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BEFORE THE FEDERAL ELECTION COMMISSION

2004 JAN 22 P 4:30

In the Matter of

Charles Kushner,
Kushner Companies,
40 Associated Partnerships, and
14 Individual Respondents

MUR 5279

SENSITIVE

GENERAL COUNSEL'S REPORT #3

I. ACTIONS RECOMMENDED

Approve the use of compulsory process in this matter, including the issuance of appropriate document and deposition subpoenas and interrogatories to Charles Kushner, the Kushner Companies and 40 Associated Partnerships, Kushner Chief Financial Officer Scott Zecher, former Chief Financial Officer Brian Bentzlin, and the following individual partners: Jeffrey Freireich, Melvin Greboe, Morris Hammer, Dara Kushner, Joshua Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Mel Scheinerman, Steven Silverman, John Sims, Richard Stadtmayer, and Alex Tarapchak; and additional interrogatories, document subpoenas, and deposition subpoenas, as necessary.

II. BACKGROUND

This matter involves a series of bundled political contributions totaling over \$500,000 made by 40 different partnerships connected to Charles Kushner and the Kushner Companies to local, state, and federal candidates in the 1999-2000 election cycle which were attributed to individual partners who had no knowledge of the contributions.

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1 On November 18, 2003, the Commission entered into pre-probable cause
2 conciliation with Charles Kushner, the Kushner Companies and associated partnerships,
3 Kushner CFO Scott Zecher and 14 of the individual partners.¹ At the same time, the
4 Commission decided to take no further action with respect to 24 other partners because
5 they had filed statements with the Commission establishing that they had no knowledge
6 of the contributions attributed to them, or because they were not, in fact, partners at the
7 time the contributions were made.

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15 Therefore, this Office recommends that the Commission approve compulsory
16 process in this matter so that this Office may issue subpoenas to various respondents for
17 documents and testimony.

18 Although the Respondents have made a substantial document submission, the
19 produced records cannot answer a central question – were partner profits reduced in
20 proportion to the amount of the contribution attributed to them. *See* 11 C.F.R.

¹ These 14 individual partners include: Jeffrey Freireich, Melvin Greboe, Morris Hammer, Dara Kushner, Joshua Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Mel Scheinerman, Steven Silverman, John Sims, Richard Stadtmauer, and Alex Tarapchak.

§ 110.1(e)(2). In order to make this determination, this Office needs testimony from Charles Kushner, who directed the making of the contributions at issue, as well as the testimony of the chief financial officers in charge of carrying out the task of making the contributions at issue, Scott Zecher and Brian Bentzlin. In addition, the Commission needs to review certain documents, including, an electronic version of the partnership general ledger, the partnership agreement and the tax return for each of its associated partnerships. Although Kushner Companies has provided the Commission with partnership agreements and tax returns for most of its partnerships, it has failed to produce such records for every partnership, and has not provided a general ledger for any of its partnerships.

There are 14 individual partners who refused to answer Commission questionnaires concerning the extent of their knowledge of the contributions that had been attributed to them. See General Counsel's Report #2 at 20. Taking short depositions of these individual partners will establish whether they had contemporaneous knowledge of and consented to the contributions made in their names. Further, the depositions will enable this Office to probe the reliability of some of the Respondents' claims, such as the assertion that each partner received an IRS Schedule K-1 form disclosing the contributions. Further, questioning could determine whether the partners had their political contributions deducted from their partnership profits and whether they had received assurances that their political contributions would be reimbursed.

In addition, this Office anticipates requesting documents from the individual partners that relate to the Matter, such as documents concerning their partnership

ownership and any communication they had with the Kushner Companies concerning the political contributions.

Accordingly, this Office requests that the Commission authorize the use of compulsory process in this matter, including the issuance of appropriate subpoenas to Charles Kushner, the Kushner Companies and 40 Associated Partnerships, Kushner Chief Financial Officer Scott Zecher, former Chief Financial Officer Brian Bentzlin and the following individual partners: Jeffrey Freireich, Melvin Greboe, Morris Hammer, Dara Kushner, Joshua Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Mel Scheinerman, Steven Silverman, John Sims, Richard Stadtmauer, and Alex Tarapchak; and the issuance of additional interrogatories, document subpoenas, and deposition subpoenas, as necessary.


III. RECOMMENDATION

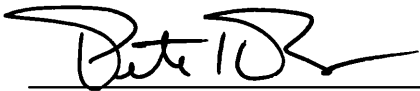
1. Approve the use of compulsory process in this matter, including the issuance of appropriate document and deposition subpoenas and interrogatories to Charles Kushner, Scott Zecher, Brian Bentzlin, Jeffrey Freireich, Melvin Greboe, Morris Hammer, Dara Kushner, Joshua Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Mel Scheinerman, Steven Silverman, John Sims, Richard Stadtmauer, and Alex Tarapchak; and appropriate document subpoenas for the Kushner Companies and 40 Associated Partnerships; and additional interrogatories, document subpoenas, and deposition subpoenas, as necessary.

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1/21/04
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