



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 18 2001

**BY FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Timothy Teepell, Treasurer
Madison Project Inc. Fund
119 C Street, SE
Washington, D.C. 20003

RE: MURs 4568, 4633, 4634 and 4736
Madison Project, Inc. Fund

Dear Mr. Teepell:

On May 15, 2001 the Federal Election Commission found that there is reason to believe that Madison Project, Inc. Fund and you, as treasurer ("the Committee"), violated 2 U.S.C. § 441b(b)(4)(A)(i), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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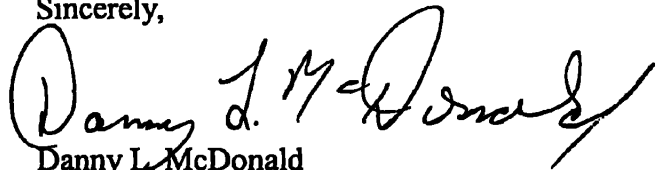
Madison Project Inc. Fund and
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mark Shonkwiler, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Danny L. McDonald", with a stylized flourish at the end.

Danny L. McDonald
Chairman

Enclosures

Factual and Legal Analysis

Designation of Counsel Form
Procedures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Madison Project Inc. Fund and	)	MURs 4568, 4633, 4634 and 4736
Timothy Teepell, as treasurer	)	

FACTUAL AND LEGAL ANALYSIS

MUR 4634 was generated by a complaint filed by Micheline Burger with the Federal Election Commission on May 5, 1997. MPIF was internally generated in MURs 4568, 4633 and 4736 on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. Because all four MURs relate to different activities of Triad Management Services, Inc. ("Triad"), the Commission decided that MURs 4568, 4633, 4634 and 4736 would be investigated together.

A. The Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits corporations from making "a contribution or an expenditure in connection with any election for federal office." 2 U.S.C. § 441b(a). It is not unlawful, however, for a corporation to use its general treasury funds to establish, administer, and solicit contributions to a separate segregated fund to be utilized for political purposes. 2 U.S.C. § 441b(b)(2)(C); 11 C.F.R. § 114.5(b).

An incorporated membership organization may also establish and administer a separate segregated fund ("SSF"). 2 U.S.C. § 441b(b)(2)(C); 11 C.F.R. § 114.5(b). An incorporated membership organization may solicit contributions to its SSF from its

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noncorporate members, its executive and administrative personnel, and the families of both these groups at any time. 11 C.F.R. § 114.7(a).

Both an incorporated membership organization and its SSF are prohibited from soliciting funds outside this restricted class. 2 U.S.C. § 441b(b)(4)(A)(i); 11 C.F.R. § 114.5(g)(1). The SSF may, however, accept an unsolicited contribution, that is otherwise lawful, from outside its restricted class. 11 C.F.R. § 114.5(i). However, if the SSF informs anyone outside the restricted class that unsolicited contributions can be accepted, this amounts to a solicitation. AO 1983-38; *See also* FEC Campaign Guide for Corporations and Labor Organizations at p. 14.

If an SSF or connected organization accidentally or inadvertently solicits a person not eligible for solicitation, no violation will result if the SSF or connected organization:

- (1) makes its best efforts to comply with the restrictions on who may be solicited; and
- (2) corrects the method of solicitation immediately. 11 C.F.R. § 114.5(h).

B. Facts

In 1994, The Madison Project, Inc., a membership organization, established MPIF as its SSF. According to its website, The Madison Project, Inc. "help[s] conservative, pro-life Republicans win election to high office by: Building a grassroots network of contributors; Generating early contributions to candidates; Building effective campaigns; and Helping to mobilize conservative voters throughout the country on Election Day." *See* <http://madisonproject.org> (as of 3/21/01). MPIF typically bundles small earmarked contributions from The Madison Project, Inc. members to political candidates who reflect the organization's views. MPIF also occasionally makes direct contributions to such candidates.

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In July 1995, MPIF staff member Doug Domenech met Triad Director Carolyn Malneick at a meeting of conservative PAC representatives seeking to share information about congressional races around the country. *See* MPIF Subpoena Response at 1-2. Triad is a political consulting firm, which purports to provide advice regarding political contributions to wealthy conservative donors. Shortly after their initial meeting, Ms. Malenick asked Mr. Domenech "to write a quick description of the Madison Project, which she could send to donors who maybe [sic] interested in supporting the Madison Project financially." *Id.* at 2.

On August 15, 1995, Mr. Domenech sent Ms. Malenick a letter which described both The Madison Project, Inc. and MPIF. *See* MPIF Subpoena Response at Appendix 1b, page 1. Mr. Domenech's letter appears to solicit contributions to both the membership organization and the SSF. With regard to MPIF, the letter states:

The Madison Project Fund exists primarily to pay for the printing and distribution of federal candidate targeting information to our members, as required by law. We are also able to give direct contributions to candidates, as well, like any other PAC. Contributions to the Fund are subject to the same restrictions as any other PAC.

[paragraphs regarding connected membership organization omitted]

Should TRIAD Members decide to make contributions to the Madison Project Fund, they can be assured that the money would be used only to support candidates consistent with the philosophy of the Madison Project and our Board. These candidates would be solid cultural and economic conservatives running in viable districts.

Id.

In his interview with Commisison staff, Mr. Domenech indicated that he and Ms. Malenick had at least one telephone conversation about a short description of MPIF that would be provided to potential donors. Mr. Domenech then sent Ms. Malenick an

undated FAX memorandum which made changes to an earlier draft. *See* MPIF Subpoena Response at Appendix 1b, page 2. The new description stated:

Id.

Triad incorporated the revised MPIF description provided by Mr. Domenech into a "Political Action Committees (PACs)" memorandum, which described thirteen PACs that purportedly agree with "TRIAD's targeting approach for the 1996 elections." Based on the Commission's investigation, it appears that Triad distributed this PAC Memorandum to individuals which Triad viewed as potential donors. Triad would then forward contribution checks from the individual donors to specific PACs.

MPIF reports receiving three checks totaling \$10,000 through Triad after it provided Ms. Malenick with the descriptive information set forth above. The first contribution was a \$5000 check, dated December 29, 1995, from James and Cecilia Leininger that Triad forwarded with a cover letter dated January 3, 1996. *See* MPIF Subpoena Response at 2 and Appendix 1c. The second and third checks were two \$2500 contributions, dated July 16, 1996, from John and Ruth Stauffer that MPIF reported receiving in the same envelope with a Triad cover letter (a copy of which could not be located) on or about July 29, 1996. *Id.* at 3 and Appendix 1d.

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In their responses to the Commission's subpoenas and in deposition testimony, John and Ruth Stauffer acknowledged that they received the Triad PAC Memorandum containing the description of the MPIF prior to making their contribution. In an interview with a Commission investigator, Mr. Leininger acknowledged receiving information from Triad regarding PACs prior to making his contribution to MPIF. Based on its contacts with both MPIF representatives and the donors themselves, it has been confirmed that neither James and Cecilia Leininger nor John and Ruth Stauffer were members of The Madison Project, Inc, or otherwise part of MPIF's restricted class, at the time their contributions were solicited.

C. Analysis

The facts set forth above indicate that MPIF, acting through Triad, improperly solicited individuals outside its restricted class for contributions. Based on MPIF's response to the Commission's subpoena, and the documents provided with that response, it appears that MPIF authorized Triad to solicit individuals who were outside its restricted class for contributions to MPIF. This authorization is evidenced by the August 15, 1995 letter from Mr. Domenech to Ms. Malenick and the later undated Fax Memorandum from Mr. Domenech to Ms. Malenick which revised the description of MPIF that Triad later distributed to potential donors. The solicitations of actual donors is evidenced by the Triad PAC Memorandum which included the description of MPIF previously provided by Mr. Domenech.

It does not appear that it would be appropriate to treat MPIF's solicitation of contributions through Triad as an accidental or inadvertent solicitation under 11 C.F.R. § 114.5(h). Although Triad appears to have made the initial suggestion that it solicit

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contributions for MPIF, this suggestion was followed by several conversations between MPIF and Triad, as well as by at least two pieces of correspondence. Thus, upon learning that Triad was interested in soliciting funds on its behalf, MPIF did more than simply acquiesce. MPIF affirmatively facilitated and implicitly authorized Triad's efforts to solicit contributions on its behalf. Further, given the timing of the first and second set of checks, Triad appears to have solicited the contributions over at least a seven month period (December 1995 through at least July 1996).

The safe harbor that § 114.5(h) provides for accidental or inadvertent solicitations requires that the corporation or SSF use its best efforts to avoid soliciting outside its restricted class and to take timely corrective action after discovering that such an improper solicitation has been made. In this case, MPIF did neither. First, it took action on several different dates to encourage and facilitate the solicitation of contributions by Triad. Second, after receiving the Leininger check through Triad in January 1996, it apparently took no action to stop Triad from continuing to solicit on its behalf. Given the receipt of the Stauffer checks through Triad in late July 1996, it appears that such solicitations were ongoing for at least seven months.

Therefore, there is reason to believe that The Madison Project, Inc. Fund and Timothy Teepell, as treasurer, violated 2 U.S.C. § 441b(b)(4)(A)(i).