltd. and several of its former and current directors in connection with the above case.

We enclose with this letter a check in the amount of the civil penalty agreed upon in the Conciliation Agreement. We understand that this payment brings this matter to a close.

We would request that all correspondence between this office setting out the position of Sports Shinko (Pukalani) Co., Ltd. and its current and former directors and the Federal Election Commission be included in the records of this matter. Copies are enclosed for your reference.

9404358513 8

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Gilbert S. Coloma-Agaran

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

Enc.

cc: Sports Shinko (Pukalani) Co., Ltd.
Franklin Mukai, Esq.

Sports Shinko/40900210.GCA

9404358513 9

DECLARATION OF KOICHI SOEJIMA

I, KOICHI SOEJIMA, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED: March 22, 1994

Koichi Soejima
KOICHI SOEJIMA

SPSH/40300054.GCA

9404358514 0

DECLARATION OF TOMIO KAWASAKI

I, TOMIO KAWASAKI, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED: March 17, 1994

Tomio Kawasaki

TOMIO KAWASAKI

9404358514 1

DECLARATION OF TOSHIO KINOSHITA

I, TOSHIO KINOSHITA, state under penalty of perjury, that the Answers to Interrogatories sent to the Federal Election Commission on August 27, 1993 in MUR 3460 are true and correct to the best of my knowledge.

DATED:

TOSHIO KINOSHITA

9404358514 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

9/27/94

SEP 28 9 32 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Sports Shinko Co., LTd. etc., check number 8407, dated 08/01/94, and in the amount of $57,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Rosa E. Swinton
Accounting Technician

FROM: OGC, Docket a a by SDB

In reference to the above check in the amount of $57,000, the MUR number is 3460 and in the name of Sports Shinko. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

✓ Civil Penalties Account, 95-1099.160

__ Other: _____

Signature: Rosa E. Swinton

Date: 9/28/94

9404358514 3

NO 8407

SPORTS SHINKO (Pukalani) CO., Ltd.
360 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

CHECK DATE	CHECK NO
08/01/94	8407

CHECK AMOUNT
$57,000.00 *********

PAY TO ORDER OF

-------FIFTY SEVEN THOUSAND AND NO/100 ----------

FEDERAL ELECTION COMMISSION

T. Fujita
AUTHORIZED SIGNATURE

⑈008407⑈ ⑆121301028⑆ 0065⑈009919⑈

BML

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
1001 BISHOP STREET
PACIFIC TOWER, SUITE 2200
POST OFFICE BOX 656
HONOLULU, HAWAII 96809
TELEPHONE (808) 523-2500
FAX (808) 523-0842

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202-1111
FAX (52-5) 520-5867

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3366

DIRECT DIAL NUMBER:
(808) 523-2627

'92 JAN 16 A9:42

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Dear Mr. Bernstein:

Re: MUR 3460 - Sports Shinko (Pukalani) Co., Ltd.

We represent Sports Shinko (Pukalani) Co., Ltd., doing business as Pukalani Country Club ("Respondent"), which acknowledges receipt of a complaint and your correspondence dated December 18, 1991. In accordance with 2 U.S.C. Section 437g(a)(1) and 11 C.F.R. Section 111.6, Respondent hereby respectfully requests that the Commission find, pursuant to 11 C.F.R. Section 111.7, that there is no reason to believe that the alleged violation has been committed and that the complaint accordingly be dismissed.

The complaint states that Respondent made contributions to the respective campaign election committees of five candidates for local elective office. The complaint further alleges that Respondent is a foreign owned and/or controlled corporation, that the contributions are allegedly in violation of federal law, and further that contributions were allegedly made in the name of another person on behalf of Respondent.

9404358514 5

X9148841

As discussed more fully below, under the Federal Election Campaign Act of 1971, as amended ("FECA"), the accompanying regulations and the relevant Advisory Opinions, the contributions referred to in the complaint were entirely proper in all respects and, specifically, were not made, directly or indirectly, through or on behalf of foreign nationals. Further, any attempt to apply the prohibitions of 2 U.S.C. Sections 441e and 441f to Hawaii state and local elections is unconstitutional. Accordingly, the complaint as to Respondent is without merit and should summarily be dismissed.

I. FACTUAL BACKGROUND

Respondent is a Hawaii corporation, with its principal office located in Pukalani, Hawaii on the Island of Maui, and is a wholly-owned subsidiary of a Japan corporation. Respondent is engaged in operating a golf course located at Pukalani, Maui.

Respondent presently has four directors, one of whom is lawfully admitted to the United States in a managerial capacity for Respondent, one is a United States citizen, and two are citizens of Japan.

Respondent has six officers (three of whom are also directors), of whom two are lawfully admitted to the United States in managerial capacities for Respondent, and four are citizens of Japan.

Respondent created a political and charitable fund and committee, appointing Franklin K. Mukai, one of Respondent's directors and a United States citizen, to serve as the sole member of said committee. Mr. Mukai was authorized by Respondent to consult with B. Martin Luna, a United States citizen and a Maui resident, who was appointed to serve as a consultant to Mr. Mukai for civic and charitable matters on Maui. A copy of the corporate authorization will be provided under separate cover and is incorporated herein by reference as Exhibit A.[1] The funds disbursed by the committee were

---

[1]When Respondent authorized the political and charitable fund and committee, its directors were (1) Toshio Kinoshita, a (continued...)

9404358514 6

generated from Respondent's Maui golf course operations, which are thus far economically self-sufficient. Except for a donation of four complimentary golf passes discussed in further detail below, all decisions concerning the amounts and recipients of any political contributions were made by Mr. Mukai, after consultation with Mr. Luna. No foreign national contributed to the fund and no foreign national participated in decisions regarding individual amounts to be contributed or the recipients of such political contributions, except for the aforementioned incident involving the complimentary golf passes, which is not a violation of the FECA or its accompanying regulations.

II. DISCUSSION

1. Hawaii law permits corporate contributions.

As a preliminary matter, Hawaii law permits a corporation or its political action committee to make contributions to candidates for state or local election. See Hawaii Revised Statutes ("H.R.S.") Sections 11-191(18) and 11-204(f) attached hereto as Exhibit B.

2. Respondent is not a foreign national and therefore is not subject to the prohibitions of 2 U.S.C. Section 441e.

Under the FECA and the accompanying regulations, foreign nationals may not make any contributions, directly or through any other person, in connection with any election to political office. 2 U.S.C. Section 441e; 11 C.F.R. Section 110.4(1). According to Section 441e(b), "foreign national" means a foreign principal, as that term is defined in 22 U.S.C. Section 611(b), or an individual who is not a citizen of the United States and is not lawfully admitted for permanent residence, as defined by 8 U.S.C. Section 1101(a)(20).

---

[1](...continued)
citizen of Japan, (2) Tomio Kawasaki, a citizen of Japan, (3) Takeshi Kinoshita, who is lawfully admitted to the United States in a managerial capacity, (4) Koichi Soejima, a citizen of Japan, and (5) Franklin K. Mukai, a United States citizen.

2 4 0 4 3 5 8 5 1 4 7

With respect to corporations, Section 611(b) of Title 22 states that a corporation will be considered a "foreign principal" when it is organized under the laws of, or has its principal place of business in, a foreign country. Numerous Advisory Opinions have interpreted this portion of Section 611(b) to establish that a corporation organized under the laws of any state of the United States with its principal place of business in the United States is not a foreign principal. Accordingly, such a corporation would not be a "foreign national" under Section 441e of FECA. See Advisory Opinions 1985-3; 1983-31; 1982-10; 1981-36.

Respondent is organized under the laws of the State of Hawaii, and has its principal place of business in Pukalani, Maui, Hawaii. The fact that the stock of Respondent is owned by a foreign national does not render it a foreign national because the nationality of the stock owners is not the applicable test. Rather, the Commission has repeatedly stated that "a domestic corporation whose principal place of business is within the United States is not a 'foreign principal' and hence not a 'foreign national'. . . ." Advisory Opinion 1980-100. See also Advisory Opinion 1985-3 ("a corporation organized under the law of any state within the United States whose principal place of business is in the United States is not a foreign principal and, accordingly, would not be a 'foreign national'. . ."). Therefore, Respondent is not a "foreign national" under 2 U.S.C. Section 441e.

3. A corporation which is not a foreign national may lawfully contribute to state and local elections as long as foreign nationals do not contribute funds or exercise decision-making authority.

In addition to prohibiting direct contributions by foreign nationals, Section 441e also prohibits contributions by foreign nationals "through any other person". Under the standards discussed below, because foreign nationals do not contribute to or have any decision-making authority over Respondent's contributions listed in the complaint, it cannot be said to have violated this provision either.

In the first instance, a domestic corporation, even one that is wholly-owned by a foreign national, may make political contributions to state and local elections under FECA and the accompanying regulations, provided individuals who are

9 4 0 4 3 5 8 5 1 4 8

foreign nationals do not contribute to the fund nor exercise decision-making authority with respect to the corporation's political contributions. A host of Advisory Opinions make it clear that a United States subsidiary that is wholly-owned by a foreign national may make contributions to a state or local election as long as the foreign parent (and foreign nationals) do not directly or indirectly provide funds for such contributions nor would foreign nationals have any decision-making responsibility with respect to the contributions. See e.g. Advisory Opinion 1985-3; Advisory Opinion 1978-21; Advisory Opinion 1982-10; Advisory Opinion 1980-100. Thus, in Advisory Opinion 1985-3, a wholly-owned U.S. subsidiary of a Canadian corporation asked the Commission whether it could make contributions to state and local elections without violating the prohibitions of Section 441e. The Commission held that the subsidiary could make such contributions under the following conditions:

a. The foreign corporate parent (and foreign nationals) could not directly or indirectly provide funds for any contribution;

b. No foreign national could have any decision-making role or control with respect to the making of any political contribution by the subsidiary.

Advisory Opinion 1985-3 (citing Advisory Opinion 1981-36; Advisory Opinion 1983-31). These principles were reaffirmed in Advisory Opinion 1989-29, which involved GEM of Hawaii, Inc., a Hawaii corporation wholly-owned by a Japanese corporation, wherein political contributions to state and local elections were allowed provided the conditions set forth above regarding the exclusion of foreign nationals were satisfied.

In the case of Respondent, no foreign national (nor the foreign corporate parent) contributed to the funds used for political contributions nor did any foreign national exercise decision-making control over the director who is a United States citizen and who had been delegated the sole authority to determine political contributions. First, with regard to source of funds, Respondent derived its funds from its golf course business activities in the United States, not from foreign nationals. Therefore, the contributions at issue were not from a fund contributed by foreign nationals and the first condition was satisfied.

9404358514 9

Second, with respect to decision-making authority, all determinations dealing with political contributions were properly delegated to the director who is a United States citizen. More significantly, the officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Respondent's contributions to state and local elections, which satisfies the second condition.

Mr. Yasuo Nishida, Respondent's Assistant Treasurer, who is a Japanese national lawfully admitted to the United States in a managerial capacity for Respondent, recalls receiving a November 1989 request for golf tournament prizes, whereupon complimentary rounds of golf at Pukalani Country Club were donated. Since he was still a relative newcomer to Maui at the time with no opportunity or inclination to become involved in local politics, Mr. Nishida was not aware that the complimentary rounds of golf were to be used in connection with a local political fundraising event. 2 U.S.C. Section 431(8)(A)(i) and 11 C.F.R. Section 100.7(a)(1) define "contribution" as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person <u>for the purpose of influencing any election for Federal office</u> (emphasis added). Similarly, 2 U.S.C. Section 431(9)(A)(i) and 11 C.F.R. Section 100.8(a)(1) define "expenditure" and limit the definition to things of value provided for the purpose of influencing elections for Federal office. Clearly, Mr. Nishida did not make the rounds of golf available for the purpose of influencing any state or local election, and certainly not for the purpose of influencing any election for Federal office. Therefore, the complimentary rounds of golf in question do not constitute a prohibited contribution or expenditure under the FECA or its accompanying regulations. Any violation of the FECA, if one did occur in this instance, certainly was, as indicated by the circumstances, inadvertent.

4. <u>No contributions were made in the name of another</u>.

Section 441f provides in relevant part that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution.

9 4 0 4 3 5 8 5 1 5 0

This portion of the complaint appears to be based upon copies of various state campaign spending reports filed by Maui County councilmembers and included with the complaint as exhibits, which collectively indicate that at least one councilmember received contributions from Respondent, Franklin K. Mukai and B. Martin Luna.

The complaint appears to allege that the contribution made by Mr. Luna (and possibly Mr. Mukai) was made with funds obtained from Respondent. This allegation is unfounded and patently untrue. All contributions made by Respondent were paid with checks properly identifying Respondent. Respondent has no rational reason to have Mr. Luna or Mr. Mukai make further contributions in their respective names with Respondent's funds. Under Hawaii law, H.R.S. Section 11-204 permits contributions of up to $2,000 to a candidate or a candidate's committee for each primary, special primary, special or general election. Since Respondent's contributions were between $500 and $1,000, there was no reason for it to have others make contributions on its behalf. Respondent understands Section 441f requires the disclosure of the actual contributor's identity whenever a contribution is made. In other words, the real source of the funds must be revealed. Respondent is not in violation of Section 441f. Respondent did not provide Mr. Luna nor Mr. Mukai with funds for this purpose and upon information and belief, the respective sources of the contributions from Mr. Mukai and Mr. Luna are their own funds. The fact that Mr. Mukai and Mr. Luna collaborated in decisions regarding disbursements from Respondent's political and charitable account is not a violation of Section 441f. Incidentally, any checks from Respondent written for this purpose would be processed through Mr. Yasuo Nishida, Respondent's Assistant Treasurer, who is lawfully admitted to the United States in a managerial capacity for Respondent, but his participation in these matters would be ministerial and non-discretionary.

As further evidence that this allegation has no merit, Mr. Mukai signed all of Respondent's political contributions checks. Copies of the checks in question, all of them bearing Mr. Mukai's signature, are attached hereto as Exhibits C-1 to C-7. Since Mr. Mukai has the authority to sign Respondent's checks for this purpose, it does not logically follow that Respondent would request Mr. Luna or Mr. Mukai to make further contributions in their names with Respondent's

9404358515 1

funds. Finally, H.R.S. Section 11-202, a copy of which is attached as Exhibit D, similarly prohibits contributions in the name of another. Even if Messrs. Mukai and Luna were not advised of federal restrictions (of which they were advised), they were aware of comparable state restrictions and they are not in violation of the state law.

5. The prohibitions of Section 441e, if applied to Respondent's participation in state and local elections, would be unconstitutional and void.

The Tenth Amendment to the United States Constitution provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Sections 441e and 441f, if applied to Respondent under the circumstances of this case (and impliedly to State of Hawaii and County of Maui elections), would be an unconstitutional and therefore impermissible federal exercise of a power reserved to the states; i.e., the power to regulate state and local elections. In Oregon v. Mitchell, 400 U.S. 112, 118 (1970), a majority of the U.S. Supreme Court held unconstitutional a federal voting rights statute that would have lowered the voting age to 18 in both federal and state elections. The decision was based in part upon the principle articulated in the Tenth Amendment, and ruled that the power to regulate state and local elections was reserved to the states.

Therefore, while Respondent has not violated Sections 441e or 441f as alleged in the complaint and maintains that the complaint should be dismissed because it is without merit, Respondent is also prepared to assert this constitutional argument should the circumstances so require.

6. Contributions by foreign nationals to state and local elections are permitted under Hawaii law.

Under Hawaii law, (a) individuals and other legal entities (H.R.S. Section 11-191(18)) may contribute to state and local elections (H.R.S. Section 11-204), and (b) no restrictions are placed upon "foreign nationals", as that term is defined in Section 441e. In support of this last assertion, the Hawaii legislature considered a bill during the 1989 session that would have prohibited political contributions by foreign nationals (H.B. No. 235). Significantly, the bill

9 4 0 4 3 5 8 5 1 5 2

failed and Respondent asserts that the legislature, by its decision not to enact this measure, implicitly allows political contributions by foreign nationals. This assertion is supported by the Senate committee report on the bill, which stated in relevant part:

> While the [foreign] contributions prohibited under this [proposed] section are the same as those which the federal government contends are illegal in state or local elections under its laws and regulations, this bill is not intended to demonstrate any acquiescence to that contention. On the contrary, the legislature does not recognize federal jurisdiction in this area, and is therefore free to create an independent Hawaii campaign contribution law. (Emphasis added.)

Sen. Stand. Comm. Rep. No. 1300, 15th Legis., Reg. Sess., 1989 Hawaii Sen. J. 1287.

Finally, the Hawaii State Campaign Spending Commission has consistently advised political candidates and contributors that contributions to state and local elections by foreign nationals are allowed under Hawaii law.[2] Therefore, Respondent is in compliance with applicable Hawaii law as well as the FECA and accompanying regulations with regard to contributions to state and local elections.

III. SUMMARY

On the basis of the facts presented, analysis of the FECA, its accompanying regulations, the Commission's relevant Advisory Opinions, and other applicable laws, Respondent respectfully requests that the Commission dismiss this complaint. Respondent is willing to provide any additional

---

[2]The Honolulu Advertiser, January 28, 1989, quoting Jack M. K. Gonzales, Director, Hawaii State Campaign Spending Commission.

9404358515 3

information that will assist the General Counsel's Office in formulating its recommendation to the Commission.

Respectfully submitted,

CARLSMITH BALL WICHMAN MURRAY
CASE MUKAI & ICHIKI

By Stanley D. Suyat
Stanley D. Suyat

SDS:jsi
Attachments

9404358515 4

(A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:

(i) Influencing the nomination for election, or election, of any person to office; or

(ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election above;

(iii) Use by any party for the purposes set out in clause (i) or (ii) above;

(B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in subparagraph (A) above; or

(C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this subparagraph and subparagraphs (A) and (B), the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or

(D) Notwithstanding subparagraphs (A), (B), and (C), a candidate's expenditure of the candidate's own funds or the making of a loan or advance in the pursuit of the candidate's campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.

***

(14) "Loan" means an advance of money, goods, or services, or a guarantee, endorsement, or any other form of security, with an absolute promise to repay.

(15) "Matching payment period" means:

(A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and

(B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.

(16) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.

(17) "Office" means any elective public or constitutional office excluding federal elective offices.

(18) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.

(19) "Political party" means any party which satisfies the requirements of section 11-61.

(20) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.

(21) "Qualifying campaign contribution" means a monetary contribution of $100 or less, and not more than $100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions. [am L 1987, c 369, §1(1)]

9 4 0 4 3 5 8 5 1 5 5

EXHIBIT B
(Page 1 of 2 Pages)

(1) The cost of food and beverages consumed at the function;
(2) Rent and utilities for the premises where the function is held;
(3) The amount paid for guest speakers and entertainment;
(4) Printing and postage related to a function; and
(5) All other direct costs incurred in solicitation of the fundraiser, or fundraising activity. [L 1979, c 224, pt of §2; am L 1980, c 232, §1 and c 246, §1(e); am imp L 1984, c 90, §1; am L 1987, c 369, §1(6)]

§11-204 Campaign contributions; limits as to persons. (a) No person or any other entity shall make contributions to a candidate or candidate's committee in an aggregate amount greater than $2,000 in any primary, special primary, special, or general election.

(b) A candidate or the candidate's immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to $50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate or candidate's committee who knowingly receives in the aggregate more than $2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over $2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate or candidate's committee who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.

(e) All payments made by a person whose contributions or expenditure activity is financed, maintained, or controlled by any corporation, labor organization, association, political party, or any other person or committee, including any parent, subsidiary, branch, division, department, or local unit of the corporation, labor organization, association, political party, or any other person, or by any group of those persons shall be considered to be made by a single person.

(f) A contribution made by two or more corporations shall be treated as one person when such corporations:
(1) Share the majority of members of their boards of directors;
(2) Share two or more corporate officers;
(3) Are owned or controlled by the same majority shareholder or shareholders; or
(4) Are in a parent-subsidiary relationship.

(g) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(h) No committee which supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. [L 1979, c 224, pt of §2; am L 1980, c 246, §1(f); am imp L 1984, c 90, §1; am L 1987, c 369, §1(7); am L 1988, c 403, §1; am L 1989, c 261, §1]

§11-206 Campaign contributions; restrictions as to excess. (a) Every candidate in a primary, special primary, special, or general election who has voluntarily agreed to abide by spending limits and who subsequently receives campaign contributions in excess of the expenditure limit set for the candidate's

EXHIBIT B
(Page 2 of 2 Pages)

7 4 0 4 3 5 8 5 1 5 6

NO 3178

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

CHECK DATE	CHECK NO
04/18/91	3178

CHECK AMOUNT
*****500.00 ***

PAY TO
ORDER
OF

FRIENDS OF VINCE BAGOYO
ATTN: Mr. Lloyd Kimura
P. O. Box 1235
Wailuku, Maui, Hawaii 96793

AUTHORIZED SIGNATURE

⑈003178⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000050000⑇

EXHIBIT C-1

9 4 0 4 3 5 8 5 1 5 7

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-102
1213

NO 2402

CHECK DATE	CHECK NO
10/13/90	2402

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

BAGOYO, VINCE G., JR.

AUTHORIZED SIGNATURE

⑈002402⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-2

9 4 0 4 3 5 8 5 1 5 8

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

59 102
1213

NO 2405

CHECK DATE	CHECK NO
10/13/90	2405

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

HOKAMA, GORO

AUTHORIZED SIGNATURE

⑈002405⑈ ⑆121301028⑆ 0065⑈009419⑈ ⑇0000100000⑇

EXHIBIT C-3

9 4 0 4 3 5 8 5 1 5 9

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

59 102
1213

NO 2406

CHECK DATE	CHECK NO
10/13/90	2406

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

KAWANO, PATRICK S.

PROCESSED 11/05/90 001110016

AUTHORIZED SIGNATURE

⑈002406⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-4

9 4 0 4 3 5 8 5 1 6 0

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII [redacted] 40

NO 2408

CHECK DATE	CHECK NO
10/13/90	2408

CHECK AMOUNT
*****1,000.00

PAY TO ORDER OF

LEE, ALICE

AUTHORIZED SIGNATURE

⑈002408⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000100000⑇

EXHIBIT C-5

9 4 0 4 3 5 8 5 1 6 1

08075512

NO 2409

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

CHECK DATE	CHECK NO
10/13/90	2409

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

MEDINA, RICK

AUTHORIZED SIGNATURE

⑈002409⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

EXHIBIT C-6

9 4 0 4 3 5 8 5 1 6 2

SPORTS SHINKO (Pukalani) CO., Ltd.
[illegible] PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

NO 2412

CHECK DATE	CHECK NO
10/13/90	2412

CHECK AMOUNT
*****1,[illegible].00

PAY TO ORDER OF

TANAKA, JOE S.

AUTHORIZED SIGNATURE

⑈002412⑈ ⑆121301028⑆ 0065-009919⑈ ⑈0000100000⑈

EXHIBIT C-7

9 4 0 4 3 5 8 5 1 6 3

§11-202 False name. No person shall make a contribution of the person's own money or property, or money or property of another person to any candidate, party, or committee in connection with a nomination for election, or election, in any name other than the true name of the person who owns the money or who supplied the money or property.

All contributions made in the name of a person other than the true or established name of the actual owner of the money or property shall escheat to the Hawaii election campaign fund. [L 1979, c 224, pt of §2; am imp L 1984, c 90, §1]

§11-203 Fundraisers and fundraising activities. (a) As used in this subpart, "fundraiser" means any function held for the benefit of a person which is designed to raise funds for political purposes for which the total price of attending the function is more than $25 per person.

(b) There shall be no more than one fundraiser held for a person prior to a general or special election in which that person is either elected or defeated. Where a person seeks election to statewide office, the person or the person's directly associated committee may hold not more than one fundraiser in each county prior to a general or special election.

Within six months after a general, special general, or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fundraiser.

(c) No fundraiser shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair, and whether contributions will be solicited at the affair and the method thereof.

(d) Fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

(e) The following expenses incident to a fundraiser and to all other political fundraising activities held for the benefit of a person for which there is a charge for attending or participating in the fundraiser or fundraising activity, shall not be considered expenditures within the limitations set by section 11-209:

(1) The cost of food and beverages consumed at the function;
(2) Rent and utilities for the premises where the function is held;
(3) The amount paid for guest speakers and entertainment;
(4) Printing and postage; and
(5) All other direct costs incurred in solicitation of the fundraiser or fundraising activity. [L 1979, c 224, pt of §2; am L 1980, c 232, §1 and c 246, §1(e); am imp L 1984, c 90, §1]

§11-204 Campaign contributions; limits as to persons. (a) No person or any other entity other than a political party shall make contributions to a candidate in an aggregate amount greater than $2,000 in any primary, special primary, special, or general election.

(b) A candidate or the candidate's immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to $50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate who knowingly receives in the aggregate more than

EXHIBIT D

9 4 0 4 3 5 8 5 1 6 4

FKM 22

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
1001 BISHOP STREET
PACIFIC TOWER, SUITE 2200
POST OFFICE BOX 656
HONOLULU, HAWAII 96809

TELEPHONE (808) 523-2500
FAX (808) 523-0842

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 985-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 202 1111
FAX (52-5) 520-5867

WASHINGTON, D C OFFICE
TELEPHONE (202) 628-4566
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

DIRECT DIAL NUMBER:
(808) 523-2627

APR 7 2 5 PM '92

Jonathan Bernstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Dear Mr. Bernstein:

Re: MUR 3460 - Sports Shinko (Pukalani) Co., Ltd.

In its January 15, 1992 response to the complaint indicated above, Sports Shinko (Pukalani) Co., Ltd. indicated that it would provide to the Commission, under separate cover, a copy of the corporate authorization which appointed Mr. Franklin K. Mukai as the sole member of a political and charitable contributions committee. Enclosed please find a copy of the Unanimous Written Consent of the Board of Directors, effective October 1, 1990, marked as Exhibit A.

The corporate authorization further authorizes Mr. Mukai to consult with Mr. B. Martin Luna with regard to the disbursement of the Company's political and charitable contributions in the County of Maui, State of Hawaii.

Please contact the undersigned should you require further information.

Very truly yours,

Stanley D. Suyat

Stanley D. Suyat

SDS:jsi
Enclosure

X9212523

9404358516 5

bcc w/enc: Mr. Yasuo Nishida
Franklin K. Mukai, Esq.
B. Martin Luna, Esq.

2404358516 6

UNANIMOUS WRITTEN CONSENT OF THE BOARD OF DIRECTORS IN LIEU OF A MEETING OF THE BOARD OF DIRECTORS OF SPORTS SHINKO (PUKALANI) CO., LTD.

The undersigned, being all of the Directors of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation (the "Corporation"), who would be entitled to vote upon the resolutions hereinafter set forth if same had been submitted at a formal meeting of such Directors, duly called and held for the purpose of acting upon such resolutions, do hereby consent, pursuant to Section 415-44, Hawaii Revised Statutes, that when all of the Directors have signed this Consent or an exact counterpart hereof, the following resolutions shall be deemed to be adopted to the same extent and to have the same force and effect as if adopted at a formal meeting of such Directors, duly called and held for the purpose of acting upon such proposals to adopt such resolutions:

RESOLVED, that a political and charitable contributions account is hereby authorized, for the purpose of enabling the Corporation to participate in the civic and charitable activities of the County of Maui, State of Hawaii;

FURTHER RESOLVED, that said political and charitable contributions account shall be funded in the amount of $50,000;

FURTHER RESOLVED, that a political and charitable contributions committee is hereby created, and which is hereby authorized to determine, at its sole discretion, the disbursement of the funds in said political and charitable contributions account, provided that all disbursements so made shall, in the judgment of the committee, promote the civic and charitable participation of the Corporation within the County of Maui;

FURTHER RESOLVED, that Mr. Franklin K. Mukai is hereby appointed to serve as the political and charitable contributions committee for the Corporation and he shall determine, after consultation with Mr. B. Martin Luna, who is authorized to serve as the Corporation's civic and charitable contributions consultant, the disbursement of political and charitable contributions for the County of Maui; and

9404358516 7

EXHIBIT A

FURTHER RESOLVED, that all civic and charitable contributions made in the year 1990 by or on behalf of the Corporation prior to the effective date herein and, in particular, that certain civic and charitable contribution to the Pukalani School Parent-Teacher Association in the amount of $500.00, made on or about June 6, 1990, are hereby affirmed and ratified as authorized and proper acts of the Corporation.

Effective as of October 1, 1990.

TOSHIO KINOSHITA

TOMIO KAWASAKI

TAKESHI KINOSHITA

KOICHI SOEJIMA

FRANKLIN K. MUKAI

9404358516 8

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
2145 WELLS STREET
WELLS STREET PROFESSIONAL BUILDING, SUITE 201
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2198

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4866
FAX (202) 628-4845

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4535
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472 6813
FAX (671) 477 4375

SAIPAN OFFICE
TELEPHONE (670) 322 3455
FAX (670) 322 3368

July 29, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

Thank you for spending time with me this morning on the telephone to discuss procedures in this matter.

As I informed you, we will be preparing a response in this matter for Respondents Sports Shinko (Pukalani) Co., Ltd., Koichi Soejima, Toshio Kinoshita, Tomio Kawasaki and Takeshi Kinoshita. Our clients will be sending the Designation of Counsel to you.

Respondents received the Notice of Reason to Believe on July 8, 1993 and a response is therefore due on or before August 9, 1993 in accordance with 11 C.F.R. § 111.2(9).

Several of the above respondents are based in Japan and another is in California. Given the need to coordinate preparation of responses, answers to the interrogatories and copying of responsive documents with them, we would request a twenty (20) day extension of the time to respond until August 30, 1993 (August 29, 1993 falls on a Sunday).

9404358516 9

Please let me know if you are agreeable to this extension request.

Very truly yours,

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

cc: Sports Shinko (Pukalani) Co., Ltd.
Koichi Soejima
Toshio Kinoshita
Tomio Kawasaki
Takeshi Kinoshita

JEC93712.GCA

9404358517 0

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
2145 WELLS STREET
WELLS STREET PROFESSIONAL BUILDING, SUITE 201
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793

TELEPHONE (808) 242-4935
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-8800
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2426
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 628-4866
FAX (202) 628-4649

HILO OFFICE
TELEPHONE (808) 935-6844
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

MAUI OFFICE
TELEPHONE (808) 242-4935
FAX (808) 244-4974

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

August 27, 1993

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460

Dear Mr. Allen:

We received a letter from Mr. Scott E. Thomas, chairperson of the Federal Election Commission ("FEC") on July 8, 1993. By letter dated July 29, 1993, we requested an extension of time from August 7, 1993 to August 30, 1993 to respond to the letter, interrogatories and document requests. By letter dated August 6, 1993, you granted our extension request.

This response is made jointly on behalf of Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko Pukalani") and Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Enclosed are executed Statements of Designation of Counsel from the individual respondents.

Mr. Thomas' letter concludes that there is reason to believe that Sports Shinko Pukalani and the individual respondents violated 2 U.S.C. § 441e which bars contributions in any American election by foreign nationals. The FEC's analysis and factual findings conclude that foreign nationals participated in Sports Shinko Pukalani's decisions to make contributions.

We respectfully request that the FEC take no further action in this matter. As explained below, any violation by respondents was inadvertent and based on the advice of counsel.

2404358517 1

I. FACTUAL BACKGROUND.

Sports Shinko Pukalani is a Hawaii corporation. It does business on the island of Maui as Pukalani Country Club. Respondent now has four directors, one of whom is lawfully admitted to the United States in a managerial capacity, one is a United States citizen, and two are citizens of Japan. Sports Shinko Pukalani has six officers (three of whom are also directors), of whom three are lawfully admitted to the United States in managerial capacities, and three are citizens of Japan.

Since its position, in its initial response dated January 15, 1992, was that the contributions were proper regardless of its parent-subsidiary and affiliated corporation relationships, Sports Shinko Pukalani stated that it was a wholly-owned subsidiary of a Japanese corporation. Sports Shinko Pukalani actually is the wholly owned subsidiary of Sports Shinko (Hawaii) Co., a Hawaii corporation. Sports Shinko (Hawaii) Co. is itself a wholly owned subsidiary of Sports Shinko (U.S.A.) Co., a Delaware corporation. Sports Shinko (U.S.A.) Co., in turn, is owned by thirteen Japanese corporations. Sports Shinko Pukalani receives no subsidies for its local operations from its parent, or its parent's parent, or the shareholders of its parent's parent.

Respondents relied on the opinion of counsel for Sports Shinko Pukalani in creating a committee to make contributions to community groups and political candidates in 1990. Respondents further relied on counsel's advice in implementing and administering such committee. Based on counsel's interpretation of then-current FEC Advisory Opinions regarding 2 U.S.C. § 441e, Sports Shinko Pukalani authorized Franklin K. Mukai, an American member of its Board of Directors, to serve as the sole member of the committee. Mr. Mukai was authorized to consult with B. Martin Luna, a United States citizen and a resident of Maui, who was appointed as a consultant to Mr. Mukai for civic and charitable matters. Mr. Mukai decided on charitable contributions for Maui and Pukalani charities, including a Sports Shinko Pukalani scholarship, as well as on political contributions for local elections. In addition, Sports Shinko Pukalani allocated fifty thousand dollars from its local revenues to fund these contributions. A formal corporate resolution was executed in 1992.

9 4 0 4 3 5 8 5 1 7 2

II. DISCUSSION.

Respondents, based on the advice of counsel, believed that they had complied with the requirements of the Federal Election Law by sufficiently insulating Sports Shinko Pukalani's foreign national directors and officers from decisions regarding the use of the charitable and political committee. The only "participation" by Sports Shinko Pukalani's foreign national directors was (1) designating American director Franklin K. Mukai as the person making decisions regarding the use of the committee funds and (2) approving the allocation of fifty thousand dollars in local revenues to fund the contributions. No foreign national was involved in decisions regarding individual donations or the amounts of such donations.

A. SPORTS SHINKO PUKALANI RELIED ON THE ADVICE OF COUNSEL BASED ON ADVISORY OPINIONS AVAILABLE PRIOR TO THE FORMATION OF ITS COMMITTEE.

Under the Federal Election laws and the accompanying regulations, foreign nationals are barred from making contributions, directly or through another person, in connection with any election to political office. 2 U.S.C. § 441e; 11 C.F.R. Section 110.4(1). As the FEC has concluded, Sports Shinko Pukalani is not a foreign national. The FEC has concluded, however, that it has reason to believe a violation of 2 U.S.C. § 441e nevertheless has occurred.

Sports Shinko Pukalani acted on the advice of counsel in forming its committee. Counsel's reading of then-existing advisory opinions suggested that under certain guidelines, contributions could be made legally. For example, Sports Shinko Pukalani believes it acted consistent with Advisory Opinion No. 1989-29 dated December 19, 1989. GEM of Hawaii, Inc. ("GEM"), the wholly owned subsidiary of a Japanese corporation sought an advisory opinion regarding its political action committee. AO No. 1989-29 at p. 1. GEM had three directors, two of whom were Japanese nationals. AO No. 1989-29 at p. 1. In that Advisory Opinion, certain principles were affirmed regarding the making of political contributions by domestic subsidiaries of foreign corporations:

9404358517 3

1. A foreign corporate parent and foreign nationals could not directly or indirectly provide funds for any contribution;

2. No foreign national could have any decision-making role or control with respect to the making of any political contribution by the subsidiary.

Subject to the conditions set out in Advisory Opinion No. 1989-20, "GEM itself may contribute to state and local campaign committees and to GEM PAC to the extent permitted by state and local laws." AO No. 1989-29 at p. 4.

The dissent in Advisory Opinion No. 1989-29 shows that Sports Shinko Pukalani had reason to believe that it was in compliance with the FEC's interpretation of the statute and regulations. In dissent, Chairman Danny L. McDonald and then-Commissioner Thomas questioned the reasoning and approach of the majority. Comparing the facts in the GEM situation and the decision in Advisory Opinion No. 1989-20 regarding Kuilima, another wholly-owned subsidiary of a foreign national corporation, the dissenters pointed out:

> There is one difference between these cases. In Kuilima, all of the directors of the subsidiary were foreign nationals. In GEM, all of the directors of the subsidiary are foreign nationals, save for one United States citizen who sits on the board of directors and is also a corporate officer. Advisory Opinion 1989-29 at 1. Apparently that makes all the difference to the majority in deciding whether foreign nationals exercise any influence on the political committee.

AO No. 1989-29 at p. 3 (dissent). The dissenters continued:

> This makes little sense in our opinion. Under the majority's test, foreign nationals must not "participate in any way in the decision-making process with regard to making the proposed contribution." Advisory Opinion 1989-20. We fail to see how a subsidiary can meet this test when,

9404358517 4

> as here, foreign nationals comprise 66% of the subsidiary's board of directors. In both Kuilima and GEM, foreign nationals dominate the board of directors. . . [F]oreign national control of the board of directors and their participation in all of the subsidiary's substantive decisions seems both clear and inevitable.

AO No. 1989-29 at p. 4 (dissent). Based on GEM's corporate by-laws which required a majority of its board to act, the dissenters conclude:

> Presumably, decisions to expend corporate treasury monies to establish and administer a political committee, the appointment of committee personnel as well as a variety of other matters are all decisions required to be made by the board of directors. Since two votes are required to conduct business, these decisions could not be made without the participation of the foreign national board members.

As the dissent's arguments illustrate, Sports Shinko Pukalani's counsel reasonably read Advisory Opinion No. 1989-29 to mean that establishing a committee did not constitute "participation" barred by the resolution. Otherwise, Advisory Opinion No. 1989-29 allowing GEM to go forward with its proposed actions was illusory and merely invited GEM, and others with similar factual circumstances, to violate the federal election laws. Under Advisory Opinion No. 1989-29, it was reasonable for Sports Shinko Pukalani to believe that even with a board of directors made up of seventy-five percent foreign nationals, it could legally form a committee if foreign nationals were insulated from decision-making on individual contribution decisions.

Based on Advisory Opinion No. 1989-29 and previous Advisory Opinions setting out the same guidelines and conditions, Sports Shinko Pukalani proceeded to form a committee for charitable and political contributions.

9404358517 5

In this case, the source of funds for Sports Shinko Pukalani's contributions were derived from its local revenues. Enclosed with Respondents' answers to interrogatories are financial statements for 1989, 1990, and 1991 showing revenue from its local golf course operations. Such revenue easily exceeded the amount allocated for charitable and political contributions and the amount of political contributions actually made. Thus, even under the standard discussed in Advisory Opinion No. 1992-16, Sports Shinko Pukalani complied with the first condition since it can demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by a foreign national parent, from which the contribution is made.

With regard to the second condition, decision-making authority for individual contributions and the amount of such contributions was delegated to Mr. Mukai, a United States citizen and a director. The officers and/or directors who are foreign nationals did not and do not participate in any manner in decisions related to Sports Shinko Pukalani's contributions to state and local elections. Under counsel's reading of Advisory Opinion No. 1989-29, Sports Shinko Pukalani complied with the second condition. As set forth in a letter from B. Martin Luna, Esq. to Jonathan Bernstein, Esq. dated January 10, 1992, Sports Shinko Pukalani received advice that "under certain specific guidelines", Sports Shinko Pukalani "could legally contribute funds to a candidate seeking, or an incumbent holding, State of local public office." As Mr. Luna recounts:

> Based on this understanding, Sports Shinko [Pukalani] authorized Frank Mukai in consultation with me to proceed with a program for charitable and political contributions. Under this authority, Mr. Mukai and I determined which public officials and charitable organizations on Maui would receive a contribution and the amount of the contribution.

Clearly, Sports Shinko Pukalani did not intend to circumvent the federal election laws in the formation and operation of its committee.

9 4 0 4 3 5 8 5 1 7 6

B. SPORTS SHINKO PUKALANI WAS UNAWARE OF LATER ADVISORY OPINIONS BARRING PARTICIPATION BY FOREIGN NATIONALS EVEN IN THE ESTABLISHMENT OF A COMMITTEE.

As set forth in Advisory Opinion Nos. 1990-8 and 1992-16, foreign national directors must refrain even from participating in the formation of a committee on contributions. AO No. 1990-8 at p. 1; AO No. 1992-16 at p. 3. As the FEC wrote:

> The Commission conditions its approval of your proposal not just on the basis that the members of CIT's Board who are foreign nationals will abstain from voting on matters concerning CITPAC and its activities, but also on the basis that they will abstain from voting on the selection of individuals to operate the PAC and exercise decision-making authority with respect to PAC contributions and expenditures.

AO No. 1990-8 at p. 2. Sports Shinko Pukalani was not aware of those advisory opinions. Since a quorum of Sports Shinko Pukalani's board would require the participation of its foreign national members, Sports Shinko Pukalani could not satisfy the guidelines announced in Advisory Opinion Nos. 1990-8 and 1992-16. Sports Shinko Pukalani would not have proceeded as it did had it been made aware of the later advisory opinions.

III. CONCLUSION.

Given the circumstances, we would request that the FEC take no further action. If the FEC is inclined to continue its investigation, respondents would request pre-probable cause conciliation in accordance with 11 C.F.R. § 111.18 in order to bring this matter to an amicable and mutually satisfying

9 4 0 4 3 5 8 5 1 7 7

conclusion. Certifications for the interrogatory answers will be forwarded to you when received from our clients.

Very truly yours,

GILBERT S. COLOMA-AGARAN

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

cc: Sports Shinko (Pukalani) Co., Ltd.
Mr. Toshio Kinoshita
Mr. Takeshi Kinoshita
Mr. Koichi Soejima
Mr. Tomio Kawasaki
Mr. Franklin K. Mukai
B. Martin Luna, Esq.

FSC93020.GCA

9 4 0 4 3 5 8 5 1 7 8

QUESTIONS AND DOCUMENT REQUESTS TO SPORTS SHINKO PUKALANI

1. Identify all your officers and directors, including their nationality status, for the period of January 1, 1989 through the present, including the dates of their terms.

1/1/89-12/31/89

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Vice-President	Tomio Kawasaki	Japanese
Secretary	Tsugio Fukuda	Japanese
Secretary	Koichi Soejima	Japanese
Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Franklin K. Mukai	American
	Tomio Kawasaki	Japanese
	Koichi Soejima	Japanese

1/1/90-12/31/90

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Vice-President	Tomio Kawasaki	Japanese
Secretary	Tsugio Fukuda	Japanese
Secretary	Koichi Soejima	Japanese
Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Tomio Kawasaki	Japanese
	Koichi Soejima	Japanese

1/1/91-12/31/91

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

9404358517 9

1/1/92-12/31/92

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

1/1/93-present

President	Toshio Kinoshita	Japanese
Vice-President	Takeshi Kinoshita	Japanese admitted in a managerial capacity
Secretary	Iwane Yamamoto	Japanese
Asst. Secretary	Takuya Tsujimoto	Japanese admitted in a managerial capacity
Treasurer	Tsugio Fukuda	Japanese
Asst. Treasurer	Yasuo Nishida	Japanese admitted in a managerial capacity
Directors	Toshio Kinoshita	Japanese
	Takeshi Kinoshita	Japanese admitted in a managerial capacity
	Franklin K. Mukai	American
	Iwane Yamamoto	Japanese

2. Identify all your management personnel, including their nationality status, for the period of January 1, 1989 through the present, including the dates of their terms.

1/1/89-present

Yasuo Nishida	Japanese admitted in a managerial capacity; general manager of Pukalani County Club.
Koroku Kaminmoto	American; golf course superintendent.
Amy L. Ishikawa-Ito	American; bookkeeper.

11/21/90-present

Ruth M. DePonte	American; restaurant manager.

3. Identify all persons and entities, including their nationality status, which directly or indirectly having ownership rights in you. Describe the interest held by each. Describe the relationship between/among these persons and/or entities.

9404358513 0

Sports Shinko Pukalani is a wholly owned subsidiary of Sports Shinko (Hawaii) Co., Ltd. ("Sports Shinko Hawaii"). Sports Shinko Hawaii is a Hawaii corporation.

Sports Shinko Hawaii is a wholly owned subsidiary of Sports Shinko (U.S.A.) Co., Ltd. ("Sports Shinko U.S.A."). Sports Shinko U.S.A. is a Delaware corporation.

Sports Shinko U.S.A. is owned by the following Japanese corporations: Sports Shinko Co., Ltd., Takamatsu Sports Shinko Country Co., Ltd., Inagawakokusai Co., Ltd., Amagase Onsen Country Co., Ltd., Uresino Kanko Kaihatsu Co., Ltd., Suifu Kanko Co., Ltd., Misaki Country Co., Ltd., Suho Country Co., Ltd., Tsuyama Sports Shinko Country Co., Ltd., Boushu Kaihatsu Co., Ltd., Sanyo Kosan Co., Ltd. Kinoshita Kensetsu Co., Ltd., Higashinasu Country Club Co., Ltd.

4. If you are a subsidiary of another entity, do you receive any transfers from your parent? If so, for each such transfer for the period of January 1, 1989 through the present:

a. State the amount;
b. State the purpose;
c. Identify the bank and number of the account from which the transfer was made.

No. Sports Shinko has received no transfers from January 1, 1989 through the present.

5. For each transfer you have received from any other entity for the period January 1, 1989 through the present,

a. State the amount;
b. State the purpose;
c. Identify the source;
d. Identify the bank and number of the account from which the transfer was made.

In December of 1992, Sports Shinko Pukalani had a receivable of $1,094,543.05 from Sports Shinko Pukalani Development Co., Ltd. ("Sports Shinko Development"). Sports Shinko Development, through the sale of some real estate, reduced its payable to Sports Shinko Pukalani by the amount of $1,094,543.05. All of the transactions were done through Journal Entries. No cash was transferred. Sports Shinko Development is a wholly owned subsidiary of Sports Shinko Pukalani.

6. For each contribution made by you to federal, state and local candidates or committees since January 1, 1989,

9 4 0 4 3 5 8 5 1 8 1

a. Identify by date, amount and recipient;

b. Provide all related documents, including copies of contribution checks, check registers, payment requests, approval forms, cover letters, memoranda and correspondence;

c. State whether a refund was made by recipient; if so, state the date of the refund;

d. Provide all documents that refer in any way to communications to or from recipient, such as letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

a. Date	Amount	Recipient
10/13/90	$1000.00	Joe S. Tanaka
10/13/90	$ 500.00	Thomas P. Morrow
10/13/90	$1000.00	Goro Hokama
10/13/90	$1000.00	Alice Lee
10/13/90	$2000.00	Elmer F. Cravalho
10/13/90	$1000.00	Vince G. Bagoyo Jr.
10/13/90	$2000.00	John D. Waihee III
10/13/90	$1000.00	Patrick S. Kawano
10/13/90	$1000.00	Friends of David Morihara
10/13/90	$1000.00	Rick Medina
3/14/91	$1000.00	Friends of Rosalyn Baker
4/18/91	$ 500.00	Friends of Vince Bagoyo
11/18/91	$ 500.00	Rick Medina

Mr. Morihara never cashed the check and the transaction was voided.

b. The following documents are enclosed:

(1) Checks reflecting contributions as stated in our answer to Interrogatory 6(a).

(2) Checks Stubs for 1990 contributions.

(3) Letter from Mr. Y. Nishida to Bank of Hawaii, authorizing Franklin K. Mukai to execute checks on Account No. 65-009919.

(4) Receipt for refund of $1000.00 from Friends of Vince Bagoyo, Jr. dated January 20, 1992.

(5) Flyer dated March 14, 1991 from Friends of Vince Bagoyo.

(6) Letter dated November 7, 1991 from Friends of Rick Medina.

(7) Letter from Mr. Y. Nishida to Bank of Hawaii dated November 13, 1991, authorizing Franklin K. Mukai to execute checks on Account No. 065-009919.

(8) Balance Sheets as of December 31, 1989, December 31, 1990 and December 31, 1991 for Sports Shinko Pukalani.

c. Friends of Vince Bagoyo Jr. refunded $1000.00 in January 1992. Sports Shinko Pukalani recently received refund

9 4 0 4 3 5 8 5 1 8 2

checks of $1000.00 from Campaign for Goro Hokama, $500.00 from Friends of Vince Bagoyo Jr., and $1000.00 from Joe Tanaka. Rick Medina, Pat Kawano and Alice Lee have indicated that the contributions will be refunded.

d. All responsive documents in the custody and control of Sports Shinko Pukalani have been produced in response to interrogatory 6(b).

7. For each contribution identified above, describe each step of the process by which you made each contribution, including the identification (including nationality status) of the person who made and participated in the decision to make the contribution and the persons who carried out the contribution. For example, identify the person(s) who signed the contribution checks, the person(s) who approved the checks, and any person(s) who could have overrode such contribution decision made by the persons identified above.

Franklin K. Mukai decided on the amount of the contribution and the recipient of the contribution, in consultation with B. Martin Luna. Mr. Mukai and Mr. Luna are American citizens. The checks were issued by Sports Shinko's assistant treasurer, Yasuo Nishida. Ms. Ishikawa-Ito may have physically typed or printed the checks. Ms. Ishikawa-Ito is an American citizen. Mr. Nishida is a Japanese national. No person could override the contribution decision of Mr. Mukai. However, the Board has the option of revoking the authority given to Mr. Mukai.

As set out in Stanley D. Suyat, Esq.'s letter dated January 15, 1992 to Jonathan Bernstein, Esq., Mr. Nishida donated golf rounds to the Pat Kawano tournament without being aware that the event was political.

8. Identify by name, position, and nationality status each individual associated with Sports Shinko whose name or initials appear on any documents provided in response to questions 6 and 7.

Franklin K. Mukai, director and member of contribution committee, signed the checks. Mr. Mukai is an American.

Mr. Yasuo Nishida, assistant treasurer and general manager of Sports Shinko's Pukalani golf course operations at the time, issued the checks and signed the letter giving notice to the bank of Mr. Mukai's authority to sign checks. Mr. Nishida is a Japanese National admitted to the United States in a managerial capacity.

9 4 0 4 3 5 8 5 1 8 3

Amy L. Ishikawa-Ito signed the receipts. Ms. Ishikawa-Ito is an American. Ms. Ishikawa-Ito may have physically typed or printed the checks.

9. State whether you are required to file reports with any government agency. If so, provide copies of all such reports from the period January 1, 1989 to present.

Enclosed are copies of corporate statements filed with the State of Hawaii Department of Commerce and Consumer Affairs for 1989, 1990, 1991 and 1992.

Sports Shinko Pukalani also files annual reports with the Bureau of Alcohol, Tobacco and Firearms and the Liquor Commissioner for the County of Maui regarding its restaurant and bar operations at the golf course club house, and the Department of Transportation for the State of Hawaii for its airport greeting permit, and monthly reports to the Commission on Water Resources Management for the State of Hawaii regarding the amount of water it uses from a deepwell. Copies of such reports will be produced if required by the FEC.

10. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which each director signed the resolution.

Mr. Mukai is not sure of when he executed the resolution but he believes it was in late 1991 or early 1992. Mr. Mukai executed the document before it was sent to Japan and California for the other signatures.

Mr. Toshio Kinoshita, Mr. Koichi Soejima and Mr. Kawasaki signed the document in March 1992 in Japan. Mr. Takeshi Kinoshita executed the document in March 1992 in California.

11. For the period January 1, 1989 to the present, for each of all other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which each director signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

There are no other resolutions.

9 4 0 4 3 5 8 5 1 8 4

12. Identify the source of funds used to make the contributions identified above, including from which account (bank and account number) the contributions were made and the sources of funds for this account.

The funds came from Sports Shinko account no. 65-009919 at the Bank of Hawaii. The funds are from local revenues. In 1989 to 1991, Sports Shinko generated the following revenue from its golf course operations: $1,392,697.87, $1,757,715.82, and $2,713,308.14. Balance Sheets for the relevant years have been produced.

13. Identify the persons who supervise, manage, review, or are vested with the power to vote on the selection of, those person within the corporation with the authority to make contributions. Include the nationality status of each person identified.

Mr. Toshio Kinoshita	Japanese
Mr. Takeshi Kinoshita	Japanese admitted in a managerial capacity
Mr. Franklin K. Mukai	American
Mr. Iwane Yamamoto	Japanese

14. Produce all other documents in your possession that refer, relate, or in any way pertain to Sports Shinko contributions, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

All documents are included in our answers to interrogatories 6 and 9 above, except for Sports Shinko's initial response to the Federal Election Commission complaint.

15. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

Yasuo Nishida, Assistant Treasurer. Mr. Nishida has been with Sports Shinko Pukalani since 1987. Mr. Nishida transmitted information received from Mr. Tsugio Fukuda, Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Gilbert S. Coloma-Agaran, counsel.

SPORTS SHINKO (PUKALANI) CO., LTD.

By Yasuo Nishida
Print Name YASUO NISHIDA
Its: ASSISTANT TREASURER

9404358518 5

QUESTIONS AND DOCUMENT REQUESTS TO INDIVIDUALS

1. Identify all positions held by you with Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko") including the dates of each position.

Mr. Toshio Kinoshita has been President and a Director of Sports Shinko Pukalani since January 1, 1989 to the present. Mr. Takeshi Kinoshita has been a Vice-President of Sports Shinko Pukalani since January 1, 1989 to the present and has been a Director since January 1, 1990 to the present. Mr. Koichi Soejima was a Secretary of Sports Shinko Pukalani and a Director from January 1, 1989 to December 31, 1991. Mr. Tomio Kawasaki was a Vice-President of Sports Shinko Pukalani and a Director from January 1, 1989 to December 31, 1991.

2. Regarding the Sports Shinko board of directors resolution effective as of October 1, 1990, authorizing a political and charitable contributions account, funding the account in the amount of $50,000, and creating a political and charitable contributions committee, state the date on which you signed the resolution.

The individuals directors cannot recall the exact date. However, based on when the executed resolution was sent to Hawaii, they believe the resolution was executed in March 1992.

3. For the period during which you served as director of Sports Shinko, for each of any other board of directors' resolutions relating to Sports Shinko contributions,

a. State the date on which you signed the resolution;

b. State the date on which the resolution became effective;

c. Provide a copy of the resolution.

There are none.

4. Provide all other documents in your possession that in any way relate to Sports Shinko charitable or political contributions including but not limited to approval forms, letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

The individual directors have no documents responsive other than those produced by Sports Shinko Pukalani.

9 4 0 4 3 5 8 5 1 8 6

The above answers are true and correct to the best of my knowledge:

TOSHIO KINOSHITA

TAKESHI KINOSHITA

KOICHI SOEJIMA

TAMIO KAWASAKI

9 4 0 4 3 5 8 5 1 8 7

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____,
_____ of the United States of America at
_____, _____, duly commissioned
and qualified, do hereby certify that on this _____ day of
_____, 19___, before me personally appeared TOSHIO KINOSHITA, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, TOSHIO KINOSHITA duly acknowledged to me that TOSHIO KINOSHITA executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United
States of America

9404358518 8

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

9 4 0 4 3 5 8 5 1 8 9

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

I, TAKESHI KINOSHITA, state that I have read the answers to interrogatories and that the answers are true and correct to the best of my knowledge.

_____
TAKESHI KINOSHITA

On this _____ day of _____, 19____, before me personally appeared TAKESHI KINOSHITA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

_____
Notary Public, in and for said
County and State

My commission expires:

9404358519 0

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____, _____ of the United States of America at _____, _____, duly commissioned and qualified, do hereby certify that on this _____ day of _____, 19___, before me personally appeared KOICHI SOEJIMA, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, KOICHI SOEJIMA duly acknowledged to me that KOICHI SOEJIMA executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United States of America

9404358519 1

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

9 4 0 4 3 5 8 5 1 9 2

)
)
) SS.
EMBASSY OF THE UNITED)
STATES OF AMERICA)

I, _____, _____ of the United States of America at _____, _____, duly commissioned and qualified, do hereby certify that on this _____ day of _____, 19___, before me personally appeared TOMIO KAWASAKI, to me personally known, and known to me to be the individual described in whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, TOMIO KAWASAKI duly acknowledged to me that TOMIO KAWASAKI executed the same freely and voluntarily for the uses and purposes therein mentioned as being true and correct to the best of his knowledge.

In witness whereof, I have hereunto set my hand and official seal the day and year last above written.

_____
_____ of the United States of America

94043585193

Apostille
(Convention de La Haye du 5 Octobre 1961)

1. Country _____

This public document
2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

Certified

5. at _____ 6. the _____

7. by _____

8. No. _____

9. Seal/stamp 10. Signature

_____

9404358519 4

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 19____, before me appeared _____ and _____, satisfactorily proven to me, who, by me duly sworn, did say that they are the _____ and _____, respectively, of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that the instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said Officers acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public, State of Hawaii

My commission expires:

94043585195

STATEMENT OF DESIGNATION OF COUNSEL

NOW GRANT Y.N. CHUN, ESQ.
GILBERT S. COLONA-ABARAN, ESQ.

NAME OF COUNSEL: Carlsmith Ball Wichman Murry Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Signature

RESPONDENT'S NAME: TAKESHI KINOSHITA

ADDRESS:

TELEPHONE: HOME( )

BUSINESS( )

9404358519 6

STATEMENT OF DESIGNATION OF COUNSEL

NUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____ Date

Toshio Kinoshita
Signature

RESPONDENT'S NAME: TOSHIO KINOSHITA

ADDRESS: 6-20-8, Seijo, Setagaya-ku
Tokyo 157 Japan

TELEPHONE: HOME(03) 3484-5833
BUSINESS(_____) _____

9404358519 7

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

_____ Date

X Tomio Kawasaki
Signature

RESPONDENT'S NAME: TOMIO KAWASAKI

ADDRESS: 525 Baba, Kaizuka-shi
Osaka-fu 597-01 Japan

TELEPHONE: HOME(0724) 46-0404
BUSINESS(_____) _____

9404358519 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: GRANT Y.M. CHUN, ESQ.
GILBERT S. COLOMA-AGARAN, ESQ.
Carlsmith Ball Wichman Murry
Case Mukai & Ichiki

ADDRESS: 2145 Wells Street, Suite 201
Wailuku, HI 96793

TELEPHONE: (808) 242-4535

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date _____

X Koichi Soejima
Signature

RESPONDENT'S NAME: KOICHI SOEJIMA

ADDRESS: 4-4-21 Yamatonishi, Kawanishi-shi
Hyogo-ken 666-01 Japan

TELEPHONE: HOME(0727) 94-1621

BUSINESS(_____) _____

9404358519 9

9 4 0 4 3 5 8 5 2 0 0

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-167
1213

NO 2402

CHECK DATE	CHECK NO
10/13/90	2402

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

BAGOYO, VINCE G., JR.

AUTHORIZED SIGNATURE

⑈002402⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000100000⑈

To payee
4/60-047294

For deposit
BANK [illegible]
In the order of

[illegible]

▶ 121301028 ◀
BANK OF HAWAII
[illegible]
HONOLULU, HI U.S.A.
▶ 121301028 ◀

[illegible] 74 90

9 4 0 4 3 5 8 5 2 0 1

10/24/90
121301028
[illegible]

9 4 0 4 3 5 8 5 0 0 2

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-102
1213

NO 2406

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/98	2406

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

KAWANO, PATRICK S.

PROCESSED 11/05/98 001110016

Authorized Signature

⑈002406⑈ ⑆121301028⑆ 0065-009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 5 2 0 3

AMERICAN SAVINGS BK FSB HON. MI-
CO:11CC1B 597076 11/05/90

11/07/90

121301028

93068600

9 4 0 4 3 5 8 5 2 0 4

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50 162
1213

NO 2405

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/90	2405

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

HOKAMA, GORO

AUTHORIZED SIGNATURE

⑈002405⑈ ⑆121301028⑆ 0065⑈009419⑈ ⑇0000100000⑇

For deposit only with
FIRST HAWAIIAN BANK OF HAWAII
WAILUKU BRANCH
to the account of the payee
Acct. No. 1937-3037

⑆121301081⑈ First Hawaiian Bank of Hawaii

12/24/90
121301081
00007000

0205035551

9404358520 5

9 4 0 4 3 5 8 5 2 0 6

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

NO 2408

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/98	2408

CHECK AMOUNT
*****1,000.00

PAY TO
ORDER
OF

LEE, ALICE

AUTHORIZED SIGNATURE

⑈002408⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 5 2 0 7

For deposit with
PROVIDENT SAVINGS BANK
TO THE CREDIT OF PAYEE

83217141

<32137069 7<
110590
0720000214880

11/07/90
121301000
000054445

9 4 0 4 3 5 8

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

NO 2409

CHECK DATE	CHECK NO
10/13/98	2409

CHECK AMOUNT
******1,000.00

PAY TO
ORDER
OF

MEDINA, RICK

AUTHORIZED SIGNATURE

⑈002409⑈ ⑆121301028⑆ 0065-009919⑈ /0000100000/

Jim McDive

FOR TERRITORIAL SAVINGS
BANKING BRANCH
DLIR

to TSZL

11/15/90
121301008
920002550

9404358520 9

7 4 0 4 3 5 8 5 2 1 0

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

90-102
1213

NO 2412

SPORTS SHINKO (Pukalani) CO., Ltd.
289 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
10/13/98	2412

CHECK AMOUNT
*****1,[illegible].00

PAY TO ORDER OF

TANAKA, JOE S.

AUTHORIZED SIGNATURE

⑈002412⑈ ⑆121301028⑆ 0065-009919⑈ ⑈0000100U

Tanaka

County Council 2 5 3 0

P.O. Box 1000
Kahului, Maui, HI 96732

12/26/90

12130102B

2404358521 1

NO 4136

SPORTS SHINKO (Pukalani) CO., Ltd.
389 PUKALANI STREET
PUKALANI HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

50-100
1213

CHECK DATE	CHECK NO
11/18/91	4136

CHECK AMOUNT
$500.00

PAY TO ORDER OF

FRIENDS OF RICK MEDINA

AUTHORIZED SIGNATURE

⑈004136⑈ ⑆121301028⑆ 0065-009919⑈ ⑇0000050000⑇

9 4 0 4 3 5 8 5 2 1 2

9 4 0 4 3 5 8 5 2 1 3

12 / 11 / 91

121301028

92307736

SPORTS SHINKO (Pukalani) CO., Ltd.
380 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-162
1213

CHECK DATE	CHECK NO
03/14/91	3036

CHECK AMOUNT
******1,000.00

PAY TO
ORDER
OF

Friends of ROSALYN BAKER
P. O. Box 10394
Lahaina, Hawaii 96761

AUTHORIZED SIGNATURE

⑈003036⑈ ⑆121301028⑆ 0065-009919⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 5 2 1 4

FOR DEPOSIT WITH
FIRST INTERSTATE BANK OF [illegible]
TO THE CREDIT OF
FRIENDS OF ROSALYN BAKER
18-108054

0725 07230

9 4 0 4 3 5 8 5 2 1 5

20022020

03/25/91
121301020
92050900B

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI HAWAII

90-169
1213

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

CHECK DATE	CHECK NO
04/18/91	3178

CHECK AMOUNT
*****500.00 ***

PAY TO
ORDER
OF

FRIENDS OF VINCE BAGOYO
ATTN: Mr. Lloyd Kimura
P. O. Box 1235
Wailuku, Maui, Hawaii 96793

AUTHORIZED SIGNATURE

⑈003178⑈ ⑆121301028⑆ 0065-009919⑈ ⑇0000050000⑇

9 4 0 4 3 5 8 5 2 1 6

For Deposit to the
credit of Payee

J210 75923

▶ 121301028 ◀

▶ 121301028 ◀

-7 91

9 4 0 4 3 5 8 5 2 1 7

05/07/91
121301028
92077232

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

99-102
1213

NO 2404

CHECK DATE	CHECK NO
10/13/90	2404

CHECK AMOUNT
******2,000.00

CARVALHO, ELMER F.---PROCESSED--305061485

AUTHORIZED SIGNATURE

⑈002404⑈ ⑆121301026⑆ 0065-009919⑈ ⑇0000200000⑇

9 4 0 4 3 5 8 5 2 1 8

FOR DEPOSIT WITH
CENTRAL PACIFIC BANK
to the credit of
Crowley Maritime Corporation
A/C 3040372 6

7345

9 4 0 4 3 5 8 5 2 1 9

ACCEPTED

9107030
00010121
06/30/11

NO 3036

SPORTS SHINKO (Pukalani) CO., Ltd.
369 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

50-102
1213

CHECK DATE	CHECK NO
03/14/91	3036

CHECK AMOUNT
******1,000.00

PAY TO
ORDER
OF

Friends of ROS[illegible] BAKER
P. O. Box 10394
Lahaina, Hawaii 96761

AUTHORIZED SIGNATURE

⑈003036⑈ ⑆121301028⑆ 0065-00[illegible] 19⑈ ⑇0000100000⑇

9 4 0 4 3 5 8 5 2 2 0

FOR DEPOSIT WITH
FIRST INTERSTATE BANK OF HAWAII
TO THE CREDIT OF
FRIENDS OF ROSALYN BAKER
18-108054

0725 07260

SPORTS SHINKO (Puk··· ··l) CO., Ltd.
300 PUKALANI
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

NO. 2411

CHECK DATE	CHECK NO
10/13/90	2411

CHECK AMOUN
*******500.00

PAY TO
ORDER
OF

MORROW, THOMAS P.

65-009919

AUTHORIZED SIGNATURE

121301028

⑆121301028⑆0065⑈009919⑈ ⑈0000050000⑈

9 4 0 4 3 5 8 5 2 2 2

9 4 0 4 3 5 8 5 2 2 3

FOR DEPOSIT TO THE CREDIT OF
WITHIN [illegible]
50/25025

[illegible] of [illegible]
ALOHA NATIONAL [illegible]

⑆1213-02315⑆
BANK USA, N.A.
KIHEI, HI 96753

NOV 0790

BANK USA, N.A.
⑆1213-[illegible]⑆

SPORTS SHINKO (Pukalani) CO., Ltd.
300 PUKALANI STREET
PUKALANI, HAWAII 96768

PUKALANI BRANCH
BANK OF HAWAII
PUKALANI, HAWAII

48 NO 2413

CHECK DATE	CHECK NO
10/13/98	2413

CHECK AMOUNT
*****2,000.00

PAY TO ORDER OF

WAIHEE, JOHN D. III

AUTHORIZED SIGNATURE

⑈002413⑈ ⑆121301028⑆ 0065⑈009919⑈ ⑈0000200000⑈

9 4 0 4 3 5 8 5 2 2 4

9 4 0 4 3 5 8 5 2 2 5

93085479
121301028
06/20/11

>321370697<
110590
072000221040

Per deposit with
Citizens For Walker, Maui
Acct. # 001045 22

[illegible], Jul. [illegible]

SPORTS SHINKO (PUKALANI) CO. LTD

2412

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
[illegible]	10/1[illegible]/[illegible]		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	S/O NO	VENDOR #		TOTALS		
2412	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

MORROW, THOMAS P.

SPORTS SHINKO (PUKALANI) CO. LTD

2411

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
MORROW	10/13/[illegible]		500.00	500.00	0.00	500.00

CHECK NO	S/O NO	VENDOR #		TOTALS		
2411	1 Only	0	500.00	500.00	0.00	500.00

9 4 0 4 3 5 8 5 2 2 6

2405

[illegible]

SPORTS SHINKO (PUKALANI) CO. LTD

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
[illegible]	10/1[illegible]/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2405	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

CRAVALHO, ELMER F.

SPORTS SHINKO (PUKALANI) CO. LTD

2404

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
CRAVALH	10/13/90		2,000.00	2,000.00	0.00	2,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2404	1 Only	0	2,000.00	2,000.00	0.00	2,000.00

9 4 0 4 3 5 8 5 2 2 7

[illegible], [illegible] G., JR. SPORTS SHINKO (PUKALANI) CO. LTD

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
[illegible]	[illegible]		500.00	500.00	0.00	[illegible]

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2403	1 Only	0	500.00	500.00	0.00	500.00

BAGOYO, VINCE G., JR. H SPORTS SHINKO (PUKALANI) CO. LTD 2402 H

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
86070	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
[illegible]	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

9 4 0 4 3 5 8 5 2 2 8

WAITHE, JOHN D. III

SPORTS SHINKO (PUKALANI) CO LTD

2413

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
WAITHE	10/13/00		2,000.00	2,000.00	0.00	2,000.00

CHECK NO	SEQ NO	VENDOR #		TOTALS		
2413	1 Only	0	2,000.00	2,000.00	0.00	2,000.00

KAWANO, PATRICK S.

SPORTS SHINKO (PUKALANI) CO. LTD.

2406

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	GROSS PAYMENT	DISCOUNT TAKEN	NET PAYMENT
KAWANO	10/13/00		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #		TOTALS		
2406	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

9 4 0 4 3 5 8 5 2 2 9

HURTADO, [illegible]

SPORTS SHINKO (PUKALANI) CO. LTD

2410

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	CHECK PAYMENT	DISCOUNT TAKEN	NET PAYMENT
HURTADO	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2410	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

MEDINA, RICK

SPORTS SHINKO (PUKALANI) CO. LTD

2409

INVOICE NO	INVOICE DATE	REFERENCE	BALANCE DUE	CHECK PAYMENT	DISCOUNT TAKEN	NET PAYMENT
MEDINA	10/13/90		1,000.00	1,000.00	0.00	1,000.00

CHECK NO	SEQ NO	VENDOR #	TOTALS			
2409	1 Only	0	1,000.00	1,000.00	0.00	1,000.00

9 4 0 4 3 5 8 5 2 3 0

PUKALANI COUNTRY CLUB
SPORTS SHINKO GROUP

100 PUKALANI STREET
PUKALANI MALL
HONOLULU 96768
TEL 808 579-8280

Bank of Hawaii
Pukalani Branch
55 Pukalani St.
Pukalani, Hawaii 96768

Re: SPORTS SHINKO (PUKALANI) Co., Ltd.
Checking Account No. 0065-009919

Gentlemen:

I will be off the island during the period of October 15, 1990 through October 21, 1990. During this period, please accept this letter as authorization for Franklin Mukai to sign any checks on the above-mentioned account.

Mr. Mukai, partner of Carlsmith, Ball, Wichman, Case, Mukai and Ichiki can be reached at 523-2500.

A speciman of his signature is shown below.

If there are any questions, please do not hesitate to contact me at 572-1336, the morning of October 15, 1990.

Your cooperation on this matter is greatly appreciated.

Very truly yours,

Yasuo Nishida
General Manager

FRANKLIN MUKAI

9 4 0 4 3 5 8 5 2 3 1

BAGOYO COUNCIL ®
P.O. Box 1235, Wailuku, Hawaii 96793

March 14, 1991

To our FRIENDS and SUPPORTERS,

As all of you know, it takes a lot of time and money to run for political office. Your help resulted in one of the most successful campaigns, and helped Vince accomplish one of the biggest voter turn out for a rookie. He is currently the Chairman of the Land Use and Economic Development Committee and has been a great champion for the Maui people in recent issues. We all hope that you feel the way we do; "Lets keep BAGOYO in office"!

Vince is having his annual golf tournament on June 8, 1991 (See attached application), and he needs your help again. We are looking for volunteers to help with the tournament, prize donations and Sponsors. To be an "ALII" Sponsor a $500.00 contribution is requested which will include entry for a three man team. If you do not play golf a $300.00 donation entitles you and a guest to attend the awards banquet. Any prize contributions should be in multiples of three because of the golfing format. If you would like to volunteer and help with the tournament please call Margo at 661-7070 or Lloyd Kimura 242-9100.

We appreciate your support and help with this event. It's going to be a lot of fun for a great cause. Mahalo!

DUKKSI FROM THE 'FRIENDS OF VINCE BAGOYO'!

9 4 0 4 3 5 8 5 2 3 2

Friends of Vince Bagoyo, Jr.

GIMA·YOSHIMORI
MIYABARA·DEGUCHI
ARCHITECTS INC

November 7, 1991

Mr. Yasuo Nishida
Sports Shinko Group
360 Pukalani Street
Pukalani, Hawaii 96768

Dear Mr. Nishida:

Subject: Rick's Mid-Week Break

Councilman Rick Medina is seeking reelection to the Council in 1992. We have asked him to run for office, as we feel his record over the years has earned our confidence and support.

To help Rick in his bid for a Central Maui District seat, we are having a fundraiser on Wednesday, November 20, 1991, at the new Maui Sun Hotel Banquet Hall, at 5:30 p.m. The tickets are $25.00 (donation) and will be available through his campaign committee, and at the door.

We are requesting for door prizes, and will be most appreciative of your contribution. We hope that you will be able to donate 4 rounds of golf at Pukalani Country Club. All donations will be acknowledged.

Also, please join us at "Rick's Mid-Week Break,"...relax, listen to good music, share food, refreshments and engage in stimulating conversation!

Mahalo for your continued support.

Sincerely,

Alvin M. Yoshimori
Coordinator
Friends of Rick Medina

ls

9 4 0 4 3 5 8 5 2 3 3

PUKALANI COUNTRY CLUB

PUKALANI COUNTRY CLUB
(SPORTS SHINKO GROUP)

300 PUKALANI STREET
PUKALANI, MAUI
HAWAII 96768
TEL. 808 572-1314

NOVEMBER 13, 1991

Bank of Hawaii
Pukalani Branch
55 Pukalani Street
Pukalani, Hi. - 96768

Re: SPORTS SHINKO (PUKALANI) CO., LTD.
Checking Account No. 0065-009919

Gentlemen:

Please be advised that Mr. Franklin Mukai (specimen signature below) will be authorized to sign checks on the above mentioned Sports Shinko checking account for the duration of November 14, 1991 to November 19, 1991.

Mr. Mukai, a partner of Carlsmith, Ball, Wichman, Case, Mukai and Ichiki can be reached at 523-2500.

If there are any further questions, please do not hesitate to contact me at 572-1336 before November 14, 1991.

Your cooperation on this matter is greatly appreciated.

Very truly yours,

Yasuo Nishida
General Manager

FRANKLIN MUKAI

9 4 0 4 3 5 8 5 2 3 4

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1991

ASSETS		
CURRENT ASSETS		
CASH	466,063.98	
RENTAL RECEIVABLES	0.00	
ACCOUNTS RECEIVABLE	32,352.44	
ACCOUNTS RECEIVABLE - SS	1,177,658.41	
ADVANCE	4,625.63	
INVENTORIES-MERCHANDISE	45,847.77	
INVENTORIES - SODA	982.00	
INVENTORIES-FOOD & LIQUOR	12,497.89	
SUPPLIES - MAINTENANCE	2,886.96	
PREPAID EXPENSES	26,142.66	
TOTAL CURRENT ASSETS		1,768,627.86
REAL ESTATE - INVESTMENT		
REAL ESTATES - INVESTMENT	0.00	
INVESTMENT IN SSPB	1,000,000.00	
TOTAL REAL ESTATE - INVES		1,000,000.00
PROPERTY & EQUIPMENT		
GOLF COURSE	721,264.32	
EQUIPMENT	678,186.71	
BUILDING	438,637.85	
IMPROVEMENTS	2,728,132.57	
AUTOMOBILE	88,386.97	
FURNITURE & FIXTURES	11,842.23	
168 HOAUNA ST.	226,058.82	
COMPUTER PROGRAM	1,945.98	
LESS ACCUM DEP & AMORT	(678,678.85)	
LAND	1,868,278.00	
TOTAL PROPERTY & EQUIP		6,023,894.52
OTHER ASSETS		
DEPOSITS	100.00	
TOTAL OTHER ASSETS		100.00
TOTAL ASSETS		8,792,567.38

9 4 0 4 3 5 8 5 2 5 5

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1991

LIABILITIES & CAPITAL		
CURRENT LIABILITIES		
ACCOUNTS PAYABLE - TRADE	92,416.83	
ACCTS PAY WITHHOLDING	6,739.00	
ACCTS PAYABLE - INSURANCE	0.00	
PAYABLE TO SSH	0.00	
ACCRUED SALARIES	12,179.17	
ACCRUED VAC/HOL PAYABLE	37,603.05	
ACCRUED INTEREST	158,922.19	
ACCRUED PAYROLL TAXES	83.84	
ACCRUED GENERAL EXCISE	9,044.71	
ACCRUED LIQUOR TAX	0.00	
W/H TAX ON INTEREST	0.00	
DUE TO SSH	230.75	
DEFERRED INCOME	14,180.47	
TOTAL CURRENT LIABILITIES		328,401.41
LONG TERM LIABILITIES		
NOTES PAYABLE	0.00	
NOTES PAYABLE #1 SSUSA	60,000.00	
DEFERRED FINANCE CHARGE	0.00	
NOTES PAYABLE - SSH	0.00	
NOTES PAY #2 SSUSA -DIP	7,631,790.74	
DEFERRED FIN CHARGE - DIP	(3,341,486.81)	
DUE TO PUKALANI DEVELOP	12,000.00	
NOTES PAYABLE #3 SSH	1,500,000.00	
CAPITAL LEASE OBLIGATIONS	52,583.07	
TTL LONG TERM LIABILITIES		5,934,947.00
STOCKHOLDER'S EQUITY		
COMMON STOCK	300,000.00	
ADD'L PAID IN CAPITAL	2,700,000.00	
VALUE IN EXCESS OF BASIS	0.00	
ACCUMULATED DEFICIT	(437,630.63)	
CURRENT PROFIT/LOSS (-)	449,121.75	
CURRENT PROFIT/LOSS (-)	(482,652.15)	
TTL STOCKHOLDER'S EQUITY		2,529,238.97
TTL LIABILITIES & CAPITAL		8,792,587.38

3 4 0 4 3 5 8 5 2 3 6

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
REVENUES						
GREEN FEES	80,230.97	1,010,013.89	73,237.29	952,066.09	91,400.00	1,155,932.00
CART RENTALS	42,160.00	501,121.50	41,183.50	549,986.75	44,535.00	614,320.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
CLUB & SHOE RENTALS	4,959.00	38,786.50	3,332.50	39,438.50	3,600.00	42,756.00
MERCHANDISE SALES	8,013.62	101,085.04	9,335.77	97,090.03	12,400.00	133,337.00
SODA SALES	1,422.45	23,071.76	1,513.00	23,790.00	0.00	0.00
FOOD SALES	58,344.73	650,047.02	51,631.09	69,164.10	92,600.00	1,019,609.00
LIQUOR SALES	26,530.99	290,471.71	20,366.15	26,335.65	0.00	0.00
OTHER INCOME	785.19	1,271.02	0.00	243.10	0.00	0.00
TOTAL REVENUES	222,441.95	2,713,388.14	200,570.10	1,757,715.02	244,735.00	2,965,954.00

9 4 0 4 3 5 8 5 2 3 7

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COST & EXPENSES						
RESTAURANT AND BAR	80,960.39	813,602.63	60,171.45	81,327.46	74,350.00	849,050.00
PRO SHOP DEPARTMENT	15,609.05	231,937.76	22,362.71	214,353.19	19,877.00	230,240.00
CART DEPARTMENT	10,361.85	104,810.05	6,661.43	108,887.02	7,656.00	91,603.00
COURSE DEPARTMENT	38,740.30	500,953.77	35,643.61	552,293.11	42,404.00	502,706.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
OCEAN RESORT	1,216.85	9,935.42	579.96	3,187.61	498.00	6,913.00
TOTAL COST & EXPENSES	146,968.42	1,660,939.63	133,419.16	952,048.39	144,793.00	1,681,320.00
TOTAL EARNINGS ON SALES	75,473.53	1,052,368.51	67,150.94	805,667.43	99,942.00	1,284,634.00
ADMINISTRATION COST & EXP	38,254.48	432,265.31	46,952.29	376,972.61	38,429.00	492,291.00
OPERATING EARNINGS	45,219.05	620,103.20	22,198.65	428,694.82	61,513.00	792,343.00
DEPRECIATION	18,706.82	220,362.14	17,545.84	186,123.02	17,163.00	206,894.00
ADJ'D OPERATING EARNINGS	26,512.23	399,741.06	4,652.81	242,571.80	44,350.00	585,449.00
NON-OPERATING INC & EXP						
NON-OPERATING INCOME	3,175.99	61,170.77	6,009.49	152,783.06	5,842.00	67,833.00
NON-OPERATING EXPENSES	22,333.87	494,642.23	42,931.53	493,999.19	44,219.00	527,719.00
TOTAL NON-OPERATING EXP	(19,157.88)	(433,471.46)	(36,922.04)	(341,216.13)	(38,377.00)	(459,886.00)
EARNINGS BEFORE INC TAX	7,354.35	(33,730.40)	(32,269.23)	(98,644.33)	5,973.00	125,563.00
INCOME TAXES	0.00	0.00	0.00	0.00	0.00	0.00
NET EARNINGS	7,354.35	(33,730.40)	(32,269.23)	(98,644.33)	5,973.00	125,563.00

9 4 0 4 3 5 8 5 2 3 8

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COSTS AND EXPENSES						
COST OF SALES						
BEGINNING INVENTORY	13,215.48	169,882.68	18,118.54	21,982.54	0.00	0.00
PURCHASES	24,425.36	322,704.77	22,999.22	31,189.00	31,483.00	344,891.00
TRANSPORTATION - IN	0.00	0.00	0.00	0.00	0.00	0.00
PURCHASE RETURN	(156.09)	(3,490.96)	(161.09)	(161.09)	0.00	0.00
PURCHASE DISCOUNT	(57.01)	(829.89)	(61.69)	(80.23)	0.00	0.00
INVENTORY SHRINKAGE	0.00	0.00	0.00	0.00	0.00	0.00
INVENTORY OVERAGE	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY	(12,497.29)	(172,188.59)	(11,678.19)	(23,796.73)	0.00	0.00
TOTAL COST OF SALES	24,929.65	316,097.93	23,215.99	29,093.49	31,483.00	344,891.00
LABOR COSTS						
SALARIES	9,791.75	84,111.78	6,650.00	8,836.30	7,050.00	83,000.00
WAGES F/T	22,799.29	192,785.48	19,818.79	21,641.46	21,823.00	249,753.00
WAGES P/T	7,762.08	57,019.82	4,476.00	4,804.19	0.00	6,529.00
EMPLOYEE BENEFITS	3,714.77	39,589.83	3,734.42	4,490.62	3,567.00	41,900.00
PAYROLL TAXES	3,055.06	33,998.59	2,918.43	3,332.26	2,310.00	29,205.00
TOTAL LABOR COSTS	47,122.95	407,443.44	36,989.72	43,112.83	34,750.00	411,267.00

9 2 3 5 8 5 3 4 0 4

MUNALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
OTHER COSTS						
SUPPLIES	2,660.82	50,345.12	4,638.90	5,689.30	5,725.00	64,803.00
UNIFORMS	0.00	2,001.00	0.00	0.00	0.00	3,317.00
UTILITIES - ELECTRICITY	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - WATER	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - GAS	978.74	10,013.03	781.01	781.01	1,000.00	11,700.00
REPAIRS & MAINTENANCE	1,989.68	10,290.77	2,319.30	2,319.30	1,800.00	10,600.00
RENT	0.00	0.00	0.00	0.00	0.00	0.00
SECURITY	0.00	41.60	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	1,137.07	1,779.61	0.00	0.00	0.00	0.00
PROMOTION	1,750.00	3,125.00	0.00	0.00	0.00	500.00
COST OF CREDIT CARD	300.00	4,703.21	191.65	191.65	0.00	600.00
CASH OVER/SHORT	11.40	(319.16)	38.82	143.82	0.00	24.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	200.00	2,000.00
TOTAL OTHER COSTS	8,907.79	90,061.26	7,965.74	9,121.14	8,125.00	93,700.00
TOTAL COSTS AND EXPENSES	80,960.39	813,008.03	68,171.49	81,327.40	74,350.00	849,850.00

9404358524 0

PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
BEGINNING INVENTORY	44,831.86	433,266.48	20,153.32	214,865.74	0.00	0.00
PURCHASES	6,373.36	77,635.23	13,024.00	68,336.75	6,820.00	74,651.00
TRANSPORTATION IN	190.20	3,773.34	320.07	2,232.31	0.00	0.00
PURCHASE RETURN	0.00	(65.00)	0.00	(20.23)	0.00	0.00
PURCHASE DISCOUNT	(93.61)	(586.31)	(95.04)	(899.27)	0.00	0.00
INVENTORY SHRINKAGE	362.11	7,088.94	288.33	4,283.91	0.00	0.00
INVENTORY OVERAGE	(374.40)	(7,688.60)	(309.83)	(3,213.07)	0.00	0.00
ENDING INVENTORY	(45,835.48)	(452,301.67)	(28,297.65)	(222,540.11)	0.00	0.00
BEG INVENTORY - SODA	691.32	10,873.70	1,051.26	10,858.60	0.00	0.00
PURCHASES - SODA	910.00	12,978.10	770.00	12,702.16	0.00	0.00
TAX - SODA	4.55	64.75	3.85	139.86	0.00	0.00
PURCHASE RETURN - SODA	0.00	0.00	0.00	0.00	0.00	0.00
INV SHRINKAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
INV OVERAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY - SODA	(982.80)	(10,889.26)	(1,035.14)	(10,153.92)	0.00	0.00
TOTAL COST OF SALES	6,077.39	75,070.37	7,072.37	73,554.21	6,820.00	74,651.00

3404358241

PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
LABOR COSTS						
SALARIES - PRO SHOP	1,268.44	57,761.00	5,610.82	49,364.64	5,123.00	62,178.00
WAGES F/T - PRO SHOP	2,784.54	35,128.67	4,326.91	38,398.70	2,877.00	36,189.00
WAGES P/T - PRO SHOP	1,692.57	16,040.54	270.93	9,742.74	1,179.00	12,589.00
EMPLOYEE BENEFITS	1,228.36	15,034.17	2,697.20	12,673.27	1,090.00	12,590.00
PAYROLL TAXES	942.26	9,404.61	819.26	8,217.39	748.00	9,662.00
TOTAL LABOR COSTS	7,916.17	134,186.99	13,730.52	115,396.74	11,017.00	133,178.00
OTHER COSTS						
SUPPLIES - PRO SHOP	1,585.25	20,301.00	667.84	22,092.11	2,000.00	20,689.00
UNIFORMS	0.00	0.00	0.00	316.54	0.00	330.00
REPAIRS & MAINTENANCE	119.16	2,378.44	45.00	884.00	0.00	870.00
SECURITY	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	0.00	31.43	0.00	1,550.39	0.00	0.00
PROMOTION	0.00	0.00	0.00	0.00	0.00	0.00
CASH OVER/SHORT	(8.92)	(37.27)	26.90	(371.00)	0.00	83.00
MISCELLANEOUS EXPENSES	0.00	0.00	0.00	330.00	40.00	431.00
TOTAL OTHER COSTS	1,695.49	22,674.40	759.82	25,402.24	2,040.00	22,411.00
TOTAL COSTS & EXPENSES	15,689.05	231,937.76	22,362.71	214,353.19	19,877.00	230,240.00

9 4 0 4 3 5 8 5 2 4 2

PUKALANI COUNTRY CLUB
OPERATING EXPENSES
CART DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - CART	0.00	0.00	0.00	0.00	0.00	0.00
WAGES F/T - CART	3,289.59	31,686.18	2,328.06	36,650.30	2,619.00	30,715.00
WAGES P/T - CART	3,242.22	23,680.82	2,323.33	22,567.18	1,573.00	19,336.00
EMPLOYEE BENEFITS	954.50	10,521.36	257.50	9,864.75	765.00	8,466.00
PAYROLL TAXES	389.00	4,701.23	249.78	5,271.11	371.00	4,545.00
TOTAL LABOR COSTS	7,878.11	70,449.59	5,158.75	73,753.34	5,308.00	63,062.00
OTHER COSTS						
SUPPLIES - BATTERIES	387.26	2,388.18	0.00	1,385.20	0.00	0.00
SUPPLIES - GAS & OIL	1,640.98	17,974.74	1,187.50	17,680.99	1,537.00	18,664.00
SUPPLIES - PARTS	184.69	6,768.48	85.92	5,726.37	651.00	7,285.00
SUPPLIES - OTHERS	352.79	5,173.72	209.20	2,477.43	125.00	1,912.00
UNIFORMS	0.00	0.00	0.00	17.69	0.00	330.00
REPAIRS & MAINTENANCE	0.00	1,763.34	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	35.00	350.00
TOTAL OTHER COSTS	2,485.72	34,060.46	1,582.68	27,133.68	2,348.00	28,541.00
TOTAL COSTS AND EXPENSES	10,361.83	104,510.05	6,661.43	100,887.02	7,656.00	91,603.00

9 4 0 4 3 5 8 5 2 4 3

OPERATING EXPENSES
COURSE DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - COURSE	178.42	0.00	1,000.00	17,111.70	1,785.00	17,850.00
WAGES F/T - COURSE	15,300.92	189,509.74	13,911.14	180,072.07	15,001.00	175,792.00
WAGES P/T - COURSE	1,969.72	15,674.87	770.76	11,741.59	2,261.00	24,000.00
EMPLOYEE BENEFITS	2,735.03	30,437.23	2,413.03	20,000.00	2,583.00	28,781.00
PAYROLL TAXES	1,238.32	16,982.18	1,387.61	18,416.18	1,324.00	16,551.00
TOTAL LABOR COSTS	21,422.41	252,603.42	20,147.54	254,230.18	22,934.00	263,574.00
OTHER COSTS						
SUPPLIES - FERTILIZER	0.00	12,257.43	607.31	16,754.31	375.00	19,389.00
SUPPLIES - CHEMICALS	834.67	14,080.18	3,179.20	15,189.29	1,176.00	17,447.00
SUPPLIES - SAND	2,236.09	4,534.91	0.00	20,080.99	812.00	8,174.00
SUPPLIES - GAS & OIL	3,817.40	56,982.81	786.64	53,102.05	4,500.00	51,586.00
SUPPLIES - PARTS/EQUIP	1,208.66	14,390.80	1,080.81	21,080.50	1,690.00	20,235.00
SUPPLIES - IRRIGATION	39.46	6,465.38	921.50	12,332.29	750.00	8,888.00
SUPPLIES - COURSE IMP	0.00	918.91	0.00	3,586.66	400.00	4,426.00
SUPPLIES - OTHER	2,502.18	11,972.15	230.57	7,037.84	550.00	8,198.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - ELECTRICITY	3,873.49	47,019.84	1,812.77	38,067.52	0.00	0.00
UTILITIES - WATER	1,658.82	63,017.78	5,115.68	81,327.22	7,087.00	81,560.00
REPAIRS & MAIN - VEH/MACH	101.57	3,560.80	400.40	6,258.92	530.00	6,459.00
REPAIRS & MAIN - COURSE	1,030.03	12,394.07	230.26	10,319.47	1,250.00	13,330.00
RENTAL EQUIPMENT - COURSE	0.00	0.00	118.93	1,531.81	0.00	0.00
SECURITY	0.00	0.00	1,019.20	1,019.20	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
MISC EXPENSE - COURSE	15.72	15.72	40.00	226.00	150.00	1,500.00
TOTAL OTHER COSTS	17,317.89	248,350.35	15,496.07	298,062.93	19,470.00	239,132.00
TOTAL COST & EXPENSES	38,740.30	500,953.77	35,643.61	552,293.11	42,404.00	502,706.00

9404358524 4

PUKALANI COUNTRY CLUB
OPERATING EXPENSES
DRIVING RANGE
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES					
LABOR COSTS					
WAGES F/T	0.00	0.00	0.00	0.00	0.00
WAGES P/T	0.00	0.00	0.00	0.00	0.00
EMPLOYEE BENEFITS	0.00	0.00	0.00	0.00	0.00
PAYROLL TAXES	0.00	0.00	0.00	0.00	0.00
TOTAL LABOR COSTS	0.00	0.00	0.00	0.00	0.00
OTHER COSTS					
SUPPLIES - BALLS	0.00	0.00	0.00	0.00	0.00
SUPPLIES - OTHERS	0.00	0.00	0.00	0.00	0.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00
REPAIRS AND MAINTENANCE	0.00	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	0.00	0.00	0.00	0.00	0.00
TOTAL COSTS & EXPENSES	0.00	0.00	0.00	0.00	0.00

9 4 0 4 3 5 8 5 2 4 5

SPORTS SHINKU KAMALANI CORP. LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
ADMINISTRATION
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - ADMINISTRATION	8,213.79	87,873.20	6,939.66	83,086.92	7,356.00	87,440.00
EMPLOYEE BENEFITS	200.10	3,437.00	900.50	3,701.50	200.00	3,497.00
PAYROLL TAXES	566.02	6,736.14	401.83	6,697.12	212.00	6,810.00
TOTAL LABOR COSTS	9,059.99	98,046.54	8,240.00	93,365.02	7,654.00	97,747.00
OTHER COSTS						
SUPPLIES	1,217.03	7,090.63	341.06	4,619.60	176.00	4,343.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - ELECTRICITY	1,766.24	22,744.62	1,987.83	20,131.94	4,851.00	61,625.00
UTILITIES - WATER	0.00	7,014.53	0.00	5,754.01	0.00	5,321.00
REPAIRS & MAINTENANCE	171.68	2,021.17	1,280.00	3,180.09	0.00	2,016.00
RENTAL EQUIPMENT	90.48	1,240.00	0.00	1,075.20	0.00	240.00
INSURANCE	1,477.98	45,587.58	3,620.44	37,652.63	5,007.00	60,652.00
SECURITY	2,889.33	15,549.00	1,092.00	9,175.00	663.00	8,005.00
GENERAL EXCISE TAX	9,044.71	112,339.67	8,263.17	75,499.33	9,044.00	120,643.00
REAL PROPERTY TAX	2,259.86	38,933.84	3,740.25	42,971.20	3,760.00	44,906.00
OTHER TAX & LICENSES	1,990.66	3,345.09	0.00	0.00	0.00	2,500.00
PROFESSIONAL SERVICES	(4,151.90)	2,818.21	3,315.30	11,047.84	0.00	10,294.00
TRAVEL	(235.90)	13,903.02	1,099.00	17,000.12	837.00	11,966.00
ADVERTISING	819.00	15,083.22	4,969.29	19,541.90	2,125.00	23,412.00
PROMOTION	392.85	6,242.00	246.30	2,194.89	100.00	1,020.00
ENTERTAINMENT	396.19	1,115.06	401.45	1,452.77	100.00	1,000.00
AUTOMOBILE	39.91	1,874.74	100.13	1,816.71	182.00	2,256.00
REFUSE DISPOSAL	476.02	5,741.06	402.53	1,290.13	85.00	1,070.00
DUES & SUBSCRIPTION	253.00	2,838.19	256.00	2,351.50	200.00	2,551.00
CONTRIBUTIONS	0.00	200.00	0.00	0.00	0.00	100.00
COST OF CREDIT CARD	982.56	9,905.41	800.74	9,564.92	1,250.00	14,290.00
DATA PROCESSING	447.79	3,756.19	372.87	2,563.45	275.00	3,202.00
TELEPHONE & TELEGRAM	1,080.95	12,300.31	1,732.60	10,612.73	840.00	9,436.00
BANK CHARGE	0.00	0.00	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSE	(14.72)	1,972.00	1,716.40	3,962.41	200.00	2,000.00
TOTAL OTHER COSTS	21,194.49	334,218.77	36,704.24	283,406.99	30,575.00	394,544.00
TOTAL COST & EXPENSES	30,254.48	432,265.31	44,952.29	376,972.01	38,429.00	492,291.00

9 4 0 4 3 5 8 5 2 4 6

SPORTS SHINKO (PUNALUU) CO. LTD.
PUKALANI COUNTRY CLUB
NON-OPERATING COSTS
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
ERATING INCOME						
EREST INCOME	1,558.06	24,239.39	3,378.01	44,861.07	4,167.00	47,284.00
TAL INCOME	1,289.11	25,141.38	2,991.36	138,022.32	1,675.00	20,529.00
N ON SALE OF F/A	0.00	0.00	0.00	0.00	0.00	0.00
ER INCOME	328.82	11,790.00	40.12	1,699.67	0.00	0.00
N-OPERATING INCOME	3,175.99	61,170.77	6,409.49	182,783.06	5,842.00	67,813.00
ERATING EXPENSES						
EREST EXPENSE	22,333.87	494,642.23	42,931.53	493,999.19	44,219.00	527,719.00
CUTIVE HOUSE	0.00	0.00	0.00	0.00	0.00	0.00
S ON SALE OF F/A	0.00	0.00	0.00	0.00	0.00	0.00
ERS	0.00	0.00	0.00	0.00	0.00	0.00
N-OPERATING EXPENSE	22,333.87	494,642.23	42,931.53	493,999.19	44,219.00	527,719.00
OFIT/LOSS (-)	(19,157.88)	(433,471.46)	(36,522.04)	(311,216.13)	(38,377.00)	(459,886.00)

9 4 0 4 3 5 8 5 2 4 7

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
OCEAN RESORTS DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1991

	CURRENT	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES & WAGES	1,134.56	7,048.56	524.00	2,746.00	400.00	5,900.00
EMPLOYEE BENEFITS	1.77	23.15	6.95	13.17	0.00	0.00
PAYROLL TAXES	80.52	620.91	49.01	256.75	40.00	513.00
TOTAL LABOR COSTS	1,216.85	7,690.62	579.96	3,015.92	440.00	6,413.00
OTHER COSTS						
SUPPLIES	0.00	1,143.11	0.00	115.59	50.00	500.00
PRINTING EXPENSES	0.00	190.77	0.00	0.00	0.00	0.00
AUTO REPAIR	0.00	910.92	0.00	0.00	0.00	0.00
INSURANCE	0.00	0.00	0.00	0.00	0.00	0.00
UNIFORMS	0.00	0.00	0.00	56.10	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	0.00	2,244.80	0.00	171.69	50.00	500.00
TOTAL COSTS & EXPENSES	1,216.85	9,935.42	579.96	3,187.61	490.00	6,913.00

9 4 0 4 3 5 8 5 2 4 8

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1990

ASSETS		
CURRENT ASSETS		
CASH	775,866.30	
RENTAL RECEIVABLES	0.00	
ACCOUNTS RECEIVABLE	12,727.33	
ACCOUNTS RECEIVABLE - SS	456,923.09	
ADVANCE	3,300.00	
INVENTORIES-MERCHANDISE	26,318.30	
INVENTORIES - SODA	1,035.14	
INVENTORIES-FOOD & LIQUOR	11,678.19	
SUPPLIES - MAINTENANCE	2,256.36	
PREPAID EXPENSES	20,194.81	
TOTAL CURRENT ASSETS		1,311,358.72
REAL ESTATE - INVESTMENT		
REAL ESTATES - INVESTMENT	0.00	
INVESTMENT IN SSPO	1,000,000.00	
TOTAL REAL ESTATE - INVES		1,000,000.00
PROPERTY & EQUIPMENT		
GOLF COURSE	600,105.16	
EQUIPMENT	664,354.84	
BUILDING	438,637.85	
IMPROVEMENTS	2,735,132.87	
AUTOMOBILE	29,384.97	
FURNITURE & FIXTURES	11,048.83	
169 HONUNA ST.	226,056.02	
COMPUTER PROGRAM	1,248.98	
LESS ACCUM DEP & AMORT	(458,366.21)	
LAND	1,060,875.00	
TOTAL PROPERTY & EQUIP		6,117,375.13
OTHER ASSETS		
DEPOSITS	100.00	
TOTAL OTHER ASSETS		100.00
TOTAL ASSETS		8,428,833.85

9 4 0 4 3 5 8 5 2 4 9

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1990

LIABILITIES & CAPITAL		
CURRENT LIABILITIES		
ACCOUNTS PAYABLE - TRADE	197,362.95	
ACCTS PAY WITHHOLDING	848.00	
ACCTS PAYABLE - INSURANCE	0.00	
PAYABLE TO SSH	0.00	
ACCRUED SALARIES	11,509.86	
ACCRUED VAC/HOL PAYABLE	19,658.34	
ACCRUED INTEREST	56,457.61	
ACCRUED PAYROLL TAXES	0.00	
ACCRUED GENERAL EXCISE	8,263.17	
ACCRUED LIQUOR TAX	0.00	
W/H TAX ON INTEREST	0.00	
DUE TO SSH	230.78	
DEFERRED INCOME	17,881.35	
TOTAL CURRENT LIABILITIES		311,812.26
LONG TERM LIABILITIES		
NOTES PAYABLE	0.00	
NOTES PAYABLE #1 SBUSA	80,000.00	
DEFERRED FINANCE CHARGE	0.00	
NOTES PAYABLE - SSH	0.00	
NOTES PAY #2 SBUSA -OID	7,631,790.74	
DEFERRED FIN CHARGE - OID	(3,788,885.03)	
DUE TO PUKALANI DEVELOP	9,000.00	
NOTES PAYABLE #3 SSH	1,500,000.00	
CAPITAL LEASE OBLIGATIONS	76,546.10	
TTL LONG TERM LIABILITIES		5,592,452.81
STOCKHOLDER'S EQUITY		
COMMON STOCK	300,000.00	
ADD'L PAID IN CAPITAL	2,700,000.00	
VALUE IN EXCESS OF BASIS	0.00	
ACCUMULATED DEFICIT	(376,786.09)	
CURRENT PROFIT/LOSS (-)	393,635.19	
CURRENT PROFIT/LOSS (-)	(492,299.82)	
TTL STOCKHOLDER'S EQUITY		2,524,568.78
TTL LIABILITIES & CAPITAL		8,428,833.85

9404358525 0

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
REVENUES						
GREEN FEES	73,237.29	982,066.09	69,884.00	769,773.00	80,326.00	994,215.00
CART RENTALS	41,153.50	549,886.75	43,927.00	498,231.50	43,500.00	571,500.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
CLUB & SHOE RENTALS	3,332.50	39,438.50	2,982.00	27,770.50	3,000.00	43,400.00
MERCHANDISE SALES	9,335.77	97,899.03	8,848.37	78,446.52	9,630.00	127,002.00
SODA SALES	1,513.00	23,790.00	1,648.00	21,271.35	0.00	0.00
FOOD SALES	51,631.09	69,164.10	0.00	0.00	71,500.00	95,300.00
LIQUOR SALES	28,366.15	26,335.68	0.00	0.00	0.00	0.00
OTHER INCOME	0.00	243.10	0.00	105.00	0.00	0.00
TOTAL REVENUES	200,570.10	1,757,715.02	126,001.67	1,392,697.87	208,984.00	1,831,417.00

9404358525 1

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COST & EXPENSES						
RESTAURANT AND BAR	68,171.45	81,327.44	0.00	0.00	55,112.00	80,250.00
PRO SHOP DEPARTMENT	22,362.71	214,383.19	19,733.65	186,885.41	16,860.00	207,963.00
CART DEPARTMENT	6,661.43	100,087.02	9,337.81	98,668.26	10,541.00	110,070.00
COURSE DEPARTMENT	35,643.61	552,293.11	39,214.59	439,146.02	36,689.00	428,559.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
OCEAN RESORT	579.96	3,187.61	0.00	0.00	0.00	0.00
TOTAL COST & EXPENSES	133,419.16	952,848.39	68,285.45	724,699.69	119,190.00	826,850.00
TOTAL EARNINGS ON SALES	67,150.94	885,667.43	57,716.22	667,998.18	89,714.00	1,004,567.00
ADMINISTRATION COST & EXP	44,952.29	376,972.61	39,869.90	362,254.52	39,797.00	432,414.00
OPERATING EARNINGS	22,198.65	428,694.82	17,846.32	305,743.66	49,917.00	572,153.00
DEPRECIATION	17,545.84	186,123.02	15,108.55	156,668.48	13,900.00	166,800.00
ADJ'D OPERATING EARNINGS	4,652.81	242,571.80	2,737.77	149,075.18	36,017.00	405,353.00
NON-OPERATING INC & EXP						
NON-OPERATING INCOME	6,009.49	152,783.06	9,518.45	165,174.28	5,200.00	153,150.00
NON-OPERATING EXPENSES	42,931.53	493,999.19	44,218.70	571,644.58	40,984.00	491,800.00
TOTAL NON-OPERATING EXP	(36,922.04)	(341,216.13)	(34,700.25)	(406,470.30)	(35,784.00)	(338,650.00)
EARNINGS BEFORE INC TAX	(32,269.23)	(98,644.33)	(31,962.48)	(257,395.12)	233.00	66,695.00
INCOME TAXES	0.00	0.00	0.00	0.00	0.00	0.00
NET EARNINGS	(32,269.23)	(98,644.33)	(31,962.48)	(257,395.12)	233.00	66,695.00

2 4 0 4 3 5 8 5 2 5 2

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COSTS AND EXPENSES						
COST OF SALES						
BEGINNING INVENTORY	12,118.54	21,942.84	0.00	0.00	0.00	0.00
PURCHASES	22,999.22	31,189.00	0.00	0.00	22,890.00	30,520.00
TRANSPORTATION - IN	0.00	0.00	0.00	0.00	0.00	0.00
PURCHASE RETURN	(161.09)	(161.09)	0.00	0.00	0.00	0.00
PURCHASE DISCOUNT	(61.69)	(80.23)	0.00	0.00	0.00	0.00
INVENTORY SHRINKAGE	0.00	0.00	0.00	0.00	0.00	0.00
INVENTORY OVERAGE	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY	(11,678.19)	(23,796.73)	0.00	0.00	0.00	0.00
TOTAL COST OF SALES	23,215.99	29,093.49	0.00	0.00	22,890.00	30,520.00
LABOR COSTS						
SALARIES	6,650.00	8,836.30	0.00	0.00	6,300.00	8,400.00
WAGES F/T	19,610.79	21,641.46	0.00	0.00	14,735.00	19,647.00
WAGES P/T	4,476.00	4,804.19	0.00	0.00	0.00	0.00
EMPLOYEE BENEFITS	3,734.42	4,498.62	0.00	0.00	1,750.00	3,500.00
PAYROLL TAXES	2,518.43	3,332.26	0.00	0.00	1,937.00	2,583.00
TOTAL LABOR COSTS	36,989.72	43,112.83	0.00	0.00	24,722.00	34,130.00

9404358525 3

SPORTS SHIRAKI (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
OTHER COSTS						
SUPPLIES	4,638.90	5,689.20	0.00	0.00	4,300.00	8,600.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00	600.00
UTILITIES - ELECTRICITY	0.00	0.00	0.00	0.00	2,500.00	5,000.00
UTILITIES - WATER	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - GAS	781.01	781.01	0.00	0.00	0.00	0.00
REPAIRS & MAINTENANCE	2,315.36	2,315.36	0.00	0.00	2,100.00	4,200.00
RENT	0.00	0.00	0.00	0.00	0.00	0.00
SECURITY	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	0.00	0.00	0.00	0.00	0.00	0.00
PROMOTION	0.00	0.00	0.00	0.00	0.00	0.00
COST OF CREDIT CARD	191.65	191.65	0.00	0.00	0.00	0.00
CASH OVER/SHORT	38.82	143.82	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	350.00	700.00
TOTAL OTHER COSTS	7,965.74	9,121.14	0.00	0.00	9,250.00	19,100.00
TOTAL COSTS AND EXPENSES	68,171.45	81,327.46	0.00	0.00	56,062.00	83,750.00

3 4 0 4 3 5 8 5 2 5 4

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
BEGINNING INVENTORY	20,153.32	214,868.74	18,767.16	213,592.18	0.00	0.00
PURCHASES	13,024.00	65,336.78	9,848.00	44,178.20	5,897.00	66,882.00
TRANSPORTATION IN	320.07	2,232.51	432.33	1,705.86	0.00	0.00
PURCHASE RETURN	0.00	(80.83)	(550.21)	(1,086.01)	0.00	0.00
PURCHASE DISCOUNT	(95.04)	(829.27)	(93.34)	(812.78)	0.00	0.00
INVENTORY SHRINKAGE	288.53	4,253.91	(775.08)	(2,910.68)	0.00	0.00
INVENTORY OVERAGE	(309.83)	(3,213.07)	161.10	1,599.82	0.00	0.00
ENDING INVENTORY	(26,297.65)	(222,548.11)	(19,398.72)	(213,457.68)	0.00	0.00
BEG INVENTORY - SODA	1,051.26	10,858.68	652.68	9,197.16	0.00	0.00
PURCHASES - SODA	770.00	12,782.16	910.00	12,020.00	0.00	0.00
TAX - SODA	3.85	139.85	4.55	68.95	0.00	0.00
PURCHASE RETURN - SODA	0.00	0.00	0.00	(30.00)	0.00	0.00
INV SHRINKAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
INV OVERAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY - SODA	(1,036.14)	(10,153.92)	(850.50)	(9,203.04)	0.00	0.00
TOTAL COST OF SALES	7,872.37	73,554.21	5,912.08	54,862.06	5,897.00	66,882.00

9404358525 5

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
LABOR COSTS						
SALARIES - PRO SHOP	5,610.22	49,364.64	3,189.90	35,910.13	3,169.00	38,028.00
WAGES F/T - PRO SHOP	4,326.91	35,398.28	3,112.83	36,184.92	4,072.00	48,864.00
WAGES P/T - PRO SHOP	276.93	9,742.74	745.02	7,930.47	1,521.00	18,252.00
EMPLOYEE BENEFITS	2,697.20	12,673.27	4,683.06	11,695.14	739.00	8,868.00
PAYROLL TAXES	819.26	8,217.33	506.63	6,785.38	795.00	9,538.00
TOTAL LABOR COSTS	13,730.52	115,396.74	12,237.51	98,446.04	10,296.00	123,350.00
OTHER COSTS						
SUPPLIES - PRO SHOP	667.84	22,692.11	458.43	6,878.05	1,405.00	16,899.00
UNIFORMS	0.00	316.54	0.00	183.20	0.00	312.00
REPAIRS & MAINTENANCE	45.00	884.00	54.71	656.52	50.00	600.00
SECURITY	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	0.00	1,500.00	1,000.12	25,348.17	0.00	0.00
PROMOTION	0.00	0.00	0.00	459.20	0.00	0.00
CASH OVER/SHORT	26.98	(371.00)	(18.17)	(246.39)	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	330.00	0.00	298.48	0.00	0.00
TOTAL OTHER COSTS	759.82	25,402.24	1,504.09	33,577.31	1,455.00	17,811.00
TOTAL COSTS & EXPENSES	22,362.71	214,353.19	19,733.65	186,085.41	16,848.00	207,963.00

9 4 0 4 3 5 8 5 2 5 6

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
CART DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - CART	0.00	0.00	0.00	0.00	0.00	0.00
WAGES F/T - CART	2,328.06	36,638.30	2,887.83	36,415.46	3,098.00	37,104.00
WAGES P/T - CART	2,383.33	22,567.18	1,472.36	19,956.93	3,582.00	27,976.00
EMPLOYEE BENEFITS	257.58	9,864.75	3,296.80	9,990.50	863.00	10,336.00
PAYROLL TAXES	249.78	5,271.11	303.72	4,970.61	599.00	5,470.00
TOTAL LABOR COSTS	5,158.75	73,753.34	7,959.81	71,340.50	8,136.00	80,906.00
OTHER COSTS						
SUPPLIES - BATTERIES	0.00	1,385.20	0.00	1,424.96	0.00	0.00
SUPPLIES - GAS & OIL	1,187.56	17,606.99	1,086.30	14,529.19	1,020.00	12,240.00
SUPPLIES - PARTS	25.92	5,786.37	243.44	6,843.07	885.00	10,620.00
SUPPLIES - OTHERS	289.20	2,477.43	127.66	3,960.92	465.00	5,580.00
UNIFORMS	0.00	17.69	0.00	136.98	0.00	312.00
REPAIRS & MAINTENANCE	0.00	0.00	0.00	432.64	0.00	0.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	35.00	420.00
TOTAL OTHER COSTS	1,502.68	27,133.68	1,377.40	27,327.76	2,405.00	29,172.00
TOTAL COSTS AND EXPENSES	6,661.43	100,887.02	9,337.21	98,668.26	10,541.00	110,078.00

7 4 0 4 3 5 8 5 2 5 7

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
COURSE DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - COURSE	1,665.00	17,111.76	1,668.00	6,270.02	2,180.00	26,160.00
WAGES F/T - COURSE	13,911.14	180,072.07	14,917.69	172,155.44	14,789.00	168,160.00
WAGES P/T - COURSE	270.76	11,741.52	1,189.28	16,364.72	610.00	7,320.00
EMPLOYEE BENEFITS	2,413.03	26,888.66	10,282.00	27,961.57	2,122.00	24,564.00
PAYROLL TAXES	1,387.61	18,416.10	1,281.96	16,986.75	1,592.00	17,603.00
TOTAL LABOR COSTS	20,147.54	254,230.18	29,376.23	239,738.50	21,293.00	243,807.00
OTHER COSTS						
SUPPLIES - FERTILIZER	607.31	16,734.31	412.00	14,061.65	1,500.00	18,000.00
SUPPLIES - CHEMICALS	3,179.20	15,189.89	1,421.26	11,097.39	804.00	9,648.00
SUPPLIES - SAND	0.00	20,888.99	0.00	3,110.27	500.00	6,000.00
SUPPLIES - GAS & OIL	786.64	53,182.08	186.32	24,645.93	2,500.00	30,000.00
SUPPLIES - PARTS/EQUIP	1,026.81	21,888.86	382.30	18,399.27	2,492.00	29,904.00
SUPPLIES - IRRIGATION	921.50	12,332.89	(388.76)	9,225.74	0.00	0.00
SUPPLIES - COURSE IMP	0.00	3,586.66	69.67	4,956.97	0.00	0.00
SUPPLIES - OTHER	230.57	7,637.84	594.42	8,180.64	1,020.00	12,240.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - ELECTRICITY	1,812.27	30,847.92	1,133.28	25,283.49	0.00	0.00
UTILITIES - WATER	5,115.68	81,327.22	5,684.63	50,585.00	5,950.00	71,400.00
REPAIRS & MAIN - VEH/MACH	400.40	6,250.92	97.00	6,265.33	0.00	0.00
REPAIRS & MAIN - COURSE	230.26	10,319.47	221.40	13,347.27	500.00	6,000.00
RENTAL EQUIPMENT - COURSE	118.93	1,531.81	0.00	2,428.57	0.00	0.00
SECURITY	1,019.20	1,019.20	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	60.00	0.00	0.00
MISC EXPENSE - COURSE	46.00	226.00	0.00	0.00	130.00	1,560.00
TOTAL OTHER COSTS	15,496.07	298,062.93	9,838.36	199,407.52	15,396.00	184,752.00
TOTAL COST & EXPENSES	35,643.61	552,293.11	39,214.59	439,146.02	36,689.00	428,559.00

9 4 0 4 3 5 8 5 2 5 8

SEORIE SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
DRIVING RANGE
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES					
LABOR COSTS					
WAGES F/T	0.00	0.00	0.00	0.00	0.00
WAGES P/T	0.00	0.00	0.00	0.00	0.00
EMPLOYEE BENEFITS	0.00	0.00	0.00	0.00	0.00
PAYROLL TAXES	0.00	0.00	0.00	0.00	0.00
TOTAL LABOR COSTS	0.00	0.00	0.00	0.00	0.00
OTHER COSTS					
SUPPLIES - BALLS	0.00	0.00	0.00	0.00	0.00
SUPPLIES - OTHERS	0.00	0.00	0.00	0.00	0.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00
REPAIRS AND MAINTENANCE	0.00	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	0.00	0.00	0.00	0.00	0.00
TOTAL COSTS & EXPENSES	0.00	0.00	0.00	0.00	0.00

9 4 0 4 3 5 8 5 2 5 9

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
ADMINISTRATION
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES - ADMINISTRATION	6,939.64	83,886.98	11,184.16	98,784.66	7,199.00	86,388.00
EMPLOYEE BENEFITS	906.56	3,781.88	6,070.66	7,338.31	247.00	2,964.00
PAYROLL TAXES	401.83	6,697.18	182.10	6,236.76	193.00	6,535.00
TOTAL LABOR COSTS	8,248.03	93,365.62	17,436.92	104,279.73	7,639.00	95,887.00
OTHER COSTS						
SUPPLIES	341.04	4,619.60	781.60	4,698.68	380.00	4,560.00
UNIFORMS	0.00	0.00	0.00	108.24	0.00	0.00
UTILITIES - ELECTRICITY	1,987.83	20,131.94	1,510.38	17,761.58	6,350.00	59,700.00
UTILITIES - WATER	0.00	8,754.01	0.00	7,918.54	0.00	0.00
REPAIRS & MAINTENANCE	1,226.02	3,186.09	604.26	2,739.17	191.00	2,292.00
RENTAL EQUIPMENT	0.00	1,075.28	77.00	1,173.16	0.00	0.00
INSURANCE	3,628.44	37,688.63	6,272.63	79,131.72	5,859.00	68,708.00
SECURITY	1,692.00	9,175.60	1,150.31	24,700.06	3,016.00	36,192.00
GENERAL EXCISE TAX	8,263.17	75,499.33	5,489.02	62,501.86	8,423.00	76,932.00
REAL PROPERTY TAX	3,760.25	42,971.00	2,118.54	13,156.42	2,577.00	30,924.00
OTHER TAX & LICENSES	0.00	0.00	80.00	289.33	0.00	0.00
PROFESSIONAL SERVICES	3,315.30	11,047.04	376.49	7,853.64	766.00	9,192.00
TRAVEL	1,899.00	17,088.10	330.00	6,972.28	375.00	4,500.00
ADVERTISING	4,969.29	19,541.96	877.00	2,951.82	2,000.00	24,000.00
PROMOTION	246.38	2,194.09	24.00	720.64	50.00	600.00
ENTERTAINMENT	481.45	1,452.77	0.00	185.40	100.00	1,200.00
AUTOMOBILE	185.13	1,816.71	92.13	930.13	0.00	900.00
REFUSE DISPOSAL	402.53	1,890.13	73.00	888.60	0.00	0.00
DUES & SUBSCRIPTION	254.00	2,261.58	100.00	1,215.97	123.00	1,476.00
CONTRIBUTIONS	0.00	0.00	0.00	160.00	0.00	0.00
COST OF CREDIT CARD	808.74	9,564.92	783.59	7,500.26	625.00	7,500.00
DATA PROCESSING	372.57	2,563.48	176.96	2,162.47	283.00	3,396.00
TELEPHONE & TELEGRAM	1,752.68	10,613.73	1,370.07	11,661.89	840.00	10,000.00
BANK CHARGE	0.00	0.00	12.00	12.00	0.00	0.00
MISCELLANEOUS EXPENSE	1,716.40	3,962.41	0.00	448.81	1,000.00	2,375.00
TOTAL OTHER COSTS	36,704.24	283,406.99	22,432.98	257,974.79	32,158.00	336,527.00
TOTAL COST & EXPENSES	44,952.29	376,972.61	39,869.90	362,254.52	39,797.00	432,414.00

9 4 0 4 3 5 8 5 2 6 0

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
NON-OPERATING COSTS
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
NON-OPERATING INCOME						
INTEREST INCOME	3,378.01	44,261.07	1,787.26	57,631.22	5,200.00	62,400.00
RENTAL INCOME	2,591.36	106,882.32	7,817.64	101,389.52	0.00	90,750.00
GAIN ON SALE OF F/A	0.00	0.00	0.00	0.00	0.00	0.00
OTHER INCOME	40.12	1,699.67	113.55	6,633.54	0.00	0.00
TTL NON-OPERATING INCOME	6,009.49	152,783.06	9,518.45	165,174.28	5,200.00	153,150.00
NON-OPERATING EXPENSES						
INTEREST EXPENSE	42,931.53	493,999.19	44,218.70	515,189.35	40,984.00	491,800.00
EXECUTIVE HOUSE	0.00	0.00	0.00	0.00	0.00	0.00
LOSS ON SALE OF F/A	0.00	0.00	0.00	56,291.35	0.00	0.00
OTHER	0.00	0.00	0.00	163.68	0.00	0.00
TTL NON-OPERATING EXPENSE	42,931.53	493,999.19	44,218.70	571,644.58	40,984.00	491,800.00
NET PROFIT/LOSS (-)	(36,922.04)	(341,216.13)	(34,700.25)	(406,470.30)	(35,784.00)	(338,650.00)

9 4 0 4 3 5 8 0 5 2 6 1

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
OCEAN RESORTS DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1990

	CURRENT	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
SALARIES & WAGES	524.00	2,746.00	0.00	0.00	0.00	0.00
EMPLOYEE BENEFITS	6.95	13.17	0.00	0.00	0.00	0.00
PAYROLL TAXES	49.01	254.75	0.00	0.00	0.00	0.00
TOTAL LABOR COSTS	579.96	3,013.92	0.00	0.00	0.00	0.00
OTHER COSTS						
SUPPLIES	0.00	115.50	0.00	0.00	0.00	0.00
PRINTING EXPENSES	0.00	0.00	0.00	0.00	0.00	0.00
AUTO REPAIR	0.00	0.00	0.00	0.00	0.00	0.00
INSURANCE	0.00	0.00	0.00	0.00	0.00	0.00
UNIFORMS	0.00	56.10	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	0.00	171.60	0.00	0.00	0.00	0.00
TOTAL COSTS & EXPENSES	579.96	3,187.61	0.00	0.00	0.00	0.00

9 4 0 4 3 5 8 5 2 6 2

DOMESTIC PROFIT CORPORATION

MAKE REMITTANCE PAYABLE TO:
FILING FEE $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH
PENALTY FOR LATE FILI

Your cancelled check is your rec

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1989

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL NUMBER OF SHARES ISSUED

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS

(To correct, line out and print corrections below. If inactive during the period, state INACTIVE.)

Golf Course Operation

3. OFFICERS/DIRECTORS. (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) (INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE)
P/D	Toshio Kinoshita	6-20-8 Seijo Setagaya Ku Tokyo Japan
V	Takeshi Kinoshita	13749 Condesa Drive, Del Mar, Ca. 92014
S	Tsugio Fukuda	2-22-7 Nakamura Nerima-Ku Tokyo 176 Japan
T	Yasuo Nishida	160 Hoauna St., Wailuku, Hi 96793
D	Franklin K. Mukai	1140 Waiholo St., Honolulu, Hawaii 96821

9 4 0 4 3 5 8 5 2 6 3

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[x] The above information is true and correct with changes as noted.

DATE: _____ _____ Treasurer

SIGNATURE OF AUTHORIZED OFFICER, (OFFICE HELD)
(If Attorney-in-fact signs, attach power of attorney)

FILE NO. 0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your reco
Rev. 12/89 (see reverse side for instructions) 818-0815-10
818-0815-17

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO
FILING FEE: $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 3
PENALTY FOR LATE FILING

Your cancelled check is your rece

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1990

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
160 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS:
GOLF COURSE OPERATION
(To correct, line out and print corrections below. If inactive during the period, state INACTIVE.)

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE
*D/D	KINOSHITA,TOMIO	6-20-8 SEIJO SETAGAY TOKYO JAPAN
*D	KINOSHITA,TAMESHI	18740 CONDESA DR BEL AIR CA 90014
*S	FUKUDA,TSUGIO	2-22-7 NAKAMURA NERI TOKYO 176 JA
*T	NISHIDA,YASUO	100 MOANUA ST WAILUKU HI 96793
*D	SUMAI,FRANKLIN K	1140 WAIMOLE ST HON HI 96821
P/D	KAWASAKI, Tomio	515 Baba Kaizuka-Shi Osaka, Japan
S/D	SOEJIMA, Koichi	581 Kamoku St., #908, Honolulu, Hi 96826

9 4 0 4 3 5 0

Sugoroku
Dosei

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE:_____ _____ _____

SIGNATURE OF AUTHORIZED OFFICER, (OFFICE HELD)
(If Attorney-in-fact signs, attach power of attorney)

FILE NO.0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your records
Rev. 12/90 (see reverse side for instructions)

B17
B22

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO:
FILING FEE $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH 31
PENALTY FOR LATE FILING

Your cancelled check is your receipt

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1991

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI , HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS

GOLF COURSE OPERATION

(To correct, line out and print corrections below. If inactive during the period, enter INACTIVE.)

3. OFFICERS/DIRECTORS: (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD (DIRECTOR CODE)	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) (INCLUDE NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE)
*P/D/TR	KINOSHITA, TOSHIO	6-20-8 SEIJO SETAGAY TOKYO JAPAN
*V	KINOSHITA, TAKESHI	13140 CONDESA DR DEL MAR CA 92014
*S/T	FUKUDA, TSUSIO	2-22-7 NAKAMURA NERI TOKYO 178 JA
*AT	NISHIDA, YASUO	160 KOAUNA ST KAILUAU HI 96734
*D	NAKAI, FRANKLIN K	1140 WAIMOLE ST HON HI 96824
S/D	YAMAMOTO, Iwane	5-45-2 Matsubara, Setagayaku, Tokyo Japan
AS	TSUJIMOTO, Takuya	1661 Pee Rd. #4204, Koloa, Kauai, Hawaii 96756

Doody
Sylosec

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE:_____ _____ _____

SIGNATURE OF AUTHORIZED OFFICER, (OFFICE HELD)
(If Attorney-in-fact signs, attach power of attorney)

FILE NO.0069566D1 (File this original copy. Photo copy will not be accepted. Keep photo copy for your records)
Rev. 12/90 (see reverse side for instructions)

817
822

DOMESTIC PROFIT CORPORATION
MAKE REMITTANCE PAYABLE TO
FILING FEE $15.00

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, HI. 96810

ORIGINAL RETURN BY MARCH
PENALTY FOR LATE FILIN

Your cancelled check is your rece

DOMESTIC PROFIT CORPORATION ANNUAL REPORT FOR THE YEAR ENDED DECEMBER 31, 1992

CORPORATE NAME AND MAILING ADDRESS:

SPORTS SHINKO (PUKALANI) CO., LTD.
360 PUKALANI STREET
PUKALANI HI 96768

If the above mailing address has changed, line out address and type or print the new address on the following line. Give Number, Street, City, State, and Zip Code:

1. AUTHORIZED CAPITAL

CLASS/SERIES	NUMBER
COMMON	20,000

PAID-IN CAPITAL (NUMBER OF SHARES ISSUED)

CLASS/SERIES	NUMBER
COMMON	1,000

To Correct the above capital(s), line out and print the correct class/series and numbers on the right.

2. NATURE OF BUSINESS

GOLF COURSE OPERATION

(To correct, line out and print corrections below. If inactive during the period, state INACTIVE.)

3. OFFICERS/DIRECTORS (List all officers and directors. Every corporation must have a minimum of two individuals as officers. At least one director (must be a resident of Hawaii. To correct, line out and print corrections on the right. See instructions on back of form.)

OFFICE HELD/ DIRECTOR CODE	NAME IN FULL	RESIDENCE ADDRESS (DO NOT LIST BUSINESS ADDRESS) STREET NUMBER & STREET, APT. NO., CITY, STATE & ZIP CODE
*P/D	KINOSHITA, TOSHIO	6-20-6 SETAGAYA-KU TOKYO JAPAN
*VP/D	KINOSHITA, TAKESHI	13740 CONCESA DR DEL MAR CA 92014
*T	FUKUDA, TSUGIO	2-22-7 NAKAMURA NERIMA-KU TOKYO 176 JA
*AT	NISHIDA, YASUO	180 HOAPILI ST KAILUA HI 96734
*D	SUMAI, FRANKLIN K	1140 WAIHOLO ST HON HI 96821
*S/D	YAMAMOT, IWAME	9-46-2 MATSUBARA SETAGAYAKU TOKYO JA
*AS	TSUJIMOTO, TAKUYA	1661 PEE RD #4204 HOLOA KAUAI HI 96756

2 4 0 4 3 5

CERTIFICATION

I certify under the penalties of Section 415-136, Hawaii Revised Statutes, that I have read the above and:

CHECK ONLY ONE OF THE FOLLOWING STATEMENTS

[ ] The above information is true and correct and no changes are necessary.
[ ] The above information is true and correct with changes as noted.

DATE: Feb 18, 1993

Jerry Nishida
SIGNATURE OF AUTHORIZED OFFICER,
(If attorney-in-fact signs, attach power of attorney)

Assistant Treasurer
(OFFICE HELD)

FILE NO.0069566D1
Rev. 12/90

(File this original copy. Photo copy will not be accepted. Keep photo copy for your recor
(see reverse side for instructions)

B17
B22

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1989

ASSETS		
CURRENT ASSETS		
CASH	733,767.81	
RENTAL RECEIVABLES	2,296.72	
ACCOUNTS RECEIVABLE	2,552.73	
ACCOUNTS RECEIVABLE - [illegible]	312,[illegible]	
ADVANCE	595.33	
INVENTORIES-MERCHANDISE	20,[illegible].62	
INVENTORIES - [illegible]	[illegible].50	
INVENTORIES-FOOD & LIQUOR	0.00	
SUPPLIES - MAINTENANCE	1,079.46	
PREPAID EXPENSES	14,[illegible].88	
TOTAL CURRENT ASSETS		1,[illegible],325.27
REAL ESTATE - INVESTMENT		
REAL ESTATES - INVESTMENT	0.00	
INVESTMENT IN [illegible]	1,[illegible].00	
TOTAL REAL ESTATE - INVES		1,000,000.00
PROPERTY & EQUIPMENT		
GOLF COURSE	601,485.16	
EQUIPMENT	505,898.13	
BUILDING	4[illegible],637.25	
IMPROVEMENTS	2,743,642.10	
AUTOMOBILE	20,386.97	
FURNITURE & FIXTURES	9,[illegible].58	
160 HORUNA ST.	225,636.82	
LESS ACCUM DEP & AMORT	(272,243.19)	
LAND	1,650,275.00	
TOTAL PROPERTY & EQUIP		6,136,776.44
OTHER ASSETS		
DEPOSITS	850.00	
TOTAL OTHER ASSETS		850.00
TOTAL ASSETS		8,220,951.71

9 4 0 4 5 3 8 5 2 6 7

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
BALANCE SHEET AS OF
DECEMBER 31, 1989

LIABILITIES & CAPITAL		
CURRENT LIABILITIES		
ACCOUNTS PAYABLE - TRADE	39,564.30	
ACCTS PAY WITHHOLDING	8,973.00	
ACCTS PAYABLE - INSURANCE	0.00	
PAYABLE TO SSH	0.00	
ACCRUED SALARIES	5,655.32	
ACCRUED VAC/HOL PAYABLE	19,009.99	
ACCRUED INTEREST	230,672.44	
ACCRUED PAYABLE TAXES	0.00	
ACCRUED GENERAL EXCISE	0.00	
ACCRUED LIQUOR TAX	0.00	
W/H TAX ON INTEREST	0.00	
DUE TO SSH	230.75	
DEFERRED INCOME	17,801.00	
TOTAL CURRENT LIABILITIES		316,910.30
LONG TERM LIABILITIES		
NOTES PAYABLE	0.00	
NOTES PAYABLE 01 SBUSA	60,000.00	
DEFERRED FINANCE CHARGE	0.00	
NOTES PAYABLE - SSH	0.00	
NOTES PAY 02 SBUSA -010	7,631,790.74	
DEFERRED FIN CHARGE - 010	(4,035,684.75)	
DUE TO PUKALANI DEVELOP	0,000.00	
NOTES PAYABLE 03 SSH	1,500,000.00	
CAPITAL LEASE OBLIGATIONS	90,209.00	
TTL LONG TERM LIABILITIES		5,280,563.67
STOCKHOLDER'S EQUITY		
COMMON STOCK	300,000.00	
ADD'L PAID IN CAPITAL	2,700,000.00	
VALUE IN EXCESS OF BASIS	0.00	
ACCUMULATED DEFICIT	(119,724.00)	
CURRENT PROFIT/LOSS (-)	300,789.52	
CURRENT PROFIT/LOSS (-)	(365,389.00)	
TTL STOCKHOLDER'S EQUITY		2,623,475.54
TTL LIABILITIES & CAPITAL		8,220,951.71

9 4 0 4 3 5 8 5 2 6 8

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
REVENUES						
GREEN FEES	69,204.00	769,773.00	81,984.00	618,575.50	61,280.00	834,835.00
CART RENTALS	43,987.50	498,331.30	30,696.00	535,691.50	39,725.00	565,720.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
CLUB & SHOE RENTALS	2,902.00	27,770.00	2,680.00	28,065.00	2,750.00	33,300.00
MERCHANDISE SALES	8,245.37	78,446.52	6,402.25	66,687.75	6,400.00	74,745.00
SODA SALES	1,642.80	21,271.30	1,715.47	23,744.59	1,950.00	23,400.00
FOOD SALES	0.00	0.00	0.00	0.00	0.00	0.00
LIQUOR SALES	0.00	0.00	0.00	0.00	0.00	0.00
OTHER INCOME	0.00	105.00	0.00	0.00	0.00	0.00
TOTAL REVENUES	126,001.67	1,392,697.87	102,418.22	1,267,564.39	112,105.00	1,522,000.00

9 4 0 4 3 5 8 5 2 6 9

SPORTS SHINKO (PUKALANI) CO., LTD
PUKALANI COUNTRY CLUB
STATEMENT OF INCOME
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COST & EXPENSES						
RESTAURANT AND BAR	0.00	0.00	0.00	0.00	0.00	0.00
PRO SHOP DEPARTMENT	20,576.05	187,787.01	12,248.39	133,666.72	13,279.00	159,931.00
CART DEPARTMENT	9,337.21	98,668.25	6,449.19	102,496.05	9,170.00	110,009.00
COURSE DEPARTMENT	39,214.59	439,146.02	32,062.55	410,735.09	33,016.00	390,906.00
DRIVING RANGE	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL COST & EXPENSES	69,127.85	725,542.09	50,752.13	646,899.87	55,465.00	660,846.00
TOTAL EARNINGS ON SALES	56,873.82	667,155.78	51,666.09	628,664.52	56,648.00	861,154.00
ADMINISTRATION COST & EXP	37,853.90	360,238.52	28,206.92	304,020.13	33,568.00	390,530.00
OPERATING EARNINGS	19,019.92	306,917.26	23,459.17	316,644.39	23,072.00	470,624.00
DEPRECIATION	15,108.55	156,668.48	11,133.11	132,054.88	12,667.00	152,004.00
ADJ'D OPERATING EARNINGS	3,911.37	150,248.78	12,326.06	184,589.51	10,405.00	318,620.00
NON-OPERATING INC & EXP						
NON-OPERATING INCOME	9,518.45	165,174.28	12,148.61	125,867.15	8,500.00	102,000.00
NON-OPERATING EXPENSES	44,797.55	572,223.43	37,145.39	431,023.37	2,500.00	30,000.00
TOTAL NON-OPERATING EXP	(35,279.10)	(407,049.15)	(24,996.78)	(305,156.22)	6,000.00	72,000.00
EARNINGS BEFORE INC TAX	(31,367.73)	(256,800.37)	(12,670.72)	(120,568.71)	16,405.00	390,620.00
INCOME TAXES	0.00	0.00	0.00	0.00	0.00	0.00
NET EARNINGS	(31,367.73)	(256,800.37)	(12,670.72)	(120,568.71)	16,405.00	390,620.00

9 4 0 4 3 5 8 5 2 7 0

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
COSTS AND EXPENSES						
COST OF SALES						
BEGINNING INVENTORY	0.00	0.00	0.00	0.00	0.00	0.00
PURCHASES	0.00	0.00	0.00	0.00	0.00	0.00
TRANSPORTATION - IN	0.00	0.00	0.00	0.00	0.00	0.00
PURCHASE RETURN	0.00	0.00	0.00	0.00	0.00	0.00
PURCHASE DISCOUNT	0.00	0.00	0.00	0.00	0.00	0.00
INVENTORY SHRINKAGE	0.00	0.00	0.00	0.00	0.00	0.00
INVENTORY OVERAGE	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL COST OF SALES	0.00	0.00	0.00	0.00	0.00	0.00
LABOR COSTS						
SALARIES	0.00	0.00	0.00	0.00	0.00	0.00
WAGES F/T	0.00	0.00	0.00	0.00	0.00	0.00
WAGES P/T	0.00	0.00	0.00	0.00	0.00	0.00
EMPLOYEE BENEFITS	0.00	0.00	0.00	0.00	0.00	0.00
PAYROLL TAXES	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL LABOR COSTS	0.00	0.00	0.00	0.00	0.00	0.00

3 4 0 4 3 5 8 5 2 7 / 1

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
RESTAURANT
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGET CURRENT PERIOD	BUDGET YEAR-TO-DATE
OTHER COSTS						
SUPPLIES	0.00	0.00	0.00	0.00	0.00	0.00
UNIFORMS	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - ELECTRICITY	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - WATER	0.00	0.00	0.00	0.00	0.00	0.00
UTILITIES - GAS	0.00	0.00	0.00	0.00	0.00	0.00
REPAIRS & MAINTENANCE	0.00	0.00	0.00	0.00	0.00	0.00
RENT	0.00	0.00	0.00	0.00	0.00	0.00
SECURITY	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	0.00	0.00	0.00	0.00	0.00	0.00
PROMOTION	0.00	0.00	0.00	0.00	0.00	0.00
COST OF CREDIT CARD	0.00	0.00	0.00	0.00	0.00	0.00
CASH OVER/SHORT	0.00	0.00	0.00	0.00	0.00	0.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL COSTS AND EXPENSES	0.00	0.00	0.00	0.00	0.00	0.00

9 4 0 4 3 5 8 5 2 / 2

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
BEGINNING INVENTORY	15,767.16	213,592.18	0.00	0.00	0.00	0.00
PURCHASES	9,645.20	44,178.20	3,330.05	34,863.00	4,286.00	48,600.00
TRANSPORTATION IN	433.33	1,785.05	182.11	587.21	0.00	0.00
PURCHASE RETURN	(550.21)	(1,086.01)	0.00	0.00	0.00	0.00
PURCHASE DISCOUNT	(93.54)	(812.78)	0.00	0.00	0.00	0.00
INVENTORY SHRINKAGE	(775.88)	(2,910.68)	0.00	(9,888.31)	0.00	0.00
INVENTORY OVERAGE	161.18	1,599.82	(133.70)	8,076.12	0.00	0.00
ENDING INVENTORY	(19,392.72)	(213,487.60)	0.00	0.00	0.00	0.00
BEG INVENTORY - SODA	652.68	9,197.16	0.00	0.00	0.00	0.00
PURCHASES - SODA	910.00	12,020.00	0.00	0.00	0.00	0.00
TAX - SODA	4.55	68.98	0.00	0.00	0.00	0.00
PURCHASE RETURN - SODA	0.00	(30.00)	0.00	0.00	0.00	0.00
INV SHRINKAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
INV OVERAGE - SODA	0.00	0.00	0.00	0.00	0.00	0.00
ENDING INVENTORY - SODA	(850.50)	(9,203.04)	0.00	0.00	0.00	0.00
TOTAL COST OF SALES	5,912.85	54,852.86	3,319.26	33,725.82	4,286.00	48,600.00

9 4 0 4 5 5 8 5 2 / 3

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES - PRO SHOP
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
LABOR COSTS						
SALARIES - PRO SHOP	3,189.98	35,910.13	2,082.55	17,378.43	2,000.00	25,500.00
WAGES F/T - PRO SHOP	3,112.83	36,184.92	3,344.40	30,683.60	3,100.00	37,440.00
WAGES P/T - PRO SHOP	745.02	7,938.47	0.00	9,788.00	500.00	6,000.00
EMPLOYEE BENEFITS	5,525.45	12,537.54	683.34	8,695.30	1,394.00	16,728.00
PAYROLL TAXES	506.63	6,785.30	489.90	4,782.93	836.00	10,675.00
TOTAL LABOR COSTS	13,079.91	99,288.44	7,310.19	71,135.39	7,850.00	96,343.00
OTHER COSTS						
SUPPLIES - PRO SHOP	458.43	6,878.05	1,626.04	27,162.93	565.00	6,780.00
UNIFORMS	0.00	183.28	0.00	0.00	0.00	312.00
REPAIRS & MAINTENANCE	54.71	656.52	39.97	1,080.18	50.00	600.00
SECURITY	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00
ADVERTISING	1,089.12	25,348.17	0.00	733.60	608.00	7,296.00
PROMOTION	0.00	459.20	0.00	0.00	0.00	0.00
CASH OVER/SHORT	(18.17)	(246.39)	(58.07)	(172.20)	0.00	0.00
MISCELLANEOUS EXPENSES	0.00	298.48	0.00	0.00	0.00	0.00
TOTAL OTHER COSTS	1,584.09	33,577.31	1,618.94	28,804.51	1,223.00	14,988.00
TOTAL COSTS & EXPENSES	20,576.05	187,727.81	12,248.39	133,666.72	13,279.00	159,931.00

9 4 0 4 3 5 8 5 2 7 4

SPORTS SHINKO (PUKALANI) CO., LTD.
PUKALANI COUNTRY CLUB
OPERATING EXPENSES
CART DEPARTMENT
FOR PERIOD ENDING
DECEMBER 31, 1989

	CURRENT PERIOD	YEAR-TO-DATE	SAME PERIOD PREVIOUS YEAR	YEAR-TO-DATE PREVIOUS YEAR	BUDGETED AMT CURRENT PERIOD	BUDGETED AMT YEAR-TO-DATE
COST AND EXPENSES						
LABOR COSTS						
BENEFITS - CART	0.00	0.00	0.00	0.00	0.00	0.00
WAGES F/T - CART	2,887.53	36,415.46	2,972.47	47,479.77	4,640.00	54,120.00
WAGES P/T - CART	1,472.36	19,955.93	897.37	15,507.04	1,173.00	14,076.00
EMPLOYEE BENEFITS	3,296.20	9,998.00	589.00	7,488.04	640.00	7,680.00
PAYROLL TAXES	303.72	4,970.61	871.90	5,490.20	465.00	5,990.00
TOTAL LABOR COSTS	7,959.81	71,340.00	4,730.78	75,965.05	6,918.00	81,866.00
OTHER COSTS						
SUPPLIES - BATTERIES	0.00	1,484.96	119.03	1,344.04	0.00	0.00
SUPPLIES - GAS & OIL	1,086.30	14,529.19	1,246.26	11,391.68	858.00	10,308.00
SUPPLIES - PARTS	243.44	6,843.07	0.00	0.00	0.00	0.00
SUPPLIES - OTHERS	127.66	3,960.92	98.00	4,247.00	454.00	5,415.00
UNIFORMS	0.00	136.98	0.00	0.00	0.00	312.00
REPAIRS & MAINTENANCE	0.00	432.64	237.32	9,548.77	907.00	11,720.00
MISCELLANEOUS EXPENSE	0.00	0.00	0.00	0.00	33.00	396.00
TOTAL OTHER COSTS	1,377.40	27,327.76	1,718.41	26,532.21	2,252.00	28,143.00
TOTAL COSTS AND EXPENSES	9,337.21	98,668.26	6,449.19	102,498.06	9,170.00	110,009.00

9 4 0 4 3 5 8 5 2 / 5

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-0104

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1800
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3780

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3366

HILO OFFICE
TELEPHONE (808) 935-6944
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9460

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

February 15, 1994

Mr. Trevor Potter, Chairman
Federal Election Commission
Washington, DC 20463
Attn: Mark Allen

Re: MUR 3460

Dear Mr. Potter:

This responds to your recent correspondence regarding this matter.

Enclosed please find notarized certifications by Yasuo Nishida, on behalf of Sports Shinko (Pukalani) Co., Ltd. and Takeshi Kinoshita, one of the members of the Board of Directors for Sports Shinko (Pukalani) Co., Ltd., regarding the answers to interrogatories.

My client informs me that the directors resident in Japan have encountered difficulties in arranging for the execution of the certification at the United States Embassy and therefore request your further indulgence to obtain those certifications. My client may seek notarization by a Japanese notary which will require translating the answers to interrogatories into Japanese. Please let me know if the

9404358527 6

Commission would accept a simple declaration by the Japanese members of the Board regarding the answers to interrogatories.

Very truly yours,

Gilbert S. Coloma-Agaran

GRANT Y. M. CHUN
GILBERT S. COLOMA-AGARAN

GYMC/GCA:fn
Enc.
cc: Y. Nishida
L/0825

?40435852777

STATE OF CALIFORNIA)
) SS.
COUNTY OF San Diego)

I, TAKESHI KINOSHITA, state that I have read the answers to interrogatories and that the answers are true and correct to the best of my knowledge.

TAKESHI KINOSHITA

On this 14th day of January, 1994, before me personally appeared TAKESHI KINOSHITA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Mary J. Ryman
Notary Public, in and for said County and State

My commission expires: 2/21/97

MARY J. RYMAN
COMM. # 985339
Notary Public — California
SAN DIEGO COUNTY
My Comm. Expires FEB 21, 1997

9404358527 8

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of February, 1994, before me appeared Yasuo Nishida and --, satisfactorily proven to me, who, by me duly sworn, did say that they are the Assistant Treasurer and --, respectively, of SPORTS SHINKO (PUKALANI) CO., LTD., a Hawaii corporation, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

Mary E. Ah Sam
Notary Public, State of Hawaii
My commission expires: 4-24-95

9404358527 9

12. Identify the source of funds used to make the contributions identified above, including from which account (bank and account number) the contributions were made and the sources of funds for this account.

The funds came from Sports Shinko account no. 65-009919 at the Bank of Hawaii. The funds are from local revenues. In 1989 to 1991, Sports Shinko generated the following revenue from its golf course operations: $1,392,697.87, $1,757,715.82, and $2,713,308.14. Balance Sheets for the relevant years have been produced.

13. Identify the persons who supervise, manage, review, or are vested with the power to vote on the selection of, those person within the corporation with the authority to make contributions. Include the nationality status of each person identified.

Mr. Toshio Kinoshita	Japanese
Mr. Takeshi Kinoshita	Japanese admitted in a managerial capacity
Mr. Franklin K. Mukai	American
Mr. Iwane Yamamoto	Japanese

14. Produce all other documents in your possession that refer, relate, or in any way pertain to Sports Shinko contributions, including but not limited to letters, envelopes, memos, internal correspondence, notes of telephone conversations, and records of oral and/or written communications.

All documents are included in our answers to interrogatories 6 and 9 above, except for Sports Shinko's initial response to the Federal Election Commission complaint.

15. Identify each person answering these questions, the length of time he or she has been associated with you, and all positions held with you.

Yasuo Nishida, Assistant Treasurer. Mr. Nishida has been with Sports Shinko Pukalani since 1987. Mr. Nishida transmitted information received from Mr. Tsugio Fukuda, Mr. Toshio Kinoshita, Mr. Takeshi Kinoshita, Mr. Koichi Soejima and Mr. Tomio Kawasaki. Gilbert S. Coloma-Agaran, counsel.

SPORTS SHINKO (PUKALANI) CO., LTD.

By Yasuo Nishida

Print Name YASUO NISHIDA

Its: ASSISTANT TREASURER

9 4 0 4 3 5 8 5 2 8 0

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-9631
FAX (310) 437-3780

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

April 5, 1994

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: Sports Shinko (Pukalani) Co., Ltd.; MUR 3460

Dear Mr. Allen:

As you know, we represent Sports Shinko (Pukalani) Co., Ltd. in this matter. Enclosed with this letter are the following:

1. the Declaration of Koichi Soejima,

2. the Declaration of Toshio Kinoshita, and

3. the Declaration of Tomio Kawasaki.

As discussed and requested in our correspondence with you, these declarations by the 1990 directors of Sports Shinko Pukalani are submitted in place of certifications for the response to interrogatories sent to you in this matter on August 27, 1993. As you instructed, the declaration of the three directors includes language that they made the statements under penalty of perjury.

9404358528 1

Thank you for your cooperation and patience.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Gilbert S. Coloma-Agaran

Gilbert S. Coloma-Agaran

Enc.
cc: Sports Shinko (Pukalani) Co., Ltd.
Mr. Toshio Kinoshita
Mr. Takeshi Kinoshita
Mr. Koichi Soejima
Mr. Tomio Kawasaki
Mr. Franklin K. Mukai

SPSH/40300106.GCA

9404358528 2

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-0104

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 435-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1025
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

June 29, 1994

Mark Allen, Esq.
Asst. General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Allen:

This confirms our telephone conversation of Tuesday, June 28, 1994. I informed you that we received your letter dated June 13, 1994 and proposed conciliation agreement only yesterday. This office moved from our former Wells Street address in mid-December. Your forwarded letter did not arrive at our current address until yesterday.

Consequently I requested a two week extension on the thirty (30) days allowed for conciliation negotiations from July 14th to July 28th in light of the recent receipt of your letter and our need to contact our clients. You were agreeable to the extension but urged me not to wait until the end of the period to begin discussions regarding the proposed conciliation agreement.

You also informed me that any "conciliation negotiation meeting" could be done by telephone conference call. I will be contacting you shortly to respond to your June 13th letter and the proposed conciliation agreement.

9404358523

Thank you for your time and courtesy in this matter.

Very truly yours,

Gilbert S. Coloma-Agaran

GRANT Y.M. CHUN
GILBERT S. COLOMA-AGARAN

cc: Sports Shinko (Pukalani) Co., Ltd.
Toshio Kinoshita
Takeshi Kinoshita
Tomio Kawasaki
Koichi Soejima
Franklin K. Mukai, Esq.

SPORTS SHINKO/MI140602.GCA

9404358528 4

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS
ONE MAIN PLAZA
SUITE 400, 2200 MAIN STREET
POST OFFICE BOX 1086
WAILUKU, MAUI, HAWAII 96793-0104

TELEPHONE (808) 242-4535
FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 985-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3760

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1028
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3455
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-9450

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0650

August 1, 1994

9404358528 5

VIA TELECOPIER NO. (202) 219-3923/REGULAR MAIL

Mark Allen, Esq.
Federal Election Commission
999 E. Street N.W.
Washington, D.C. 20463

Re: MUR 3460
Sports Shinko (Pukalani) Co., Ltd.
Tomio Kawasaki
Takeshi Kinoshita
Toshio Kinoshita
Koichi Soejima

Dear Mr. Allen:

My clients have reviewed your revisions to the proposed conciliation agreement prior to a finding of probable cause to believe.

Due to their interest in bringing this unfortunate matter to a close and your willingness to add the language in Paragraph IV.6. and Paragraphs IV.7. and IV.8. of the proposed agreement, my clients hereby agree to the conciliation agreement and a civil penalty in the amount of $57,000.00.

I enclose copies of signatures from my clients on the signature page of the proposed conciliation agreement. I will be forwarding the original signatures to you when I receive them. I will send a check in the amount of the civil penalty when you confirm that the commission has accepted the agreement and closed this matter.

Thank you for your time and courtesy in this matter.

Very truly yours,

Gilbert S. Coloma-Agaran

GILBERT S. COLOMA-AGARAN

Enc.

cc: Franklin Mukai, Esq. (w/ Enc.)
Sports Shinko (Pukalani) Co., Ltd. (w/ Enc.)
Tomio Kawasaki (w/o Enc.)
Takeshi Kinoshita (w/o Enc.)
Toshio Kinoshita (w/o Enc.)
Koichi Soejima (w/o Enc.)

40700F44.GCA

9404358528 6

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Noble
General Counsel

Date

FOR SPORTS SHINKO (PUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (PUKALANI) CO., LTD. DIRECTORS:

Toshio Kinoshita

Date

Takeshi Kinoshita

Date

Tomio Kawasaki

Date

Koichi Soejima

Date

9404358528 7

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date

FOR SPORTS SHINKO (FUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (FUKALANI) CO., LTD. DIRECTORS:

Yoshio Kinoshita — Date July 15, 1994

Yoshio Kinoshita — Date 7/15/94

Yoshio Kawasaki — Date 7/15/94

Yoichi Sugijima — Date 7/15/94

9404358528 8

CARLSMITH BALL WICHMAN MURRAY CASE & ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

ONE MAIN PLAZA

SUITE 400, 2200 MAIN STREET

POST OFFICE BOX 1086

WAILUKU, MAUI, HAWAII 96793-1086

TELEPHONE (808) 242-4535

FAX (808) 244-4974

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0842

LOS ANGELES OFFICE
TELEPHONE (213) 955-1200
FAX (213) 623-0032

LONG BEACH OFFICE
TELEPHONE (310) 436-5631
FAX (310) 437-3780

MEXICO CITY OFFICE
TELEPHONE (52-5) 281-2428
FAX (52-5) 281-2196

WASHINGTON, D.C. OFFICE
TELEPHONE (202) 508-1028
FAX (202) 508-1026

GUAM OFFICE
TELEPHONE (671) 472-6813
FAX (671) 477-4375

SAIPAN OFFICE
TELEPHONE (670) 322-3466
FAX (670) 322-3368

HILO OFFICE
TELEPHONE (808) 935-6644
FAX (808) 935-7975

KONA OFFICE
TELEPHONE (808) 329-6464
FAX (808) 329-6460

KAPOLEI OFFICE
TELEPHONE (808) 523-2500
FAX (808) 674-0850

September 1, 1994

Mark Allen, Esq.
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20463

Re: MUR 3460

Dear Mr. Allen:

As you requested, enclosed are two pages containing the signatures of our clients agreeing to the revised Conciliation Agreement.

I will forward the civil penalty upon receipt of the Conciliation Agreement approved by the Federal Election Commission.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Gilbert S. Coloma-Agaran

GILBERT S. COLOMA-AGARAN

GCA/fn
Encs.
17/1353

9404358529

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date

FOR SPORTS SHINKO (PUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (PUKALANI) CO., LTD. DIRECTORS:

Toshio Kinoshita

Date

Takeshi Kinoshita

Date

Tomio Kawasaki

Date

Koichi Soejima

Date

9404358529 0

made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Noble
General Counsel

Date

FOR SPORTS SHINKO (FUKALANI) CO., LTD.:

Name
Position

Date

SPORTS SHINKO (FUKALANI) CO., LTD. DIRECTORS:

Toshio Kinoshita — Date July 15, 1994

Takeshi Kinoshita — Date 7/15/94

Tomio Kawasaki — Date 7/15/94

Koichi Soejima — Date 7/15/94

9404358529 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 10/13/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

'94043590957

Roz Baker D

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION
'94 OCT 12 10 PM

STATE SENATOR
FOURTH DISTRICT - NORTH/WEST MAUI, MOLOKA'I, LANA'I

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
'94 OCT 12 11 24 AM

October 4, 1994

Mr. Erik Morrison, Staff Member
Federal Election Commission
Washington, D. C. 20463

RE: MUR 3460

Dear Mr. Morrison:

I am in receipt of your letter dated September 8, 1994 regarding receipt by my campaign committee of an impermissible campaign contribution from Sports Shinko (Pukalani) Co, Ltd. Your letter states that the contribution was $2,000 and dated October 13, 1990. I believe I received the wrong letter from your office.

My campaign committee did receive a $1,000 contribution from Sports Shinko on March 20, 1991. The contribution is listed as Pukalani Country Club in my campaign spending report filed on July 31, 1991. The period of the report covers January 1 through June 30 of 1991.

I have researched all my committee's filings and find no other contribution from Sports Shinko or Pukalani Country Club. Therefore, as per the instructions of your letter, I am enclosing a check in the amount of $1,000 payable to the US Treasury.

Sincerely yours,

Rosalyn Baker

Rosalyn Baker

friends of Rosalyn Baker, Dr. Helen S. Percy, Treasurer
P.O. Box 10394 • Lahaina, Maui, Hawai'i 96761
(808) 661-4217

14043590263

2442

FRIENDS OF ROSALYN BAKER
P. O. BOX 10394 661-4217
LAHAINA, HI 96761

59-7075/3213

October 4, 1994

PAY TO THE ORDER OF U.S. Treasury $1,000.00/xx

One thousand and no/100 DOLLARS

First Federal

FOR MUR 3460

Rosalyn Baker

⑈0244⑈ ⑆321378752⑆ 09⑈22284⑈

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

10/12/94

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

OCT 12 11 24 AM '94

We recently received a check from Friends of Rosalyn Baker, check number 3442, dated 10/4/94, and in the amount of $ 1,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Rosa E. Swinton
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of $1,000.00, the MUR number is 3460 and in the name of Sports Shinko (Pukalani) Co. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

__ Civil Penalties Account, 95-1099.160

✓ Other: misc# 95-3220

Anita Alexander
Signature

10-12-94
Date

'40435909960

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 11/7/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

9404359164 0

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
Oct 31 8 11 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Oct 31 3 00 PM '94

RE-ELECT

TOM MORROW

COUNCIL

October 21, 1994

Mr. Eric Morrison
Staff Member
Federal Election Commission
Washington, D.C. 20463

RE: MUR 3460

Dear Mr. Morrison:

In response to our telephone conversation September 15, 1994, I submit the following information for your files.

1. I acknowledge receipt of a $500.00 check dated October 13, 1990, from Sports Shinko.
2. I was unaware of any violations until I received your letter of September 8, 1994.
3. I am currently a candidate for County Council but do not have the funds available to refund monies requested.
4. I run a very small campaign and do no advertising in the newspaper, radio or any other media.
5. I will attempt a fund raiser after the elections and make every effort to repay funds requested at the earliest possible date.

Again, thank you for your understanding and assistance in this matter.

Sincerely,

THOMAS P. MORROW

Friends to Elect Tom Morrow
P. O. Box 2123 · Kahului, Maui, Hawaii 96732
808-572-0198 · [redacted]

9 4 0 4 3 5 9 1 6 4 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 11/22/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

9404359206 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 22, 1994

Mr. Thomas P. Morrow
Campaign of Thomas P. Morrow
283 Poko Place
Haiku, HI 96708

RE: MUR 3460

Dear Mr. Morrow:

On September 8, 1994, the Federal Election Commission notified you that it had discovered that the Campaign of Thomas P. Morrow ("Committee") appears to have received a contribution in violation of 2 U.S.C. § 441e, and instructed you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days.

On October 21, 1994, you responded by letter, stating that the Committee did not possess the funds necessary to disgorge the $500 contribution, but that you would attempt to raise the funds after the election. The Commission acknowledges the Committee's position, and expects that you will make the earliest funds raised by the Committee available for the disgorgement.

If you have any questions, please me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

2404359206 2

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

November 22, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Governor John D. Waihee
Citizens for Waihee
P.O. Box 2573
Honolulu, HI 96803

RE: MUR 3460

Dear Governor Waihee:

On September 8, 1994, the Federal Election Commission notified you (copy enclosed) that it had discovered that Citizens for Waihee ("Committee") appears to have received a contribution in violation of 2 U.S.C. § 441e, and instructed you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days.

To date, the Commission has not received any submission from the Committee. We remind you that the Committee remains in violation of section 441e to the extent that it has not disgorged the $2,000 Sports Shinko (Pukalani) Co., Ltd. contribution. Failure to disgorge the contribution may constitute knowing violation of section 441e, and the Commission could take further action on this matter. To avoid such possible action, please disgorge the $2,000 to the United States Treasury, care of the Federal Election Commission, within 10 days of your receipt of this letter.

If you have any questions, please call Erik Morrison in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosure

9404359 2063

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SEPTEMBER 8, 1994

Governor John D. Waihee
Citizens for Waihee
P.O. Box 2573
Honolulu, HI 96803

RE: MUR 3460

Dear Governor:

On July 28, 1994, the Federal Election Commission ("Commission") notified Citizens for Waihee ("Committee") that it had closed the entire file in MUR 2892. The above-captioned matter involved contributions by Sports Shinko (Pukalani) Co., Ltd. ("Sports Shinko"). In the course of the investigation in this matter, the Commission discovered that the Committee appears to have received a contribution from Sports Shinko in violation of 2 U.S.C. § 441e, which forbids the acceptance of contributions from foreign nationals directly or through any other person in connection with federal, state, or local elections. See 11 C.F.R. § 110.4(a). Please find enclosed a Commission brochure on section 441e.

The Committee received the impermissible $2,000 contribution from Sports Shinko dated October 13, 1990. This contribution is identified in a conciliation agreement entered into with the Commission by Sports Shinko in MUR 3460, see 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d). This matter is now closed, and the agreement is part of the public case file. In light of the impermissible nature of this contribution, the Commission instructs you to disgorge an equivalent amount to the United States Treasury, care of the Federal Election Commission, within 30 days of your receipt of this letter.

If you have any questions, please call me in the Office of the General Counsel at (800) 424-9530.

Sincerely,

Erik Morrison

Erik Morrison
Staff Member

Enclosure

9404359206 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 12/6/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3460

9 4 0 4 3 6 0 0 4 1 6

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Nov 21 9 25 AM '94

John Waihee GOVERNOR

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

NOV 29 2 56 PM '94

November 17, 1994

Mr. Erik Morrison
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Morrison:

Please accept my apologies for the delay in getting this letter to you regarding the contribution received from Sports Shinko by Citizens for Waihee. After a review of our campaign contributions file, we returned the donation on March 24, 1994.

A copy of the cancelled check is enclosed and we hope this will be sufficient evidence to close the file on Citizens for Waihee regarding MUR 3460.

Thank you for your patience and please do not hesitate to contact me if additional information is necessary.

Sincerely,

Sandi Ebesu

Sandi Ebesu
Campaign Coordinator

9 4 0 4 3 6 0 0 4 1 7

P.O. BOX 2673 • HONOLULU HAWAII 96803

CITIZENS OF WAIHEE
P. O. BOX 2573
HONOLULU, HI 96803

59-101/1213

1020

Mar. 24, 1994

PAY TO THE ORDER OF Sports Shinko Co., Ltd. $ 2000.00

Two thousand and no/100 DOLLARS

BISHOP BRANCH
First Hawaiian Bank
765 BISHOP STREET
HONOLULU, HAWAII 96813

MEMO

Sandra N. Elcau

⑆121301015⑆1020 77⑈021563⑈ ⑈0000200000⑈

40436004118

For Deposit In
BANK OF HAWAII
to the credit of
Sports Shinko (Pukalani) Co., Ltd.
0065-009910
121301028

FIRST HAWAIIAN BANK
HONOLULU
0000680

04 / 12 / 94
121301028

4043600419