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Federal Election Commission  
Washington, DC 20463

2005 FEB 25 P 5:12

MEMORANDUM

**SENSITIVE**

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 222

DATE: February 25, 2005

On December 10, 2004, the ADR Office ("ADRO") received this matter from OGC/CELA to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 222 is inappropriate for ADR and recommend that the case be closed. Following the procedures approved by the Commission on March 3, 2003, 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 222/MUR 5497:** The complaint alleges that Friends of Lou Papan ("Papan committee"), a California State Assembly committee, contributed prohibited "soft money" when it made a donation of \$750 to citizens for Sarbanes ("Sarbanes committee") and \$250 to Stabenow for Senate ("Stabenow committee"). The complaint also alleges that as the Papan committee accepts corporate donations and donations in excess of Federal contribution limits, the contributions to candidates for Federal office violate the FECA. In addition, Complainant alleges the receipt of prohibited contributions by the Sarbanes committee and the Stabenow committee also violates the FECA. The Complainant points out a reporting violation in that the Sarbanes committee incorrectly listed the contribution as being from Lou Papan individually, rather than from the Papan committee, and that the Stabenow committee did not report any employer or occupation relevant to the contribution. The Papan committee contends that the contributions to the Sarbanes committee and the Stabenow committee were made from the committee's Federal account that only consists of funds subject to the prohibitions and limitations of the FECA. The Response from the Sarbanes committee stated that the contribution did not result in a violation, as the Papan committee demonstrated that the contribution came from an account that included only funds permissible under the FECA. No response was

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received from the Stabenow committee. Based on a review of the allegations, the contributions at issue, the responses of Respondents and the law, there is no evidence there was a violation of the FECA.

Attached for the Commission's review is the *ADR Case Analysis Report (CAR)* on ADR 222, along with copies of the EPS Rating and ADR Rating reports.

**ADR Director's Recommendation:** We recommend that the Commission take no further action on ADR 222/MUR 5497, that the file be closed and the appropriate letters sent.

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## ADR CASE ANALYSIS REPORT

**ADR Case:** 222

**MUR:** 5497

**OGC Case Open Date:** 7/30/04

**Date Forwarded to ADRO:** 12/10/04

**Date Reviewed by ADRO:** 1/14/04

**EPS Rating:** 20

**Tier Level:** 3

**ADR Rating:** 46

**Respondents:**

1. Stabenow for Senate  
Angela M. Autera, Treasurer
2. Citizens for Sarbanes  
Sebastia Svolos, Treasurer
3. Friends of Lou Papan  
Victor Kyrnakis, Treasurer

**Respondent's' Rep.:**

1. Angela M. Autera
2. Sebastia Svolos
3. Victor Kyriakis

**Committee Name:**

1. Stabenow for Senate
2. Citizens for Sarbanes
3. Friends of Lou Papan

**Committee Type:**

1. Authorized
2. Authorized
3. Non-Party, Non-Authorized

**District #/or State:**

1. Michigan
2. Maryland
3. California State Assembly Committee

**Election - Won/Lost:**

1. Won
2. Won
3. N/A

**Election Cycle:** 2004

**Complainant:** Michael J. Schroeder

**Summary of Complaint:** The complaint alleges that Friends of Lou Papan ("Papan committee"), a California State Assembly committee, contributed prohibited "soft money" when it made a donation of \$750 to citizens for Sarbanes ("Sarbanes committee") and \$250 to Stabenow for Senate ("Stabenow committee"). The complaint also alleges that as the Papan committee accepts corporate donations and donations in excess of Federal contribution limits, the contributions to candidates for Federal office violate the FECA. In addition, Complainant alleges the receipt of prohibited contributions by the Sarbanes committee and the Stabenow committee

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also violates the FECA. The Complainant points out a reporting violation in that the Sarbanes committee incorrectly listed the contribution as being from Lou Papan individually, rather than from the Papan committee, and that the Stabenow committee did not report any employer or occupation relevant to the contribution.

**Violations Alleged:** 2 U.S.C. §§ 434(b)(3), 441a(f), 441b(a), 11 C.F.R. §§ 104.3(a), 114.2(d)

**Respondents' Replies:** The Papan committee contends that the contributions to the Sarbanes committee and the Stabenow committee were made from the committee's Federal account which consists of only funds subject to the prohibitions and limitations of the FECA. The Response from the Sarbanes committee stated that the contribution did not result in a violation, as the Papan committee demonstrated that the contribution came from an account that included only funds permissible under the FECA. No response was received from the Stabenow committee.

**Issues:**

- Contributions from funds subject to limitations 2 U.S.C. §§ 441a(f), 441b(a), 11 C.F.R. §§ 102.5, 114.2(d)
- Reporting contributions 2 U.S.C. § 434(b)(3), 11 C.F.R. § 104.3(a)

**Related FEC Experience/Guidance:** The statute, regulations and AOs are clear on the issue of the complete and accurate disclosure of all contributions, as well as the requirement that all contributions made to influence a Federal election come only from funds subject to the limitations of the FECA.

**Analysis:** The Papan committee appears to have made the three contributions at issue from funds subject to the FECA. The Papan committee states it maintains a non-Federal account, as well as a Federal account, and contends that any contribution relative to a Federal election is made from the Federal account. There is no evidence to support the Complainant's allegation of the use of prohibited fund when making these three contributions. As defined in 2 U.S.C. § 441(i), the contributions at issue in this matter did not involve "soft money."

As for the alleged reporting errors, the Sarbanes committee reported that the contributor was "Louis Papan-Friends of Lou Papan" in their alphabetized list of itemized contributors. While the listing could have been clearer, the Sarbanes committee did indicate that the contribution was from the Papan committee. The Stabenow committee did not provide an employer or occupation for the contribution from the Papan committee, but the contributor was disclosed as Friends of Lou Papan, and all contributions listed on the page were from committees/PACs and not from individuals. Based on a review of the contributions at issue and the law, there is no evidence there was a violation of the FECA.

**ADR Director's Recommendation: DISMISS**

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