

MAY 04 2001

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**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

2001 MAY -7 A 9:25

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

RAD REFERRAL: 00NF-09  
DATE ACTIVATED: 09/26/2000

EXPIRATION OF STATUTE OF  
LIMITATIONS: 7/31/2004

STAFF MEMBER: Tracey Robinson  
Stephanie Watson

SOURCE: INTERNALLY GENERATED

RESPONDENT(S): Hispanic PAC USA, Inc. and  
Esteban Torres, as Treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(4)(A)(iv)  
11 CFR § 104.5(c)(1)(i)(A)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

The Reports Analysis Division (RAD) referred the Hispanic PAC USA, Inc., and its treasurer ("committee") (collectively, "respondents"), to the Office of General Counsel (OGC) on August 10, 2000. The basis for the RAD referral is the committee's failure to timely file its 1999 Mid Year Report.

**II. FACTUAL AND LEGAL ANALYSIS**

Based on the attached Factual and Legal Analysis (Attachment 1), this Office recommends that the Commission find reason to believe the respondents violated 2 U.S.C. § 434(a)(4)(A)(iv).

21 "04" 405 "1263

However, for reasons demonstrated below, this office further recommends that the Commission take no further action against the Committee for the above-mentioned violations.

**III. CALCULATION OF CIVIL PENALTY**

21.04.405.1264

21-04-405-1265

21-04-405-1266

The penalties for the violation in this matter are substantial, especially due to the Committee's recidivism as to the late/non-filing of disclosure reports. However, this Office recommends that the Commission exercise its prosecutorial discretion and take no further action in this matter following a finding of reason to believe, and send Respondents an admonishment letter. In MUR 5018, which closed September 1, 2000, the Committee paid a \$4,500 civil penalty for the failure to file four disclosure reports for the 1997-1998 election cycle. This figure represented all of the cash-on-hand the Committee had at that time. The Committee's assistant treasurer informed this Office during those negotiations that the Committee wished to use its remaining cash to pay the penalty and then terminate. Subsequently, the Committee has filed three reports, including one designated as a termination report, showing zero activity. Under the circumstances, this Office believes a finding of reason to believe/no further action, with an admonishment, is most appropriate.

#### IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Hispanic PAC USA, Inc. and Esteban Torres, as treasurer violated 2 U.S.C. § 434(a)(4)(A)(iv), but take no further action, send an admonishment letter and close the file.
3. Approve the attached Factual and Legal Analysis.
4. Approve the appropriate letters.

Lois G. Lerner  
Acting General Counsel

5/4/01  
\_\_\_\_\_  
Date

BY: Abigail A. Shaine  
Abigail A. Shaine  
Acting Associate General Counsel

Attachments:

1. Factual and Legal Analysis

21.04.405.1267



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**MEMORANDUM**

**TO:** Office of the Commission Secretary

**FROM:** Office of General Counsel *AGS*

**DATE:** May 7, 2001

**SUBJECT:** RAD 00NF-09- First General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

**CIRCULATIONS**

**SENSITIVE** ☒  
**NON-SENSITIVE** ☐

72 Hour TALLY VOTE ☒  
24 Hour TALLY VOTE ☐  
24 Hour NO OBJECTION ☐  
INFORMATION ☐  
96 Hour TALLY VOTE ☐

**DISTRIBUTION**

**COMPLIANCE** ☒  
Open/Closed Letters ☐  
MUR ☐  
DSP ☐  
**STATUS SHEETS** ☐  
Enforcement ☐  
Litigation ☐  
PFESP ☐  
**RATING SHEETS** ☐  
**AUDIT MATTERS** ☐  
**LITIGATION** ☐  
**ADVISORY OPINIONS** ☐  
**REGULATIONS** ☐  
**OTHER** ☐

21-04-405-1268