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February 13, 2007

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OFFICE OF GENERAL  
COUNSEL

2007 FEB 14 P 12: 02

Thomesina Duncan, Esq.  
Acting General Counsel  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: Mazak Corporation, Pre-MUR # 447

Dear Mr. Norton:

We respectfully present this *sua sponte* submission on behalf of our clients, Mazak Corporation ("Mazak") and Mr. Brian Papke, President of Mazak, to notify the Federal Election Commission of what we perceive to be a violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"), and Commission regulations at 11 C.F.R. § 1.1 et seq. Specifically, in 2002, Mr. Papke was reimbursed for up to \$2,500 in contributions he made to federal political committees.<sup>1</sup>

#### Background

Mazak, a privately held company, is the North American manufacturing, sales and support arm of leading international CNC machine tool builder Yamazaki Mazak Corporation (Oguchi, Japan). Mazak produces machine tools and systems for the precision machining of metal parts for use in a number of industries, including energy, medical equipment, automobile and truck manufacturing, aerospace and construction and agriculture. Mazak is a New York corporation and maintains its U.S. headquarters in Florence, Kentucky. Mr. Brian Papke is President of Mazak.

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<sup>1</sup> As explained below, the amount of political contributions for which Mr. Papke was reimbursed depends on how one allocates a total "one-time special incentive" check of \$2,500 that Mr. Papke received among both political and non-political expenditures that Mr. Papke had made. No specific allocation of that incentive amount was made by Mazak or by Mr. Papke. Nevertheless, for purposes of this submission, Mazak and Mr. Papke are allocating the maximum amount - the full \$2,500 "special incentive" payment - to the political contributions that Mr. Papke had made in close proximity to his receipt of that payment.

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Factual Information

Mazak became aware of the possible problematic reimbursement of \$2,500 to Mr. Papke in the course of an internal investigation regarding a former Mazak executive, Mr. William P. King. Mazak, through its legal counsel, then contacted the undersigned for advice and counsel regarding appropriate disclosure of the reimbursement.

To present a complete and accurate submission to the Commission, Mazak commissioned independent outside accountants to conduct a thorough review and analysis of compensation and expense reimbursement to Mazak executives for the period 2000 to the present. The review sought to detect any other reimbursements that could present campaign contribution reimbursement issues. This task has now been completed, thereby allowing us to provide you with this submission.

Information available to Mazak and Mr. Papke reveals that Mr. Papke received a "one time special incentive"<sup>2</sup> in the amount of \$2,500 on or about September 30, 2002. A review of state and federal records indicates that around this time period [2001 - 2002], Mr. Papke made the following contributions totaling \$3,550 to candidates and political committees:

Date	Payee	Amount
3/28/01	Machine Tool PAC <sup>3</sup>	\$500
11/16/01	Machine Tool PAC	\$450
7/11/02	Machine Tool PAC	\$500
9/23/02	Ken Lucas for Congress	\$500
10/5/02	Friends of Dick Murgatroyd <sup>4</sup>	\$500
10/15/02	Citizens for Bunning	\$500
12/3/02	Machine Tool PAC	\$600

Mr. Papke made these political contributions from his personal funds. Based on our review of Mr. Papke's records and the independent outside accountants' review of Mazak's records, these amounts represent the only political contributions from Mr. Papke that were potentially involved in any impermissible reimbursement.

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<sup>2</sup> This is the notation appearing on the check stub for the \$2,500 payment.

<sup>3</sup> The full name of this PAC is AMT-Association for Manufacturing Technology Machine Tool PAC.

<sup>4</sup> This was a non-federal campaign.

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During this time period, Mr. Papke was also making non-political contributions from his personal funds to various causes (e.g. Salvation Army, SPCA Cincinnati, Fine Arts Fund). The \$2,500 "one time special incentive" to Mr. Papke came at a time of dramatic economic downturn in manufacturing in the wake of the September 11, 2001 terrorist attacks when certain executives at Mazak, including Mr. Papke, had taken voluntary pay-cuts in order to reduce layoffs at the company. The incentive check was encouraged and authorized by the company's Controller after Mr. Papke expressed to the Controller and other members of his senior management team his frustration with the continuing demands for contributions. This information is offered not for exculpatory purposes but as important background, for in this context, the \$2,500 "one time special incentive" was in recognition of the various contributions that Mr. Papke had been making during 2001 and 2002 to political and non-political entities.<sup>5</sup>

Mr. Papke was not aware that corporate reimbursement for a federal political contribution was impermissible and relied upon the company's Controller in this matter. Immediately upon learning that the reimbursement was improper, Mr. Papke reimbursed Mazak for the \$2,500 payment. The Controller, Mr. King, is no longer employed by Mazak and has since been sued by Mazak for other unrelated conduct.

Based on its review, Mazak cannot identify any instance, other than those identified above, where Mr. Papke or any other Mazak executive was reimbursed for any federal political committee contribution. In response to its discovery of this payment, Mazak has reviewed the Federal Election Commission's Individual Contributor Database using the Commission's advanced query system to search under Mr. Papke's name and by the name of the employer ("Mazak") and variations (for example, "Mazak Corporation"). Mazak has found no other instance of a federal political contribution by any Mazak employee that had been improperly reimbursed.

Brief Legal Analysis and Request to Enter into Conciliation Prior to Finding of Probable Cause to Believe

By reimbursing Mr. Papke's contribution, Mazak violated the ban on corporate contributions in 2 U.S.C. § 441b(a) and the prohibition on contributions in the name of another in 2 U.S.C. § 441f. By inadvertently allowing his name to be used to make a contribution in the

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<sup>5</sup> Despite this ambiguity as to how much of the "one time special incentive" was attributable to any political contributions, and despite the lack of any specific *quid pro quo* relationship between any specific political contribution and the "one time special incentive" at the time of the reimbursement, Mazak and Mr. Papke believe that at least some of the resulting payment to Mr. Papke should properly be considered a reimbursement to Mr. Papke for political contributions. Therefore, for purposes of this submission, Mazak and Mr. Papke are willing to treat the entire \$2,500 "one time special incentive" as a reimbursement made to Mr. Papke in recognition of the referenced political contributions made during the related time period.

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name of another, Mr. Papke, as a corporate officer, violated 2 U.S.C. §§ 441b(a) and 441f. Thus, the Commission should make the appropriate reason-to-believe findings.<sup>6</sup>

Please accept this submission as a request to enter into conciliation prior to a finding of probable cause to believe. Respondents are fully prepared to accept a conciliation agreement acknowledging an admission of a violation of 2 U.S.C. §§ 441b and 441f and requiring the payment of a reasonable civil penalty. 11 C.F.R. § 111.24(a)(1). See MUR 5643 (Carter's Inc., et al.).

As this self-reported filing reflects, upon review of the facts surrounding the reimbursements, Mazak immediately initiated a number of remedial actions with respect to this matter. Mazak sought the advice of expert outside counsel and arranged for a thorough independent review of executive compensation and expense reimbursement. Mr. Papke immediately reimbursed the company, and he and Mazak now bring this matter to the attention of the Federal Election Commission. We respectfully submit that in crafting the proposed conciliation agreement, the Commission consider the *sua sponte* nature of this matter and both Mazak's and Mr. Papke's cooperation to rectify this unintentional violation of the Act.

Respectfully submitted,



Benjamin L. Ginsberg  
Eric S. Brown

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<sup>6</sup> Mazak is a U.S. subsidiary of a foreign corporation. The facts of this matter present no issues of a violation of the Act's ban on foreign national contributions, 2 U.S.C. § 441e, because no foreign national had any role in the solicitation, decision to contribute, or any other aspect of the contributions at issue. Furthermore, the source of the funds used to reimburse Mr. Papke was Mazak, a U.S. corporation with domestic revenue.

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