



Federal Election Commission
Washington, DC 20463

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SENSITIVE

MEMORANDUM

August 25, 2016

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

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

Lynn M. Fraser *LMF*
Director, ADR Office

BY: Krista J. Roche *KJR*
Assistant Director, ADR Office

SUBJECT: ADR 801 The Home Depot Inc. Political Action Committee and Scott Bohrer, Treasurer, Recommendation to Dismiss

The Office of General Counsel (OGC) transferred P-MUR 590, and the ADR Office designated the matter as ADR 801. 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 and Analysis of Case: On February 11, 2016, The Home Depot Inc. Political Action Committee and Scott Bohrer, Treasurer, (Respondents or the Committee) filed a *sua sponte* submission regarding the Committee's acceptance of payroll deduction contributions from employees who were no longer members of the solicitable class totaling \$51,883.67 from 2003-2015.

Respondents contend that a processing error inadvertently allowed some employees to continue contributing after the employee's job classification had been changed to a non-exempt, non-salaried status via the continuation of automatic payroll deductions. Specifically, the Committee received \$51,883.67 in impermissible contributions out of \$14,300,535.79 in total contributions (0.36%) during the relevant timeframe. Respondents state that all contributions made while employees were ineligible have been refunded and reports have been filed to reflect those refunds.

Respondents contend that upon the discovery of the error, a comprehensive review of the Committee's procedures and contributions was conducted. The status of all Home Depot employees as solicitable was evaluated by examining personnel and payroll files, job descriptions and classifications. Then, a comprehensive audit of the Committee and all of its activity, including electronic payroll transfers, was performed. The review concluded that all contributing employees were initially in the solicitable class, but that a processing error allowed automatic contributions to continue after the job reclassifications of some employees. Respondents contend that this error in the process has been remedied and internal controls have been strengthened to ensure future compliance. Specifically, the human resources file for solicitable employees is now reconciled with the Committee's payroll deduction file prior to the actual deduction during each payroll cycle. This regular reconciliation between human resources and the Committee ensures that each time an employee's status changes, the Committee becomes aware prior to the occurrence of any payroll deduction.

It is recommended that this matter be dismissed because: Respondents conducted a comprehensive investigation after discovering the processing error errors; the error was voluntarily reported to the FEC; the error involved a small percentage of the Committee's overall activity (.36%); and the Committee took corrective actions, including refunding the impermissible contributions, clarifying the public record and strengthening internal controls to ensure that the error did not occur in the future.

RECOMMENDATION:

- 1. Dismiss ADR 801 (P-MUR 590), and close the file.**
- 2. Approve the appropriate letters.**