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Federal Election Commission
Washington, DC 20463

SENSITIVE

MEMORANDUM

April 14, 2014

TO: The Commission

THROUGH: Alec Palmer *for PCO*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Lynn M. Fraser *LMF*
Director, ADR Office

SUBJECT: ADR 710 Proliance Surgeons, Inc., Proliance Surgeons PAC and Philip
Lloyd, Treasurer, Recommendation to Dismiss

The Office of General Counsel referred P-MUR 571 on April 3, 2014, and the ADR Office designated the referral as ADR 710. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and discussion of the matter for your information.

Summary: Proliance Surgeons, Inc., Proliance Surgeons PAC and Philip Lloyd, Treasurer (the Committee, or collectively Respondents) filed a *sua sponte* submission on February 18, 2014 asserting that Proliance Surgeons, Inc. (Respondent PS) inadvertently remitted \$215,235 as payroll contributions to the Committee, when the correct amount should have been \$37,265. The Committee is entirely funded by contributions by surgeons and officers of Respondent PS. An inexperienced individual in Respondent PS's accounting office used the year-to-date contributions figure, rather than the current contributions figure, to determine the amount to be remitted to the Committee. The Committee received \$177,970 more than it should have from Respondent PS as a result.

It is recommended that this matter be dismissed because: Respondents discovered the error being made by Respondent PS resulting in excessive contributions to the Committee; Respondents conducted an investigation to determine exactly what happened

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and why, and took steps to ensure the incorrect procedure ceased ; the error was brought to the attention of the FEC; and the Committee took corrective actions, including refunding all excessive contributions, and filing amended reports to disclose the inadvertent deposits.

The Committee filed its Form 1 on December 19, 2012, and is entirely funded by payroll contributions by Respondent PS's physicians and its officers. Respondents contend that as soon as the error was discovered, the PAC refunded all of the excessive receipts, disclosed the refunds to Respondent PS and amended both the Committee's 2013 Mid-Year and 2013 Year-End Reports to disclose the excessive receipts from Respondent PS.

In addition, Respondents assert that significant changes have been made to their financial procedures to ensure compliance with the FECA. Respondent PS changed the format of the report it generates for determining the correct amount of contributions to be remitted to the Committee to reflect only the amount for the reporting period. The Committee contends additional training has been provided to both the Respondent PS's payroll department, as well as the accounting firm engaged by the Committee. Respondents state that communication between all departments involved has been enhanced, and the Committee's new accounting firm designated a staff person experienced in campaign finance requirements to review each payroll bi-weekly submission of checks and contributor spread sheets for accuracy.

RECOMMENDATION:

- 1. Dismiss ADR 710 (P-MUR 571), and close the file.**
- 2. Approve the appropriate letters.**