

KANTOR, DAVIDOFF, WOLFE, MANDELKER & KASS, P.C.

ATTORNEYS AT LAW

51 EAST 42ND STREET

NEW YORK, N Y 10017-5497

TELEPHONE (212) 682-8383

FAX (212) 949-5206

HERBERT C KANTOR

RICHARD S DAVIDOFF

JOHN W WOLFE

WILLIAM A MANDELKER**

ROBIN NELSON WOLFE

MATTHEW C KESTEN*

THOMAS E KASS†

DONALD M HALPERIN*

TIMOTHY ARMBRECHT**

* MEMBER OF N Y & FL BARS

** MEMBER OF CA BAR

† MEMBER OF N Y, CONN & D C BARS

** MEMBER OF N Y & PA BARS

OF COUNSEL

I ROBERT HARRIS

ROBERT M BIRNBAUM*

DANIEL M HIRSCH

EDWIN A MARGOLIUS

JOEL BUCHMAN

FLORIDA OFFICE

WILLIAM A KASS*

NATIONSBANK TOWER, SUITE 500

150 EAST PALMETTO PARK ROAD

BOCA RATON, FL 33432-4832

TEL (561) 368-1995

FAX (561) 368-4315

April 13, 2004

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

Attn: Ms. Kim C. Stevenson

Re: Howard Loewentheil, Inc.
d/b/a Loewen Development

L & M Development
MUR 5431

Dear Ms. Stevenson:

We represent both above referenced contributors, who are among the subjects of MUR 5431. On March 30, 2004, we faxed each contributor's Statement of Designation of Counsel to your office. This letter constitutes their responses to the complaint.

Essentially, the complaint in both cases allege that the contributor is a corporation and thus ineligible to contribute to Citizens for Tracy L. Boyland, a political committee ("Committee") supporting Tracy Boyland's candidacy for federal elective office in 2004. You further allege that in any event the amount that each contributor donated exceeded the per election limit provided under the Federal Election Campaign Act (the "Act").

I am advised that the contributors are limited liability companies and not corporations. I am further advised that both of them have elected to be taxed as partnerships. As such they are eligible to make contributions under the Act. However, they concede that the amounts they each contributed (\$5,000) exceeded the per election limit in effect under the Act for the 2003-04 election cycle. Accordingly, each

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 APR 19 A 9:22

2004 APR 19 A 9:22

Federal Election Commission

-2-

April 13, 2004

contributor has solicited and obtained a refund of its contribution. They each desire to enter into conciliation with your office.

The underlying facts are as follows:

Howard Lowentheil, Inc. d/b/a Loewen Development

On October 21, 2003 Loewen Development – Hopkinson, LLC ("Loewen") of 2365 Boston Post Road, Larchmont, New York 10538 wrote a check to Citizens for Tracy Boyland for \$5,000. The check was deposited by the Committee on October 30, 2003. A copy of the front and back of the check is enclosed as Exhibit "A".

I am advised that Loewen is an limited liability company and has elected to treat itself as a partnership for tax purposes. Accordingly, it is eligible to contribute to a candidate for elective federal office.

I am advised that Loewen has rarely, if ever made a contribution under the Act. It was therefore not sensitive to the Act's limitations, including the \$2,000 per election limit.

On April 7, 2004, in response to the Commission's letter dated March 24, 2004 – and after speaking to counsel, Loewen obtained a refund of its contribution (Exhibit "B" hereto).

L&M Development

On October 9, 2003 L&M Development, LLC Crown Heights ("L&M") of 2365 Boston Post Road, Larchmont, New York 10583 wrote a check to Citizens for Tracy Boyland for \$5,000. The check was deposited by the Committee on October 10, 2003. A copy of the front and back of the check is enclosed as Exhibit "A".

I am advised that L&M is also a limited liability company and has elected to treat itself as a partnership for tax purposes. Accordingly, it too is eligible to contribute to a candidate for elective federal office.

I am advised that L&M also has rarely, if ever made a contribution under the Act. It was therefore also not sensitive to the Act's limitations, including the \$2,000 per election limit.

On April 7, 2004, in response to the Commission's letter dated March 24, 2004 – and after speaking to counsel, L&M also obtained a refund of its contribution (Exhibit "B" hereto)

Federal Election Commission

-3-

April 13, 2004

Both Loewen and L&M have asked me to communicate their embarrassment and apologies. Their respective failures to adhere to the contribution limits contained in the ACT were inadvertent. They are embarrassed that their desire to help a person they consider worthy of election to congress resulted in a violation of the Act.

They request that in light of the inadvertent nature of their violation, and the steps they have taken to obtain refunds, that the Commission enter into conciliation and close these matters.

Very truly yours,



Lawrence A. Mandelker

LAM/neg
enc.

cc: Loewen Development – Hopkinson, LLC
L&M Development LLC Crown Heights

2004-04-13 10:02:39