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Federal Election Commission
Washington, DC 20463

SENSITIVE

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser
Assistant Director, ADR Office

SUBJECT: Recommendation to Close the File on ADR 134

DATE: August 18, 2003

In accordance with the revisions to the ADR program procedures approved by the Commission on March 3, 2003, ADR 134/MUR 5353 is attached for the Commission's review. The case was forwarded to the ADR Office (ADRO) by OGC on July 21, 2003 to review and determine its appropriateness for ADR processing. Following the new ADR procedures referenced above, this matter will be closed by ADRO if the Commission approves the recommendation in this memorandum. The Office of General Counsel (OGC) concurs in the description of this matter, and also concurs that it will not be returned to OGC for further action.

ADR 134/MUR 5353: Based on a news report, Complainant alleges that Respondent Haytaian donated \$2,000 to the Torricelli for U.S. Senate, Inc. for the Oxford Health Plans, Inc. Committee for Quality Healthcare ("Oxford PAC") violating 2 U.S.C. § 441f. Complainant stated that the media reported that Respondent Haytaian said "the \$2,000 contribution was made at the request of one his clients, Oxford Health Plan." In addition, Complainant alleges that Respondent Oxford PAC made contributions in excess of the \$5,000 limit to Torricelli for U.S. Senate, Inc. in violation of 2 U.S.C. 441a(a)(2)(A).

Respondent Haytaian contends that the contribution was a personal contribution to the Torricelli for U.S. Senate, Inc., made while attending a fund raiser hosted by the Oxford PAC. Respondent Haytaian asserts that his statement to the reporter was intended to convey that he made the contribution at the Oxford PAC fund raiser. He further contended that he made the contribution due to the assistance Senator Torricelli provided a family member. Respondent Haytaian also contends that the contribution was within the annual limits in effect at the time allowing him to contribute \$1,000 to the Primary Election and \$1,000 to the General Election.

Respondent Oxford PAC contends that the allegation about an excessive contribution resulted from an error on the invoice from the Yale Club, the location for the fund raiser.

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The Oxford PAC paid exactly what the vendor showed on the invoice until the correction could be made, and reported the expenditure to the Commission. Originally the reports reflected that the Oxford PAC contributed a total of \$5,279 to Torricelli for U.S. Senate, Inc. based on the duplicate charge. The Yale Club's invoice was corrected and the vendor refunded \$349.74 to Oxford PAC. The refund resulted in Oxford PAC contributing an aggregate in-kind and cash contributions of \$4,929.26 to Torricelli for U.S. Senate, Inc. Amended reports were filed with the Commission to reflect the correct amounts.

Attached for the Commission's review is the ADR *Case Analysis Report* (CAR) on ADR 134, along with copies of the EPS Rating and ADR Rating reports.

Recommendation: We recommend that ADR 134/MUR 5353 be closed and the appropriate letters sent.

13-19-025-2231