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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of )  
)  
Mark Jimenez (a.k.a. "Mario Batacan Crespo") )  
MarkVision Computers, Inc. )  
MarkVision Holdings, Inc. )  
Howard Glicken )  
Greenberg, Traurig, Hoffman, Lipoff, )  
Rosen & Quentel, P.A. )  
Marvin Rosen )  
High, Stack, Lazenby, Pallahach, )  
Goldsmith & Del Amo )  
Charles "Bud" Stack )

MUR 4884

1999 DEC -1 P 4 15

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. ACTIONS RECOMMENDED**

Take no further action and close the file with regard to all respondents except

Mark Jimenez; open a new MUR comprising the activity of Mr. Jimenez.

**II. BACKGROUND**

This matter concerns violations of 2 U.S.C. §§ 441a, 441b, 441e and 441f arising from Future Tech International, Inc.'s ("Future Tech") combined \$110,000 in non-federal contributions to the Democratic National Committee ("DNC") and \$39,500 in conduit contributions made to various candidate committees. See First General Counsel's Report dated February 12, 1999. The DNC contributions were made from corporate accounts at the direction of Future Tech's then-CEO Mark Jimenez at a time when he was a foreign national. The conduit contributions were similarly made at Mr. Jimenez's direction, although subsequent to his becoming a resident alien, and also involved four corporate officers. The funds for these conduit contributions appear to have originated from corporate accounts and from Mr. Jimenez's personal account.

On May 19, 1999, the Commission voted to accept a conciliation agreement signed by the four Future Tech officers and to close the file with regard to Future Tech and the officer respondents.<sup>1</sup> See General Counsel's Report dated May 13, 1999. Pursuant to the conciliation agreement and requests by this Office for all additional information in Future Tech's possession relating to the unlawful contributions, counsel for the Future Tech respondents produced over 600 pages of documents between June and September 1999.<sup>2</sup> This Report discusses this new information along with responses received from the remaining respondents, and makes appropriate recommendations.

### III. DISCUSSION

#### A. Howard Glicken

The Commission found reason to believe that Howard Glicken violated 2 U.S.C. §§ 441b and 441f in connection with his possible acceptance and receipt, on behalf of the Clinton/Gore '96 Primary Committee ("Clinton/Gore"), of 23 individual \$1,000 contributions that were reimbursed with corporate funds via company bonuses from Future Tech or its related corporation MarkVision Computers, Inc.<sup>3</sup> As noted in the First General Counsel's Report,

<sup>1</sup> The four Future Tech officers are (1) Juan M. Ortiz, Chief Financial Officer, (2) Louis Leonardo, President, (3) Leonard Keller, Secretary and Director, and (4) Gregorio P. Narvasa, Treasurer. Future Tech and the four officers each admitted to violating 2 U.S.C. §§ 441b(a) and 441f, and Future Tech additionally admitted to violating 2 U.S.C. § 441e. Respondents paid a combined civil penalty of \$209,000. In the related criminal matter, Future Tech entered into a plea agreement through the Department of Justice that included paying a \$1,000,200 fine (Future Tech also pled guilty to tax evasion charges associated with the illegal contributions). See First General Counsel's Report, Attachment 1. According to a DNC letter to Future Tech dated July 19, 1999, which was faxed to this Office by the DNC's general counsel, the DNC has refunded \$110,000 from its non-federal account to Future Tech based on the May 19, 1999 conciliation agreement with Future Tech.

<sup>2</sup> These documents are available for review in the General Counsel's Office.

<sup>3</sup> On July 15, 1999, the Commission voted to order Clinton/Gore to pay the federal treasury approximately \$6,000 in federal matching funds that it received based on these illegally reimbursed contributions. See FEC Agenda Document No. 99-77 (July 8, 1999, considered on July 15, 1999).

documents obtained during the investigation of MUR 4530 identified Mr. Glicken as the solicitor of a \$1,000 contribution by Mark Jimenez to the DNC.<sup>4</sup> All but one of the 23 reimbursed contributions were received by Clinton/Gore on the same day as Mr. Jimenez's direct contribution (September 7, 1995), which suggested that Mr. Glicken may have been involved in soliciting, and subsequently unlawfully accepting, these conduit contributions.<sup>5</sup>

In his response to the reason to believe findings, counsel for Mr. Glicken claims that, although Mr. Glicken "was one of several people" who solicited contributions from Mr. Jimenez to Clinton/Gore, he did not solicit, accept or receive any contributions from Future Tech, MarkVision Computers, Inc., "or from any of the employees of those corporations." Attachment 1, p. 1. Attached to the response is a sworn affidavit from Mr. Glicken stating the same. The affidavit explains that, during a fundraising dinner held in the Miami area in September 1995, Mr. Jimenez handed an envelope to [Florida] Lt. Gov. Buddy McKay, noting that it contained \$25,000 in contributions he had raised on behalf of Clinton/Gore. The affidavit states that, although Mr. Glicken was present when Mr. Jimenez handed the envelope to

<sup>4</sup> In MUR 4530, the Commission found reason to believe that Mr. Glicken knowingly and willfully violated 2 U.S.C. § 441e(a) by soliciting a \$50,000 contribution from Dr. Alfredo Riviere, a foreign national, to the DNC's non-federal account during the 1995-96 election cycle. See MUR 4530, First General Counsel's Report dated June 2, 1998. The contribution was made by Dr. Riviere's company, ACPC, Inc. This Office is currently engaged in preprobable cause conciliation negotiations with Mr. Glicken regarding MUR 4530. See MUR 4530, General Counsel's Report dated June 10, 1999. In MUR 4638, this Office's investigation elicited some evidence that Mr. Glicken may have solicited approximately \$88,000 in contributions to the DNC and the DSCC from a foreign national, Thomas Kramer, in the 1993-94 election cycle. See MUR 4638, General Counsel's Report dated December 19, 1997. In that matter, the Commission made no findings against Mr. Glicken. However, pursuant to a July 13, 1998 plea agreement with the DOJ in connection with the Kramer solicitations, Mr. Glicken was fined \$80,000 and agreed to pay a \$40,000 civil penalty to the Commission for section 441e and 441f violations occurring in 1993. On December 11, 1998, the Commission approved a conciliation agreement with Mr. Glicken which provided for installment payments of the penalty. See MUR 4834, General Counsel's Report dated December 8, 1998.

<sup>5</sup> The solicitation of the contributions would have occurred after Mr. Jimenez had obtained resident alien status, and thus would not have violated the Act. Unlike 2 U.S.C. § 441e, which explicitly prohibits the solicitation of a foreign national, 2 U.S.C. §§ 441b and 441f do not contain similar solicitation prohibitions.

Mr. McKay, he "did not see what was in the envelope . . . and only later was advised with respect to the contents of the envelope." *Id.* at p. 3. Mr. Glicken's affidavit concludes that he "did not solicit employee contributions from Mark Jimenez and did not accept any employee contributions from Mark Jimenez with knowledge that these contributions were to be reimbursed either with corporate funds or by Mr. Jimenez." *Id.* at 4.

The documents produced by Future Tech do not shed any further light on the fundraising activities of Mr. Glicken as they relate to this matter. Although certain documents reference Mr. Glicken's involvement in arranging Mr. Jimenez's attendance at a "White House Majority Trustee Dinner" in February of 1995, there is no evidence that might connect Mr. Glicken to the reimbursed contributions made later that year. In view of Mr. Glicken's sworn statement denying any involvement in the solicitation, acceptance or receipt of the contributions at issue, as well as the lack of additional evidence implicating him in this matter, this Office recommends that the Commission take no further action against Howard Glicken and close the file as to him.<sup>6</sup>

B. The Lawyer and Law Firm Respondents

The Commission found reason to believe that Marvin Rosen and his law firm, Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A. ("Greenberg & Traurig"), and Charles "Bud" Stack and his law firm, High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo ("High & Stack") violated 2 U.S.C. § 441e by soliciting contributions from Future Tech when Mr. Jimenez was still a foreign national. In a supplement to its *sua sponte* submission, Future Tech had identified Greenberg & Traurig as a possible solicitor of contributions at political events in 1994,

<sup>6</sup> In similar circumstances in MUR 4806, there was insufficient evidence that Mr. Glicken personally received prohibited contributions on behalf of a political committee. The Commission approved this Office's recommendation to take no action against Mr. Glicken. See MUR 4806, General Counsel's Report dated September 24, 1999.

and internal DNC contribution documents obtained during the investigations in MURs 4530 and 4638 identified Mr. Rosen as the possible solicitor of Future Tech's two \$50,000 contributions to the DNC in 1994.<sup>7</sup> See First General Counsel's Report at 16-18. Internal DNC documents cited Mr. Stack as the solicitor of a \$5,000 contribution on May 10, 1993 from Future Tech to the DNC's non-federal account.

In a response submitted on behalf of Mr. Rosen and Greenberg & Traurig, counsel argues that: (1) the Commission "is time-barred from pursuing this matter"; (2) soft money donations from a U.S. corporation that were directed by a foreign national do not violate 2 U.S.C. § 441e;<sup>8</sup> (3) Mr. Rosen assumed that Mr. Jimenez was "legally situated to participate in U.S. politics," as Mr. Jimenez's citizenship status was unknown to Mr. Rosen when they first met "in late 1993 or early 1994," and he "did not learn until several years after Mr. Jimenez obtained resident alien status" that he was not a U.S. citizen; and (4) Mr. Rosen's "contact with Mr. Jimenez [at the dinner event held just prior to the making of Mr. Jimenez's March 1994 contributions] did not constitute a 'solicitation' of Mr. Jimenez's attendance at the event or Future Tech's decision to contribute, within the meaning of the federal election laws." Attachment 2, p. 2-7.

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<sup>7</sup> In MUR 4638, the Commission found reason to believe that Greenberg & Traurig violated 2 U.S.C. § 441e by soliciting contributions from foreign national Thomas Kramer to local and state candidates in Florida during the 1993-94 election cycle. On December 31, 1997, the Commission accepted a conciliation agreement signed by Greenberg & Traurig with an admission that it solicited approximately \$91,000 in contributions from a foreign national, and containing a civil penalty of \$77,000. The conciliation agreement did not identify which individuals at the law firm were involved in the solicitations. See MUR 4638, General Counsel's Report dated December 19, 1997.

<sup>8</sup> Counsel's argument that the nationality status of Mr. Jimenez would not have made Future Tech's soft money donations illegal, is based primarily on the district court's decision in *United States v. Trie*, 23 F. Supp. 2d. 55, 59-61 (D.D.C. Oct. 9, 1998) that the section 441e solicitation prohibition is only applicable to "contributions" for federal elections. Subsequent to the receipt of counsel's response, the U.S. Court of Appeals for the D.C. Circuit recently ruled that section 441(e) prohibits soft money donations. *United States v. Kanchanalak*, 1999 WL 798065 (D.C. Cir. Oct. 8, 1999).

Charles "Bud" Stack, in an affidavit attached to a response submitted on behalf of him and High & Stack, denies soliciting the May 10, 1993 contribution of \$5,000 from Mark Jimenez or Future Tech, adding that he has "never met with or spoken to Mr. Mark Jimenez," and has "no recollection of anyone named Mark Jimenez or of his citizenship status." Attachment 3, p. 6. Counsel asserts in the response that the DNC document referenced by the Commission "incorrectly states that 'Bud Stack' was the solicitor" of the \$5,000 non-federal contribution.<sup>9</sup> *Id.* at 2. Post-conciliation documents produced by Future Tech included an invitation letter to a Florida fundraiser from Mr. Stack to Mr. Jimenez; however, the fundraiser occurred after Mr. Jimenez had achieved residency status in the United States.

As noted in the First General Counsel's Report, the statutes of limitations for seeking civil penalties against the lawyer and law firm respondents had already expired, or were about to expire, but reason to believe recommendations were nevertheless made to allow these respondents an opportunity to respond and clarify the record. The recent submissions by them do not shed any new light on their involvement. Given the age of the activity and the lack of additional evidence linking these respondents to the solicitations at issue, this Office believes that no further resources should be invested in pursuing them. Accordingly, this Office recommends that the Commission take no further action against Marvin Rosen; Greenberg, Taurig, Hoffman, Lipoff, Rosen & Quentel, P.A.; Charles "Bud" Stack and High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo; and that it close the file as to each of them.

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<sup>9</sup> Counsel also argues that the statute of limitations on any alleged violations has passed, and that the Act does not prohibit soft money donations by foreign nationals, relying on *U.S. v. Trie*. See footnote 8.

C. Mark Jimenez, MarkVision Computers, Inc. and MarkVision Holdings, Inc.

The Commission found reason to believe that Mark Jimenez violated section 441e in connection with \$110,000 in contributions made with Future Tech funds, at Mr. Jimenez's direction, to the DNC's non-federal account. These contributions were all made before July 1994, when Mr. Jimenez obtained permanent resident alien status in the United States. The Commission also found reason to believe that Mr. Jimenez knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b(a) and 441f, in connection with the reimbursement of \$39,500 in federal contributions. These contributions were received by various federal candidate committees from 1994 through 1996.

As described in the First General Counsel's Report, Mr. Jimenez appears to have used certain employees of two related entities, MarkVision Holdings, Inc. and MarkVision Computers, Inc., as contribution conduits and to have reimbursed a portion of the employee contributions with corporate funds from MarkVision Computers, Inc. The Commission found reason to believe that these two entities knowingly and willfully violated 2 U.S.C. § 441f, and that, in addition, MarkVision Computers, Inc. knowingly and willfully violated 2 U.S.C. § 441b(a). The conduit reimbursement scheme involving these entities was primarily orchestrated by Mr. Jimenez and Future Tech, as described in detail in the conciliation agreement approved by the Commission on May 19, 1999. Given that Future Tech has assumed full responsibility for the violations arising from the employee conduit contributions, as well as the lack of additional evidence relating to the two entities' involvement (*see* General Counsel's Report dated May 13, 1999, at 3), this Office recommends that the Commission take no further action against MarkVision Holdings, Inc. and MarkVision Computers, Inc. and close the file as to each of them.

Mr. Jimenez apparently fled the country in 1998 after a federal grand jury returned an indictment charging him with, *inter alia*, conspiring to impair and impede the Commission's enforcement of the Act.<sup>10</sup> At the present time, Mr. Jimenez is believed to be in the Republic of the Philippines; news reports indicate that the Department of State has been actively pursuing the extradition of Mr. Jimenez through its contacts with the Philippine government. *See, e.g., "U.S. To Philippines: Send Fugitive Back," Miami Herald*, June 20, 1999. This Office has recently contacted the Department of Justice ("DOJ") regarding the likelihood of Mr. Jimenez's return to the United States; the DOJ's Campaign Finance Task Force has indicated that there is a reasonable chance Mr. Jimenez will return within the next year. Further, on November 6, 1999, FBI Director Freeh reportedly met with Philippine President Estrada and said afterwards that he had won "personal assurances" from President Estrada that the Philippine government will promptly deport Mr. Jimenez once the extradition is approved by the Philippine courts. *See "News Around the World," The Seattle Times*, November 7, 1999.

Although the Commission may be time-barred from seeking civil penalties in connection with Mr. Jimenez's illegal DNC contributions while he was a foreign national, for the majority of the prohibited and excessive contribution violations (over 90% of the funds involved), the statute of limitations will run from September of 2000 through August of 2001. Accordingly, given the recommendations in this Report to take no further action against all other respondents, this Office recommends that the Commission sever the activity concerning Mr. Jimenez from MUR 4884, open a new MUR naming him as sole respondent and close the remaining balance of

<sup>10</sup> *See Jimenez Indictment*, filed September 30, 1998 (D.D.C. 1998) (No. 98-0343). A second federal indictment was handed down in Miami in April 1999, containing additional charges of conspiracy, tax evasion and mail fraud against Mr. Jimenez.



MUR 4884. If the Commission approves these recommendations, this Office will hold the new MUR in abeyance until such time that Mr. Jimenez returns to the country and prospects for resolving the matter appear more likely. Should this Office learn that Mr. Jimenez is unlikely to return to the United States for the indefinite future, it will reevaluate the situation and make appropriate recommendations to the Commission at that time.

IV. **RECOMMENDATIONS**<sup>11</sup>

1. Take no further action against Howard Glicker.
2. Take no further action against Marvin Rosen and Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A.
3. Take no further action against Charles "Bud" Stack and High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo.
4. Take no further action against MarkVision Holdings, Inc. and MarkVision Computers, Inc.
5. Open a MUR comprised of the activity of Mark Jimenez (a.k.a. "Mario Batacan Crespo").
6. Close the file in MUR 4884.

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<sup>11</sup> News reports indicate that Mark Jimenez was born in the Philippines as "Mario Batacan Crespo," changing his name after arriving in the United States in mid-1980s. *See, e.g.,* James Hookaway, "Rise of Filipino Sought on U.S. Charges Reflects How Business, Politics Intermix," The Wall Street Journal, July 19, 1999. Accordingly, this Office has identified him under both names in the recommendations.

7. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

11-30-99  
Date

  
BY: Lois G. Lerner  
Associate General Counsel

Attachments

1. Response of Howard Glick
2. Response of Marvin Rosen and Greenberg & Traurig
3. Response of Charles "Bud" Stack and High & Stack

Staff Assigned: Thomas J. Andersen