



FEDERAL ELECTION COMMISSION

Washington, DC 20463

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SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Thomasenia P. Duncan
General Counsel

BY: Ann Marie Terzaken ~~ATB~~
Acting Associate General Counsel for Enforcement

Susan L. Lebeaux *SLZ*
Assistant General Counsel

RE: Closure of MURs 4568, 4633, 4634 and 4736 (Carolyn S. Malenick d/b/a/
Triad Management Services, Inc., *et. al*)

ACTIONS RECOMMENDED

Close the files in MURs 4568, 4633, 4634 and 4736 as to all remaining respondents.

DISCUSSION

In any compliance matter in which a civil action is commenced, the Commission is required to make public the files in the underlying enforcement action no later than thirty days from the date on which the Commission notifies the complainant and respondent of the final disposition of the civil action. *See* 11 C.F.R. § 111.20(c). On June 21, 2002, the Commission filed a lawsuit in federal district court against Carolyn S. Malenick d/b/a Triad Management Services, Inc., and Carolyn S. Malenick as corporate officer for violations of 2 U.S.C. §§ 433, 434, 441a(a), 441a(f) and 441b (the "Triad litigation")

Thereafter, the Commission severed other respondents as to whom the files already had been closed in MURs 4568, 4633, 4634 and 4736, and transferred them to newly opened MUR 5294. which was then immediately closed. Consistent with the interim closing procedures applicable at that time, we sent closing letters to the MUR 5294 respondents and complainants. However, placing the materials from MUR 5294 on the public record was delayed, first by a threatened. and then by an actual motion to

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1 enjoin disclosure by then counsel for the defendants in the Triad Litigation. The district
2 court denied the motion in March 2004. We decided at that time, however, to place
3 MUR 5294 on the public record concurrently with MURs 4568, 4633, 4634 and 4736 at
4 the end of the litigation, releasing all Triad-related files at the same time, with an
5 accompanying press release.¹

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7 On July 26, 2005, the district court in the Triad litigation entered an order of final
8 judgment. The district court held that the defendants violated FECA by failing to register
9 and report as a political committee beginning in 1996, knowingly accepted excessive and
10 corporate contributions, and made excessive contributions. The district court awarded
11 the Commission declaratory and injunctive relief, and ordered Carolyn Malenick to pay a
12 nominal civil penalty of \$5,000 in monthly installments of \$100 for 50 consecutive
13 months (due to lack of resources on the part of the defendants), and to comply with a
14 modified registration and reporting requirement for Triad covering the years 1996-2000.

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16 On October 27, 2005, Malenick submitted Triad's disclosure report for 1996-
17 2000. However, the submission was blatantly incomplete. After giving Malenick several
18 opportunities to comply with the court's order, the Commission filed a motion to enforce
19 the final order, which was granted by the district court in May 2006. Malenick submitted
20 a revised disclosure report for Triad in June 2006 that was deemed acceptable, but then
21 failed to submit the June civil penalty installment payment.

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24 Malenick resumed making civil penalty payments in October
25 2006, and has been current since that time.

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27 Accordingly, it appears that the Triad litigation has reached its final conclusion,
28 and there is nothing prohibiting the public release of the files in MURs 4568, 4633, 4634
29 and 4736 once the Commission approves the closing of those files as to all remaining
30 respondents and the notification letters required by section 111.20(c) are sent. We plan to
31 publicly release the files in MUR 5294 at the same time, along with a comprehensive
32 press release covering the resolutions as to all the respondents in these MURs.
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¹ The only respondents remaining in MURs 4568, 4633, 4634 and 4736 were Carolyn S. Malenick d/b/a Triad Management Services, Triad Management Services, Inc., and Carolyn S. Malenick as corporate officer ("the Triad Respondents"), because of the pending litigation, and Bob Riley for Congress and its treasurer, Robert Riley and Robert Riley, Jr., pursuant to the terms of a conciliation agreement in which the Commission agreed not to close the files as to them until MURs 4568, 4633, 4634 and 4736 were completely closed.

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RECOMMENDATIONS:

1. Close the files in MURs 4568, 4633, 4634 and 4736 as to all remaining respondents.
2. Approve the appropriate letters.