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Federal Election Commission
Washington, DC 20463

MEMORANDUM

SENSITIVE

TO: The Commission
[Handwritten signature]

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser *[Handwritten signature]*
Assistant Director, ADR Office

SUBJECT: Case for ADR Activation

DATE: June 29, 2004

On May 26, 2004, the ADR Office received from OGC/CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 172/MUR 5431, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 172/MUR 5431: Complainant alleges that the Year End 2003 Report filed by Respondents Citizens for Tracy Boyland and Sabrina Postles, Treasurer, disclose contributions in excess of \$66,000 from companies which appear to be corporations. In addition, Complainant alleges that this report was filed late and was not filed electronically as required.

Primary Respondents Citizens for Tracy Boyland and Sabrina Postles, Treasurer ("Committee Respondents") contend that the prohibited contributions were the result of inexperience with federal reporting requirements. In addition, prior to receipt of the complaint from the Commission, Committee Respondents contend they learned corporate contributions were prohibited in federal elections, and began refunding the contributions. Committee Respondents affirm that refunds were made to all contributors referenced in the complaint, and an amended report filed.

Seven of the individual Respondents maintained that they were not corporations, although three of the seven acknowledged that they inadvertently made excessive contributions for a federal election. Most of the individual Respondents contended that they were under the misapprehension that the contribution was for a fundraiser for local elections, as the candidate was an incumbent on the New York City Council. The individual Respondents confirm they received a refund of their contribution.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 172, along with copies of the EPS Rating and ADR Rating reports. The *ADR Case Analysis Report* includes an analysis of the case and a description of the issues that the ADR Office anticipates addressing if the case is assigned to ADR. In addition, the *ADR Case Analysis Report* has been reviewed by OGC, which concurs in the description of the case.

Recommendation: We recommend that ADR 172/MUR 5431 be assigned to the ADR Office for processing.

ADR CASE ANALYSIS REPORT

ADR Case: 172

Respondents:

1. Citizens for Tracy L. Boyland
1. Sabrina Postles, Treasurer
2. 41 Individual Respondents (see list)

MUR: 5431

OGC Case Open Date: 03/17/2004

Respondents' Rep.:
1. Sabrina Postles
2. See List

Date Forwarded to ADRO: 05/26/2004

Committee Name: Citizens for Tracy L. Boyland

Date Reviewed by ADRO: 06/14/2004

Committee Type: Authorized

District #/or State: NY 11th C.D.

Election - Won/Lost: N/A

Election Cycle: 2004

Complainant: Major R. Owens

Summary of Complaint: Complainant alleges that the Year End 2003 Report filed by Respondents Citizens for Tracy Boyland and Sabrina Postles, Treasurer, disclose contributions in excess of \$66,000 from companies which appear to be corporations. In addition, Complainant alleges that this report was filed late and was not filed electronically as required.

Violations Alleged: 2 U.S.C. §§ 441b(a), 441a(f), 434(a), and 11 C.F.R. §§ 103.3(b), 114.2, 104.5, 104.18(a)

Respondents' Reply: Primary Respondents Citizens for Tracy Boyland and Sabrina Postles, Treasurer ("Committee Respondents") contend that the prohibited contributions were the result of inexperience with federal reporting requirements. In addition, prior to receipt of the complaint from the Commission, Committee Respondents contend they learned corporate contributions were prohibited in federal elections, and began refunding the contributions. Committee Respondents affirm that refunds were made to all contributors referenced in the complaint, and an amended report filed.

Seven of the individual Respondents maintained that they were not corporations, although three of the seven acknowledged that they inadvertently made excessive contributions for a federal election. Most of the individual Respondents contended that they were under the misapprehension that the contribution was for a fundraiser for local elections, as the candidate was an incumbent on the New York City Council. The individual Respondents confirm they received a refund of their contribution.

Issues:

- Prohibited corporate contributions 2 U.S.C. § 441b, 11 C.F.R. § 114.2
- Accepting prohibited contributions 2 U.S.C. § 441a(f), 11 C.F.R. § 103.3(b)
- Reporting 2 U.S.C. § 434(a), 11 C.F.R. §§ 104.5, 104.18

Related FEC Experience/Guidance: The statute and regulations are clear on the prohibition against corporate contributions in federal elections, and the responsibilities of the Treasurer of a political committee. In addition, the requirements for reporting are delineated in the statute and regulations, and campaign brochures are available on the FEC website and in paper form from the Commission. Most cases involving violations of this nature in previous cases involved the payment of a civil penalty by the committee and filing of amended reports. Some previous matters also required refunds to the contributors and no further action against individual contributors.

Analysis: Most of the prohibited corporate contributions seem to be attributed to confusion about an invitation to a fundraiser; some of the business entities thought they were simply “paying for a table” at the event, while the remainder thought the campaign contribution was for a New York City Council position. New York does not prohibit corporate contributions, nor limit the amount of the contributions, thus the contributors were unaware of their alleged illegal action until they received a letter from the Commission. The Committee Respondents confess to the errors, but contend that this is their first federal campaign, and the errors were made on their first report to the Commission. They went on to state that all prohibited contributions were refunded, amended reports filed, and that they were in the process of retaining the services of a campaign firm experienced in campaign financial matters and reporting issues to ensure future compliance. This appears to have been caused by legitimate confusion on the part of the contributors as to what they were contributing to, and inexperience on the part of the Committee Respondents.

ADR Recommendation: Assign to ADRO

RESPONDENTS – ADR 172 (MUR 5431)

As of July 22, 2004

Respondents	Rep./Counsel	Corporate Status	Refund	Amount
Citizens for Tracy L. Boyland 460 Chauncey Street Brooklyn, NY 11233	Robert J. Bishop, Esq. Pryor Cashman Sherman & Flynn 410 Park Avenue NY, NY 10022	Committee		
Sabrina Postles, Treasurer	Robert J. Bishop, Esq. Pryor Cashman Sherman & Flynn 410 Park Avenue NY, NY 10022	Treasurer		
NOT CORPORATIONS				
Michaels Development Co.	Paul Chan, Esq. Levine Staller Sklar Chan & Brodsky 2020 Atlantic Avenue Atlantic City, NJ08401	Limited Partnership	Yes	\$5,000
R&M Health Systems Mngmt	Yves-Richard Blanc 210 Linden Blvd. Brooklyn, NY11226	Partnership	Yes	\$1,500
Schuman, Lichtenstein Architects	Enzo DePol 841 Broadway NY, NY 10003	Partnership	No	
Loewen Development	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	LLC, elected not to be treated as corporation	Yes	\$5,000
L&M Development	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	LLC, elected not to be treated as corporation	Yes	\$5,000
Gotham Construction Co.	Christopher Jaskiewicz, GC Gotham Construction Co. 201 E 42 nd Street NY, NY 10017	LLC, elected not to be treated as corporation	Yes	\$2,000
Herrick Feinstein	Elizabeth Holtzman, Esq. Herrick Feinstein 2 Park Avenue NY, NY 10016	LLP	No	
HPS Holding Company	Sally Love	Corporation	Y	\$500

	Real Estate Consulting Services 144-21 72 Drive Flushing, NY 11367			
CORPORATIONS				
Full Spectrum	Carlton Brown, MAH Full Spectrum 275 Lenox Avenue NY, NY 10027	Corporation	Y	\$500
Sigma Contracting Co.	Emmanuel Skoulas, President Sigma Contracting Co. 6002 Fourth Avenue Brooklyn, NY 11220	Corporation	Y	\$1,500
Ocean Hill Developers 74016 Grand Avenue Elmhurst, NY 11373		Corporation	Y	\$5,000
FTC Management	Shari Serrano, DOP FTC Management 249 Malcolm X Blvd. Brooklyn, NY 11233	Corporation	Y	\$2,500
Novalex Contracting	Michael T. Rooney, President Novalex Contracting 1328 New York Avenue NY, NY 11746	Corporation	Y	\$50
A. Aleem Contracting	Mervyn Frank, President A. Aleem Contracting 1629 Park Avenue, #1B NY, NY 10028	Corporation	Y	\$500
4502 Park Avenue, LLC	Mervyn Frank, President 4502 Park Avenue, LLC 1629 Park Avenue, #1B NY, NY 10028	Corporation	Y	\$500
R&J Brick Masonry	John J. Connolly, Esq. 40 Shore Boulevard 1D Brooklyn, NY 11235	Corporation	Y	\$1,500
A. Kornegay Senior Housing	Thomas Keller R&J Brick Masonry 55 Front Street Rockville, NY 11570	Corporation	Y	\$1,000
MHR Management	Maria H. Rosado, President MHR Management 545 Broadway, 2 nd Floor Brooklyn, NY 11206	Corporation	Y	\$200
Shinda Management	William Greenspan, Esq. Baker Greenspan & Bernstein 31 Merrick Avenue N. #210	Corporation	Y	\$500

	Merrick, NY 11566			
SBA Management	James Caldwell SBA Management 552 St. Mark Avenue Brooklyn, NY 11238	Corporation	Y	\$200
E&M Electric Contracting	E. Whitney, President E&M Electric Contracting 35 Rockaway Avenue Brooklyn, NY 11233	Corporation	Y	\$2,500
Solon Contracting Corporation	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$1,000
National Real Estate Services	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$2,500
Grafton Construction	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$2,500
Major Sewer & Water Contractors	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$1,000
Kent Construction	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$500
Sanita Construction	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$2,000
L&S Mechanical	Lawrence Mandelker, Esq. Kantor, Davidoff, #Wolfe, Mandelker & Kass 51 E. 42 nd Street NY, NY 10017	Corporation	Y	\$2,000
Delta Funding Corp.	Peter Wagner, VP & GC Delta Funding Corporation	Corporation	Y	\$5,000

	1000 Woodbury Road Woodbury, NY 11797			
Tower Isles	Beryl J. Levi, President Tower Isles 2025 Atlantic Avenue Brooklyn, NY 11233	Corporation	Y	\$500
Kay Organization H&K Realty Group 1975 Linden Blvd. Elmont, NY 17003		Corporation	Y	\$500
Bina Drugs 1630 Pitkin Avenue Brooklyn, NY 11212	Mohammad K. Anwar Bina Drugs 1630 Pitkin Avenue Brooklyn, NY 11212	Corporation	Y	\$100
Delight Construction 1360 Fulton Street Brooklyn, NY 11226		Corporation	Y	\$500
E-Z Pay	Frederick Feder, Esq. 105 Court Street #601 Brooklyn, NY 11201	Corporation	Y	\$250
Comprehensive Healthcare	Dr. Joel Rigeuer Comprehensive Healthcare 148 Wilson Avenue Brooklyn, NY 11237	Corporation	Y	\$100
The Hudson Companies	Wm E. Fowler, President The Hudson Companies 155 Third Street Brooklyn, NY 11231	Corporation	Y	\$500
New Foundation Rental & Management Assoc.	Philip Schorr New Foundation Rental & Management Assoc. 215 E. 164 th Street Bronx, NY 10456	Corporation	Y	\$100
L&C Builders	John Foundoulakis, President L&C Builders 220 52 nd Street Brooklyn, NY 11220	Corporation	Y	\$5,000
Precise Management	Cheryl Ighodaro, President Precise Management 308 Atlantic Avenue Brooklyn, NY 11201	Corporation	Y	\$2,500
The Osborne Group	Robert C. Osborne The Osborne Group 70 W. Red Oak Lane White Plains, NY 10604	Corporation	Y	\$500

Sure Drugs	Suresh Wattamwar, President Shri Drug, Inc. 323 Ralph Avenue Brooklyn, NY 11233	Corporation	Y	\$500
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