



**Federal Election Commission
Washington, DC 20463**

April 28, 2014

Neil Reiff, Esq.
Stephen Hershkowitz, Esq.
Sandler, Reiff, Young & Lamb PC
1025 Vermont Avenue NW, Suite 300
Washington, DC 20005

Re: ADR 710 (P-MUR 571)
Proliance Surgeons, Inc., Proliance Surgeons PAC and Philip Lloyd, Treasurer

Dear Neil & Stephen:

On February 18, 2014, the Federal Election Commission ("FEC" or "Commission") received a *sua sponte* submission on behalf of Proliance Surgeons, Inc., Proliance Surgeons PAC and Philip Lloyd, Treasurer (Respondents) asserting a violation of the Federal Election Campaign Act of 1971, as amended. The matter was referred to the Alternative Dispute Resolution Office on April 3, 2014.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and take no further action against the Respondents. In its memorandum to the Commission, dated April 14, 2014, this office stated:

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 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

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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.

Accordingly, the Commission closed its file in this matter on April 24, 2014.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the sua sponte submission, correspondence exchanged between Respondents and the Commission, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

If you have any questions regarding this matter please be in touch.

Sincerely,

Lynn M. Fraser, Director,
Alternative Dispute Resolution Office
202-694-1665