

MUR # 5412

Vasyl Markus, Jr.
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February 2, 2004

Office of General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

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COUNSEL
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Complainant: Vasyl Markus, Jr.
5733 N. Central Park Ave.
Chicago, IL 60659

Respondents: **Carol Moseley Braun Committee (for President)**
Carol Moseley Braun (Candidate)
Moti Agarwal (Treasurer)
PO Box 16560
Chicago, IL 60016-0560

This a complaint against the **Carol Moseley Braun (for President) Committee**, candidate **Carol Moseley Braun**, and the committee's treasurer **Moti Agarwal** for failing to report an item on Schedule D (Debts and Obligations) on the Year End report covering the period October 1, 2003, to December 31, 2003.

Complainant Vasyl Markus, Jr. ("Markus"), was engaged to perform consulting services for the candidate and committee. In October and November, 2003, the agreement required a payment of \$1750 on the first and fifteenth of each month.

The Committee failed to pay Markus on November 1, 2003. After making inquiries regarding the November 1, 2003, payment, the Treasurer of the Committee (at that time, Billie Paige) informed Markus by e-mail on the evening of November 6, 2003 that his services were terminated.¹ Markus sent a final invoice for \$2450.00 covering the period October 16, 2003, to November 6, 2003, to Ms. Paige.

Since November 6, 2003, Markus has repeatedly sent a copy of the invoice to various employees of the Committee, including its then-treasurer (Billie Paige),² acting

¹ / Curiously enough, Markus had spent the entire day of November 6, 2003, at the Committee's campaign office. Neither the Candidate nor the acting campaign manager informed Markus that the Committee was terminating his services. In fact, the acting campaign manager had given Markus an additional assignment.

² / Ms. Paige resigned as Treasurer in November 2004.

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campaign manager (Paula Xanathopoulou), its campaign manager (Patricia Ireland), its deputy campaign manager (Glenn Osowski), and its accounting department (Lydia Barnes).³ In addition, there were numerous phone calls, phone messages, and e-mails regarding the status of the debt. To Markus's best knowledge and belief, the Candidate and Treasurer were aware of the existence of the invoice. (A copy of the invoice is attached.)⁴

On December 29, 2003, the Committee made a partial payment of \$500 on the past due invoice. During the month of January 2004, Markus sent the Committee an updated invoice and spoke on several occasions with Lydia Barnes, an employee of the Committee to whom all questions regarding the invoice were referred.

In its 2003 Year End Report (covering the period October 1, 2003, through December 31, 2003) discloses payments to Markus:

- \$1750 on October 1, 2003;
- \$1750 on October 15, 2003;
- \$500 on December 29, 2003.

Schedule D of the report (as reproduced by the FEC's web site) does not indicate that Markus is still owed \$1,950, in violation of federal law and FEC regulations. *See* 11CFR §104.3(d).

The Committee, Candidate, or Treasurer cannot claim that this omission is an oversight. There have been numerous communications between Markus and various employees of the Committee. Moreover, the Committee implicitly acknowledged that it was aware of the debt by making a partial payment on December 29, 2003.

Furthermore, even if the Committee (without informing Markus) now disputes the debt, it is obliged to report the debt. 11 CFR §116.10. No one associated with the Committee, Candidate, or Treasurer has spoken to Markus about settling the debt or converting a portion of the debt to a contribution (*see* 11 CFR §§116.3-116.5; *cf.* 11CFR §116.6). In any event, Markus has never agreed to anything less than full payment of the outstanding invoice.

In fact, the failure to report the debt owed to Markus appears to be a blatant, if not wilful, violation of the law. Given the numerous communications to Committee employees, it is inconceivable that the Committee was not aware of the invoice. There is no legal justification for failing to disclose the debt. Nor can Respondents claim confusion over the law; Schedule D of the report contains other debts of a similar nature.

³ / The invoice was also e-mailed to the Candidate. However, Candidate had changed e-mail addresses in November 2003, and these invoices were returned.

⁴ / For privacy purposes, Markus's Social Security Number has been redacted.

The failure to report a debt is one of the most serious violations of federal campaign finance laws. This is not a technical violation; rather, the violation prevents full disclosure to the public of the nature and sources of the campaign's financing.


Complainant urges the Commission to fully investigate this complaint and levy the appropriate sanctions against the Respondents.

Sincerely,


Vasyl Markus, Jr.

ACKNOWLEDGEMENT AND VERIFICATION

Complainant VASYL MARKUS, JR., verifies under oath that the statements contained in his complaint to the Federal Election Commission dated February 2, 2004, are true and, except where noted, are based on personal knowledge.


Vasyl Markus, Jr.

Subscribed to and
sworn before me,
a notary public,
this 6th day of February, 2004.



Notary Public

Seal:



Vasyl Markus

2756 N. Pine Grove Ave. #914

Chicago, IL 60614-6132

Tel.: 773.412.2530

SSN [REDACTED]

INVOICE

For research and issues development
consulting services from 10/16/03 to 10/31/03

\$1,750.00

For research and issues development
Consulting services from 11/01/2003 to 11/06/2003

\$700.00

Less payment 12/30/2003
(\$500.00)

Total due:

\$1950.00

**THIS AMOUNT IS CURRENTLY 85 DAYS PAST DUE.
PLEASE REMIT IMMEDIATELY.**

Please remit to:

Vasyl Markus
2756 N. Pine Grove Ave.
Chicago, IL 60614