FEDERAL ELECTION COMMISSION
Washington, DC 20463

von Spakovsky

SENSITIVE

MEMORANDUM

TO:	**Commissioners** **Acting Staff Director** **General Counsel**
FROM:	**Office of the Commission Secretary**
DATE:	**June 14, 2006**
SUBJECT:	**Statement of Reasons of MUR 5721** **Audit Referral 05-10, RAD Referral 06L-01** **Chairman Michael E. Toner,** **Vice Chairman Robert D. Lenhard** **Commissioners David M. Mason,** **Steven T. Walther, Ellen L. Weintraub** **and Hans A. von Spakovsky**

The attached document is being circulated for a 48-hour review prior to public release. Absent objection, the Office of General Counsel will include this statement in the public record file in this case.

cc: Thomasenia Duncan

Attachment

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 5721
Lockheed Martin Employees' PAC and	)	Audit Referral 05-10
Stephen E. Chaudet, in his official capacity as treasurer;	)	RAD Referral 06L-01
Kenneth Phelps, in his personal capacity	)	

STATEMENT OF REASONS OF CHAIRMAN MICHAEL E. TONER, VICE CHAIRMAN ROBERT D. LENHARD, AND COMMISSIONERS DAVID M. MASON, STEVEN T. WALTHER, ELLEN L. WEINTRAUB, AND HANS A. VON SPAKOVSKY

On March 21, 2006, the Commission voted unanimously to reject the Office of General Counsel's (OGC's) recommendation to find reason to believe that the Lockheed Martin Employees' PAC (LMEPAC) and Stephen E. Chauder, in his official capacity as treasurer, violated 11 C.F.R. § 104.14(b)(1) for failing to maintain written payroll deduction authorization forms (PDAs) for all individuals who contributed to LMEPAC via automatic payroll deduction.[1]

The OGC's recommendation was based on a Commission audit of LMEPAC's 2001-2002 activities.[2] At the time of the audit, the Commission interpreted the record keeping requirement at 11 C.F.R. § 104.14(b)(1) to require a committee that received contributions by payroll deduction to maintain copies of PDAs for each individual who made any contribution via automatic payroll deduction for at least three years after that individual had ceased making periodic contributions.[3] PDAs were previously viewed as the sole means by which committees' "reports and statements may be verified, explained, clarified, and checked for accuracy and completeness." See 11 C.F.R. § 104.14(b)(1). The audit found that LMEPAC could not produce PDAs for 42% of the individuals who contributed to LMEPAC via automatic payroll deduction.[4] Based on the audit finding, the OGC recommended the Commission find reason to believe LMEPAC and its treasurer violated the record keeping requirements in 11 C.F.R. § 104.14(b)(1).[5]

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[1] Chairman Toner, Vice Chairman Lenhard, and Commissioners Mason, von Spakovsky, Walther, and Weintraub voting.
[2] Audit Report On Lockheed Martin Employees' Political Action Committee, June 6, 2005.
[3] Id. at 7-8.
[4] Id. at 7.
[5] First General Counsel's Report at 3 (March 1, 2006).

On March 21, 2006, the Commission revisited its PDA policy and determined that it will no longer require that copies of the original signed PDAs be the sole adequate proof by which a committee can satisfy the record keeping requirements of 11 C.F.R. § 104.14(b)(1). Because the Final Audit Report on LMEPAC was completed before the Commission revisited its PDA policy, LMEPAC was not afforded the opportunity to present alternative documentation to demonstrate compliance under the new policy. Accordingly, the Commission did not adopt the OGC's recommendation to find reason to believe that LMEPAC and Stephen E. Chaudet, in his official capacity as treasurer, violated 11 C.F.R. § 104.14(b)(1).

Michael E. Toner, Chairman — Date: 6/13/06

Robert D. Lenhard, Vice Chairman — Date: 6/12/06

David M. Mason, Commissioner — Date: 6/13/06

Steven T. Walther, Commissioner — Date: 6/12/06

Ellen L. Weintraub, Commissioner — Date: 6/12/06

Hans A. von Spakovsky, Commissioner — Date: 6/12/06