FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 13, 1999

Joseph E. Sandler, Esq.
Sandler & Reiff, P.C.
6 E Street SE
Washington, DC 20003

RE: MUR 4928
MSBDFA Management Group, Inc.

Dear Mr. Sandler:

On April 8, 1999, the Federal Election Commission acknowledged receipt of MSBDFA Management Group, Inc.'s ("MMG") April 7, 1999 *sua sponte* submission. The *sua sponte* submission advised the Commission of possible violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

Upon further review of Commission records and information provided by MMG, the Commission, on September 22, 1999, found that there is reason to believe MMG, Stanley W. Tucker, Timothy L. Smoot, Catherine D. Lockhart, and R. Randy Croxton violated 2 U.S.C. §§ 441b and 441f in connection with MMG's federal contributions made with the participation and the consent of the aforementioned officers. The Factual and Legal Analyses, which formed the bases for the Commission's findings, are 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 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching conciliation agreements in settlement of this matter prior to a finding of probable cause to believe. Enclosed are conciliation agreements that the Commission has approved. As you have stated an interest in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreements, please have the agreements signed by the appropriate individuals and return them, along with the civil penalties, to the Commission. In light of the fact that

conciliation negotiations, prior to a finding of probable cause to believe, are limited to a *maximum* of 30 days, you should respond to this notification as soon as possible.

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.

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 the investigation is 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 Eugene H. Bull, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analyses (5)
Conciliation Agreements (5)
Procedures

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: MSBDFA Management Group, Inc. MUR: 4928

I. GENERATION OF THE MATTER

This matter was generated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. See 2 U.S.C. § 437g(a)(1). The submission discloses facts which indicate that MMG reimbursed officers of the corporation for contributions that the officers made to federal candidates in apparent violation of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). It states that "[o]n several different occasions in 1997 and 1998, [MMG] officers obtained funds from the corporation for the express purpose of using the funds to make contributions to candidates for federal office." The submission contends that the four officers it identified as having received such corporate advances or reimbursements were not aware that the funds could not be contributed to federal candidates. As support for the contention that the MMG officers were not aware that the corporate advances or reimbursements could not be lawfully contributed to federal candidates, the submission states that the check requests submitted to the corporation by the officers "clearly" indicate that the purpose of each advance of funds was to make political contributions. Of the $4,200 in corporate funds that MMG reported it advanced or reimbursed to MMG officers to make contributions to federal candidates, the corporation has determined that $3,700 was actually contributed. The corporation is still unable to account for the remaining $500 that it

reported was advanced or reimbursed for the purpose of making contributions to federal candidates. In addition to the $4,200 in corporate contributions reported in the *sua sponte* submission, the Commission has identified another $2,750 in 1997-98 federal contributions by two of the MMG officers named in the submission.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to any candidate or campaign in connection with any Federal election. 2 U.S.C. § 441b(b)(2). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. Moreover, it prohibits any person from knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions, 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

B. Analysis

There is no dispute that MMG made prohibited corporate contributions through at least three of its officers.[1] MMG's *sua sponte* submission requests that "the Commission find reason to believe that MMG has violated 2 U.S.C. § 441a(a), 441b and 441f." It is noted that although MMG requested that the Commission find it violated Section 441a(a), and the total amount of dollars the corporation contributed to federal committees through its officers exceeded the dollar amount of the federal contribution limit for a "person" (see Section 441a(a)), such a finding is not warranted on the basis of the available information.[2] However, as the corporation did make contributions to federal candidates through its officers, there is reason to believe that MMG violated 2 U.S.C. §§ 441b and 441f.

[1] Although the *sua sponte* submission reported four officers as receiving funds from MMG for the purpose of making federal contributions, only three actually used some or all of the corporate funds to make federal contributions. The fourth officer transferred all the funds he received from the corporation to one of the other three officers who then made the contribution.

[2] The Commission has found that the same funds violated both 2 U.S.C. § 441b and 441a(1)(a) in contexts where the funds were raised through sources that implicated both violations (e.g., a state committee making federal contributions with unsegregated funds raised in a state that both allows corporate contributions to political committees and has personal contribution limits greater than $1,000 per election.) See MURs 4438 (Harris County Republicans), and 3637 (Kentucky Democrats). The funds at issue in this matter are solely corporate funds.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Stanley W. Tucker, President
MSBDFA Management Group, Inc.

MUR: 4928

I. GENERATION OF THE MATTER

This matter was generated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. See 2 U.S.C. § 437g(a)(1). The submission discloses facts which indicate that MMG reimbursed officers of the corporation for contributions that the officers made to federal candidates in apparent violation of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). It states that "[o]n several different occasions in 1997 and 1998, [MMG] officers obtained funds from the corporation for the express purpose of using the funds to make contributions to candidates for federal office." The submission contends that the four officers it identified as having received such corporate advances or reimbursements were not aware that the funds could not be contributed to federal candidates. As support for the contention that the MMG officers were not aware that the corporate advances or reimbursements could not be lawfully contributed to federal candidates, the submission states that the check requests submitted to the corporation by the officers "clearly" indicate that the purpose of each advance of funds was to make political contributions.

MMG reported that its president, Stanley W. Tucker, used $1,450 of the $4,200 in corporate funds that it advanced or reimbursed to MMG officers to make contributions to federal

candidates. In addition to the $1,450 reported in the *sua sponte* submission, the Commission has identified another $2,250 in 1997-98 federal contributions by Mr. Tucker.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to any candidate or campaign in connection with any Federal election. 2 U.S.C. § 441b(b)(2). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. Moreover, it prohibits any person from knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions, 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

B. Analysis

There is no dispute that MMG made prohibited corporate contributions through at least three of its officers. MMG's *sua sponte* submission requests that "the Commission find reason

to believe that MMG has violated 2 U.S.C. § 441a(a), 441b and 441f."[1] A remaining issue is whether Stanley W. Tucker should be held liable for his role in MMG's violation of the Act. The available information demonstrates that Mr. Tucker, the corporation's president, consented to and participated in MMG's violation of the Act by requesting funds from the corporation to make the federal contributions, and allowing his name to be used for that purpose. Therefore, there is reason to believe Stanley W. Tucker violated 2 U.S.C. §§ 441b and 441f.

[1] It is noted that although MMG requested that the Commission find it violated Section 441a(a), and the total amount of dollars the corporation contributed to federal committees through its officers exceeded the dollar amount of the federal contribution limit for a "person" (see Section 441a(a)), such a finding is not warranted on the basis of the available information. The Commission has found that the same funds violated both 2 U.S.C. § 441b and 441a(1)(a) in contexts where the funds were raised through sources that implicated both violations (e.g., a state committee making federal contributions with unsegregated funds raised in a state that both allows corporate contributions to political committees and has personal contribution limits greater than $1,000 per election.) See MURs 4438 (Harris County Republicans), and 3637 (Kentucky Democrats). The funds at issue in this matter are solely corporate funds.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Catherine D. Lockhart, Executive V.P. MSBDFA Management Group, Inc.

MUR: 4928

I. GENERATION OF THE MATTER

This matter was generated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. See 2 U.S.C. § 437g(a)(1). The submission discloses facts which indicate that MMG reimbursed officers of the corporation for contributions that the officers made to federal candidates in apparent violation of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). It states that "[o]n several different occasions in 1997, [MMG] officers obtained funds from the corporation for the express purpose of using the funds to make contributions to candidates for federal office." The submission contends that the four officers it identified as having received such corporate advances or reimbursements were not aware that the funds could not be contributed to federal candidates. As support for the contention that the MMG officers were not aware that the corporate advances or reimbursements could not be lawfully contributed to federal candidates, the submission states that the check requests submitted to the corporation by the officers "clearly" indicate that the purpose of each advance of funds was to make political contributions.

MMG reported that its executive vice president, Catherine D. Lockhart, used $500 of the $4,200 in corporate funds that it advanced or reimbursed to MMG officers to make contributions to federal candidates.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to any candidate or campaign in connection with any Federal election. 2 U.S.C. § 441b(b)(2). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. Moreover, it prohibits any person from knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions, 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

B. Analysis

There is no dispute that MMG made prohibited corporate contributions through at least three of its officers. MMG's *sua sponte* submission requests that "the Commission find reason to believe that MMG has violated 2 U.S.C. § 441a(a), 441b and 441f."[1] A remaining issue is

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[1] It is noted that although MMG requested that the Commission find it violated Section 441a(a), and the total amount of dollars the corporation contributed to federal committees

whether Catherine D. Lockhart should be held liable for her role in MMG's violation of the Act. The available information demonstrates that Ms. Lockhart, an executive vice president of the corporation, participated in MMG's violation of the Act by requesting funds from the corporation to make the federal contributions and allowing her name to be used for that purpose. Therefore, there is reason to believe Catherine D. Lockhart violated 2 U.S.C. §§ 441b and 441f.

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through its officers exceeded the dollar amount of the federal contribution limit for a "person" (see Section 441a(a)), such a finding is not warranted on the basis of the available information. The Commission has found that the same funds violated both 2 U.S.C. § 441b and 441a(1)(a) in contexts where the funds were raised through sources that implicated both violations (e.g., a state committee making federal contributions with unsegregated funds raised in a state that both allows corporate contributions to political committees and has personal contribution limits greater than $1,000 per election.) See MURs 4438 (Harris County Republicans), and 3637 (Kentucky Democrats). The funds at issue in this matter are solely corporate funds.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Timothy L. Smoot, Senior V.P. MUR: 4928
MSBDFA Management Group, Inc.

I. GENERATION OF THE MATTER

This matter was generated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. See 2 U.S.C. § 437g(a)(1). The submission discloses facts which indicate that MMG reimbursed officers of the corporation for contributions that the officers made to federal candidates in apparent violation of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). It states that "[o]n several different occasions in 1997 and 1998, [MMG] officers obtained funds from the corporation for the express purpose of using the funds to make contributions to candidates for federal office." The submission contends that the four officers it identified as having received such corporate advances or reimbursements were not aware that the funds could not be contributed to federal candidates. As support for the contention that the MMG officers were not aware that the corporate advances or reimbursements could not be lawfully contributed to federal candidates, the submission states that the check requests submitted to the corporation by the officers "clearly" indicate that the purpose of each advance of funds was to make political contributions.

MMG reported that its senior vice president, Timothy L. Smoot, used $1,250 of the $4,200 in corporate funds that it advanced or reimbursed to MMG officers to make contributions

to federal candidates. In addition to the $1,250 reported in the *sua sponte* submission, the Commission has identified another $500 in 1997-98 federal contributions by Mr. Smoot.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to any candidate or campaign in connection with any Federal election. 2 U.S.C. § 441b(b)(2). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. Moreover, it prohibits any person from knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions, 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

B. Analysis

There is no dispute that MMG made prohibited corporate contributions through at least three of its officers. MMG's *sua sponte* submission requests that "the Commission find reason

to believe that MMG has violated 2 U.S.C. § 441a(a), 441b and 441f."[1] A remaining issue is whether Timothy L. Smoot should be held liable for his role in MMG's violation of the Act. The available information demonstrates that Mr. Smoot, a senior vice president of the corporation, participated in MMG's violation of the Act by requesting funds from the corporation to make the federal contributions and allowing his name to be used for that purpose. Therefore, there is reason to believe Timothy L. Smoot violated 2 U.S.C. §§ 441b and 441f.

[1] It is noted that although MMG requested that the Commission find it violated Section 441a(a), and the total amount of dollars the corporation contributed to federal committees through its officers exceeded the dollar amount of the federal contribution limit for a "person" (see Section 441a(a)), such a finding is not warranted on the basis of the available information. The Commission has found that the same funds violated both 2 U.S.C. § 441b and 441a(1)(a) in contexts where the funds were raised through sources that implicated both violations (e.g., a state committee making federal contributions with unsegregated funds raised in a state that both allows corporate contributions to political committees and has personal contribution limits greater than $1,000 per election.) See MURs 4438 (Harris County Republicans), and 3637 (Kentucky Democrats). The funds at issue in this matter are solely corporate funds.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: R. Randy Croxton, Senior V.P. MUR: 4928
MSBDFA Management Group, Inc.

I. GENERATION OF THE MATTER

This matter was generated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. See 2 U.S.C. § 437g(a)(1). The submission discloses facts which indicate that MMG reimbursed officers of the corporation for contributions that the officers made to federal candidates in apparent violation of provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). It states that "[o]n several different occasions in 1997, [MMG] officers obtained funds from the corporation for the express purpose of using the funds to make contributions to candidates for federal office." The submission contends that the four officers it identified as having received such corporate advances or reimbursements were not aware that the funds could not be contributed to federal candidates. As support for the contention that the MMG officers were not aware that the corporate advances or reimbursements could not be lawfully contributed to federal candidates, the submission states that the check requests submitted to the corporation by the officers "clearly" indicate that the purpose of each advance of funds was to make political contributions.

MMG reported that its senior vice president, R. Randy Croxton, received corporate funds to make contributions to federal candidates, and transferred the funds to other officers for that same purpose.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to any candidate or campaign in connection with any Federal election. 2 U.S.C. § 441b(b)(2). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. Moreover, it prohibits any person from knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions. 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

B. Analysis

There is no dispute that MMG made prohibited corporate contributions through at least three of its officers. MMG's *sua sponte* submission requests that "the Commission find reason to believe that MMG has violated 2 U.S.C. § 441a(a), 441b and 441f."[1] A remaining issue is

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[1] It is noted that although MMG requested that the Commission find it violated Section 441a(a), and the total amount of dollars the corporation contributed to federal committees

whether R. Randy Croxton should be held liable for his role in MMG's violation of the Act. The available information demonstrates that Mr. Croxton, a senior vice president of the corporation, consented to and assisted MMG's violation of the Act by requesting funds from the corporation and transferring the funds to one of three officers who used the funds to make a federal contribution. Therefore, there is reason to believe R. Randy Croxton violated 2 U.S.C. §§ 441b and 441f.

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through its officers exceeded the dollar amount of the federal contribution limit for a "person" (see Section 441a(a)), such a finding is not warranted on the basis of the available information. The Commission has found that the same funds violated both 2 U.S.C. § 441b and 441a(1)(a) in contexts where the funds were raised through sources that implicated both violations (e.g., a state committee making federal contributions with unsegregated funds raised in a state that both allows corporate contributions to political committees and has personal contribution limits greater than $1,000 per election.) See MURs 4438 (Harris County Republicans), and 3637 (Kentucky Democrats). The funds at issue in this matter are solely corporate funds.