

MAY 29 2002

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 01-11

AUDIT REFERRAL DATE: June 8, 2001

DATE ACTIVATED: October 24, 2001

EXPIRATION OF STATUTE OF LIMITATIONS:

December 5, 2002 – August 17, 2005¹

STAFF MEMBERS: Albert Veldhuyzen
Michelle E. Abellera

SOURCE: AUDIT REFERRAL

RESPONDENTS: Bill Bradley for President, Inc. and Theodore V. Wells, as Treasurer
135 Montgomery Associates
836 Avenue Associates
Abby Jo Ages
BP Developers, L.P.
Brick Building Associates, L.P.
Bruckner Plaza Associates
Colfax Manor, L.P.
College Park Associates, L.P.

Constantine Village Associates

Dara Building Associates, L.P.

East Brunswick Corporate Center
Edgewater Apartments Associates, L.P.
Bernard Eichler
Elmwood V. Associates, L.P.

Jeffrey Freireich

¹ The statute of limitations period for the corporate contributions and contributions in the name of another is December 5, 2002 – August 17, 2005 reflecting the earliest and latest contributions made to Lautenberg 2000 on December 5, 1997 and to DNC Services Corporation/DNC on August 17, 2000. Within the context of Bradley for President, Inc., the earliest statute of limitations date is June 16, 2004, as a result of contribution checks dated June 16 and 17, 1999.

1 Melvin Gebroe
2 Barbara Gellert
3 George Gellert
4 General Green Village Associates
5 Bert Ghavami
6 Stuart Gladstone
7 Glen Ellen Associates, L.P.

8
9 Hackettstown Square Associates
10 Alan Hammer
11 Morris Hammer
12 Harbor Island Realty Associates, L.P.

13
14
15 Seth Kaplowitz
16 Kent Gardens Associates
17 Kushner Companies
18 Charles Kushner
19 Dara Kushner
20 Jonathan Kushner
21 Joshua Kushner
22 Marc Kushner
23 Murray Kushner
24 Nicole Kushner
25 Rae Kushner
26 Kushner Seiden Madison 64th, L.P.
27 Linda Laulicht
28 Pamela Laulicht
29 Shellie Laulicht
30

31
32
33 LMEC Associates, L.P.

34
35 Millburn Associates, L.P.
36 Montgomery Associates
37 Mt. Arlington Apartments Associates, L.P.
38 New Puck, L.P.
39 Oakwood Garden Developers, L.P.
40 Pheasant Hollow Associates
41 Pitney Farms Associates, L.P.
42 Q.E.M. Associates, L.P.
43 Quail Ridge Associates, L.P.

24-04-408-1538

1 Randolph Building Associates, L.P.
2 Reike, L.P.
3 Riverside Park Industrial Associates, L.P.
4 Rolling Gardens Associates
5 Heywood Saland
6 Mel Scheinerman
7 Gene Scheinerman
8 Mark Schenkman
9 Esther Schulder
10 Jacob Schulder
11 Jessica Schulder
12 Ruth Schulder
13 Melissa Serwitz

14
15 Seven S.L.P. Associates, L.P.
16 Steven Silverman
17 John Sims
18 Sixty Six West Associates
19 Sod Farms Associates, L.P.
20 Sparta Building Associates, L.P.
21 Richard Stadtmauer
22 Alex Tarapchak
23 Ralph Tawil, Jr.
24 Ralph Tawil, Sr.

25
26 Township Associates
27 Wallkill Apartments Associates, L.P.
28 West Brook Associates, L.P.
29 Westminster Sales & Marketing, L.P.
30 Len Whitman
31 Edith Wulack
32 Scott Zecher
33

34 **RELEVANT STATUTES**
35 **AND REGULATIONS:**

36 2 U.S.C. § 431(13)(A)
37 2 U.S.C. § 434(b)(3)(A)
38 2 U.S.C. § 441a(a)
39 2 U.S.C. § 441b(a)
40 2 U.S.C. § 441f
41 11 C.F.R. § 103.3(b)(1)
42 11 C.F.R. § 104.7(a)
43 11 C.F.R. § 104.7(b)
11 C.F.R. § 104.8(c)

11 C.F.R. § 110.1(i)
11 C.F.R. § 110.1(e)
11 C.F.R. § 110.1(g)
11 C.F.R. § 110.5(c)
11 C.F.R. § 110.6(b)(2)
11 C.F.R. § 110.6(d)(2)
11 C.F.R. § 114.2(a)
11 C.F.R. § 114.2(f)
11 C.F.R. § 114.3(a)(1)
11 C.F.R. § 114.9

INTERNAL REPORTS CHECKED: Audit Documents
 Disclosure Reports

FEDERAL AGENCIES CHECKED: General Services Administration, Housing and
 Urban Development

STATE AGENCY CHECKED: New Jersey Secretary of State

I. GENERATION OF MATTER

 This matter was referred by the Audit Division to the Office of General Counsel on June 8, 2001, and was generated from an audit of Bill Bradley for President, Inc. (the "Committee") undertaken in accordance with 26 U.S.C. § 9038(a). This audit covered the period from December 4, 1998 through May 31, 2000.

 During the fieldwork phase of the audit, the Audit staff noted a number of contributions related to the business interests of one person, Charles Kushner. The checks were delivered at the same time, signed by the same person and listed the same address for each contributor. The relationship, timing and bundling of the donations raised questions about who controlled the money and suggested a possible violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and the Commission's regulations. The Audit Division sought guidance on

whether these issues should continue to be examined in the audit context. The Office of General Counsel advised that any further examination should be handled in the enforcement context.

II. FACTUAL AND LEGAL ANALYSIS

A. Kushner Companies, Associated Partnerships, and Individual Contributors

1. Background

During the course of the audit of the Committee, the Audit Division identified 40 business checks totaling \$40,000 made payable to the Committee. The checks were written on the accounts of 40 different business entities and attributed to 39 individuals.² Attachment 1 at 2. A contribution schedule provided by the Committee listed all the contributors as partners in various "partnerships;" the schedule listed the names of the partnerships, the contributing partner and the address of the partnership.³ *Id.* at 2-3, 19. All of the partnerships have the same address.⁴ This address, 26 Columbia Turnpike, Florham Park, New Jersey, is the corporate

² One check (#2657), drawn on the account of Sixty Six West Associates, was equally attributed to respondents Melvin Gebroe (\$500) and Morris Hammer (\$500). In addition, the Audit staff observed that respondents Seth Kaplowitz and Esther Schulder each submitted two \$1,000 checks, resulting in excessive contributions. 2 U.S.C. § 441a(a)(1). The Committee issued refund checks to these contributors.

³ It is unclear whether these business entities are partnerships, limited liability companies, or corporations. At least four of the listed entities are registered as limited liability companies with the Secretary of State of New Jersey. They include 135 Montgomery Associates LLC, Sixty-Six West Associates LLC, Hackettstown Square Associates and Constantine Village Associates. The New Jersey Secretary of State has registration entries for Hackettstown Square and Constantine Village as both a "LLC" and "LP." Contribution checks did not indicate whether the accounts belonged to LLCs or partnerships.

⁴ Of the 40 contributing partnerships, 13 have been identified as managing residential properties held by Kushner Companies. Furthermore, Mr. Kushner has been identified as an officer or director of 12 other partnerships. It appears that, at a minimum, the majority of the contributing partnerships are managed, controlled, or owned by Kushner Companies or Mr. Kushner.

1 headquarters of Kushner Companies, a business owned and chaired by respondent Charles
2 Kushner.⁵ *Id.* at 2, 8.

3 Kushner Companies is one of the largest privately held real estate organizations in the
4 Northeast. Kushner Companies is a corporation with interests in approximately 88 rental
5 properties, 68 of which are in New Jersey. It also owns and manages more than 20,000
6 apartment units, in addition to office, industrial and retail space in New York, Connecticut,
7 Pennsylvania, Maryland, Delaware, Massachusetts and Florida.⁶

8 Charles Kushner's political fundraising activities have not gone unnoticed. News articles
9 indicate that numerous companies, partnerships and individuals connected to Mr. Kushner and
10 Kushner Companies contributed over \$1 million to local, state, and federal candidates in the
11 1999-2000 election cycle using a particular bundling technique.⁷ Attachment 2 at 2. According
12 to *The Star-Ledger*, in an article dated August 19, 2001, Charles Kushner "controls an array of
13 more than 60 partnerships and corporations that he routinely uses to step around the individual

⁵ Mr. Kushner is a well-known local New Jersey political fundraiser who ranks 8th on the list of the "Top 100 Insiders Who Influence Politics in New Jersey." See PoliticsNJ.com, *Top 100 Insiders Who Influence Politics in New Jersey* (visited Mar. 25, 2002) <www.politicsNJ.com/PowerList2002.htm>. Last year, he was ranked 17th. Other officers of Kushner Companies include respondents Richard Stadtmauer and Jeffrey Freireich, both of whom are managers.

⁶ See Kushner Companies Website (visited Mar. 25, 2002) <<http://www.kushnercompanies.com>>; see also New Jersey Apartment Association, *Kushner Companies Acquires WNY Group, Inc.* (visited Mar. 25, 2002) <http://www.njaa.com/njaa_association_news.htm>. Dun and Bradstreet reports indicate that Kushner Companies is involved in approximately 100 locations. These properties appear to be managed by partnerships or limited liability companies in which Kushner Companies is the general partner.

⁷ As a result of local rules, some candidates, such as New York mayoral candidates Alan Hevesi and Mark Green, returned the vast majority of Kushner contributions. The New York City Campaign Finance Board found that Mr. Kushner and his partnerships constituted a single source under the city's campaign finance laws. Attachment 5 at 3. Candidates in New York cannot accept more than \$4,500 from a "single source," which is defined as any person or a group of entities controlled by the same person or combination of people. See New York Campaign Finance Board Rule 1-04(h) (2001); see also Campaign Finance Board Advisory Opinion 2001-6 (June 14, 2001).

1 contribution limits.” *Id.* at 2-3. Individuals with the same address on Columbia Turnpike, listed
2 as partners in various partnerships, allegedly contributed uniform amounts to the same candidates
3 on the same dates. Kushner Companies forwarded the checks. *Id.* at 1.

4 According to *The Record*, Mr. Kushner hosted a fundraising event for Friends of Giuliani
5 in March 1999. Although more than \$100,000 was raised from contributors, including 33
6 businesses affiliated with Kushner Companies, Friends of Giuliani returned \$45,000 in
7 questionable donations. Kushner’s spokesman, Peter Rosenthal, explained, “the individual who
8 [Mr. Kushner] asked to handle the administrative end of this actually made a series of technical
9 mistakes” that resulted in returned contributions. Attachment 3 at 2. However, according to the
10 *New York Times*, the so-called “mistakes” included individual contributors writing multiple
11 checks from different companies in their own names. The *Times* characterized the mistakes
12 made in collecting the money at the New Jersey party as “so elementary as to be stunning.”
13 Attachment 4 at 2.

14 Mr. Kushner’s *de facto* control over his “partnerships” appears to be acknowledged by his
15 own spokesman. According to *The Record* of August 5, 2001, Kushner Company partners
16 delivered an \$18,000 bundle of checks to Torricelli for U.S. Senate, Inc. on January 22, 1999 and
17 an additional \$74,000 on February 19, 1999. The article stated, “[Mr.] Kushner declined to be
18 interviewed, but a spokesman confirmed that [Mr.] Kushner controlled all of the partnerships
19 involved.” Attachment 5 at 2. In addition, the article noted that Mr. Kushner wrote the checks in
20 the names of his business partners, listed the same address as the Kushner Companies office in
21 Florham Park, wrote checks of identical amounts, and transmitted the checks on a single day. *Id.*

1 at 3. It is possible that some of the partners were not aware that contributions were made in their
2 names. *Id.* at 2.

3 Several different violations of the Act may have occurred as a result of Kushner
4 Companies transactions in support of political committees and candidates. Possible violations
5 include corporate contributions, corporate facilitation of contributions and contributions in the
6 name of another. *See* 2 U.S.C. §§ 441b(a) and 441f; 11 C.F.R. §§ 110.6(b)(2), 114.2(f) and
7 110.6(d)(2). Although initial facts tend to suggest that Kushner Companies and Mr. Charles
8 Kushner, specifically, made the prohibited contributions, the true source of the contributions is
9 not yet known. It is conceivable that different business entities and individuals fully consented to
10 the contributions. *See* 2 U.S.C. § 441a(a). If the individuals made the contributions, then some
11 of the contributions are excessive contributions from the individuals. This report advances both
12 theories. Depending on what the investigation reveals, this Office's theory of the case will be
13 adjusted accordingly. If Kushner Companies and Mr. Kushner controlled the funds and made
14 prohibited contributions in the name of another, the excessive contribution violation against the
15 individuals becomes moot. On the other hand, if the individuals actively participated in making
16 the contributions, Kushner Companies could not have made contributions in the name of another.
17 Furthermore, these transactions implicated multiple committees, which received contributions
18 from Kushner businesses and may have violated the Act by accepting prohibited contributions or
19 accepting excessive contributions and failing to report contributor information. *See* 2 U.S.C. §§
20 441(b)(a), 441f and 434(b)(3)(A).

1 **2. Corporate Contribution**

2 The Act states that it is unlawful for any corporation to make a contribution or
3 expenditure in connection with a federal election, or for a candidate or political committee to
4 knowingly accept such a contribution. It is also unlawful for any corporate officer or director to
5 consent to any such contribution. This broad prohibition extends to "anything of value" given to
6 a federal candidate or campaign. 2 U.S.C. § 441b(b)(2).

7 With respect to Bradley for President, Inc. ("Committee"), Mr. Kushner has replicated a
8 pattern that he has established in other political fundraising ventures. Committee records
9 indicate the contributions were received from Kushner Companies on June 22, 1999 and
10 deposited on June 25, 1999. Furthermore, processing codes indicate the contributions may have
11 been solicited by Mr. Kushner and were related to a New Jersey fundraising event held on March
12 4, 1999.⁸ All 40 checks were made payable to the Committee, "care of Betty Sapoch," a
13 Committee fundraiser, and were dated on or around June 16, 1999.⁹ Attachment 1 at 2.

14 The circumstances surrounding the making and delivery of the checks raise the possibility
15 of corporate contributions. An examination of the checks indicates that they were mass-
16 produced and originated from a single source. The accountholder's name, bank routing numbers
17 and other notations all appear to be printed in the same type as the payee and amount
18 information. *Id.* The Audit staff noted that all but three checks contained the same typographical

⁸ The Committee provided Audit staff with copies of the checks, which included contributor and campaign coding information. All 40 checks were designated "Event Code: NJ 3/4/99" and "Solicitor Code: Charles Kushner." Although this solicitor designation does not conclusively prove that Charles Kushner was the solicitor, it does raise this issue for further investigation.

⁹ With the exception of one check, the checks were all dated June 16, 1999. Check #3396, drawn on the account of College Park Associates, L.P. and attributed to Esther Schulder, was dated June 17, 1999.

1 error. *Id.* The fundraiser's surname, Sapoch, was spelled incorrectly in the payee line
2 ("Japoch"). *Id.* All of the checks were drawn on accounts held at two different banks, Norcrown
3 Bank and Valley National Bank. The Audit staff noted that Norcrown Bank is part of the
4 Kushner group of businesses. *Id.* Lastly, the checks listed 40 different corporate names above
5 the signature line and all of the checks appear to have been signed by the same person. *Id.*
6 Although not legible, the signatures on the checks appear very consistent. *Id.* The Audit
7 Division believes the signature may belong to Mr. Kushner.¹⁰

8 These facts tend to support the notion that Kushner Companies, and Mr. Charles
9 Kushner, specifically, made the contributions, rather than 40 different business entities or
10 partners. The Commission's regulations state that, "absent evidence to the contrary, any
11 contribution made by check, money order, or other written instrument shall be reported as a
12 contribution by the last person signing the instrument prior to delivery to the candidate or
13 committee." 11 C.F.R. § 104.8(c). Since Mr. Kushner appears to have signed all the checks,
14 they are attributable to him or Kushner Companies, "absent evidence to the contrary."

15 Although the Committee received notification that Kushner Companies wished to
16 attribute the contributions to individual partners of various Kushner business entities, it is not
17 clear when such notification occurred. Attachment 1 at 19. Seven months after the receipt of
18 these contributions, the Committee did send follow-up letters to the contributors to determine

¹⁰ Although the auditors are not handwriting experts, a comparison of the check signatures with Mr. Kushner's signature as displayed on the Kushner Companies' website suggests that the signatures may have originated from the same person. Attachment 1 at 10. As part of its investigation, this Office might find it necessary to obtain the advice of a handwriting expert.

1 matching fund eligibility.¹¹ There is no record of any prior attempt to verify the legitimacy of
2 these contributions. In response to questions raised by the Audit staff, Peter Nichols, Assistant
3 Treasurer of the Committee, contacted Scott Zecher, Chief Operating Officer of Kushner
4 Companies. *Id.* at 3. Mr. Zecher assured the Committee that the checks represented funds from
5 individual partners of partnerships that were affiliated with the Kushner Companies. *Id.* On
6 February 22, 2001, Mr. Zecher provided the Committee with a letter, dated June 17, 1999.¹² It
7 appears the letter was intended to be a cover letter for the contributions,¹³ which explained that
8 the corporate name above the signature line on the checks represented managing partners of the
9 various partnerships and that the funds were to be allocated to individual partners.

10 Aside from the attribution schedule provided by Kushner Companies, there is no
11 indication that any of the 38 individuals are partners or that their individual partnership accounts
12 were charged for the contributions. A preliminary review of the names of the contributors, which
13 reveals that at least half of the contributors are relatives of Mr. Kushner and at least three are
14 Kushner Companies executives or employees, also casts doubt as to whether these were bona
15 fide partners. Given the likelihood that the checks were signed by Mr. Kushner and originated
16 from Kushner Companies and given the absence of evidence that the partners of the various

¹¹ Only 4 of the 39 contributors replied to the Committee's request. The letters, dated February 9, 2000, were signed and returned by respondents Melvin Gebroe, Alan Hammer, Murray Kushner and Len Witman on February 16, 2000. The Committee subsequently submitted the \$4,000 for matching funds.

¹² The letter, dated June 17, 1999, corresponding to the day the contributions were given to the Committee, was not included in the original documents submitted to Audit staff for review. Kushner Companies faxed the letter to the Committee on February 22, 2001. A paragraph from this same letter was sent by Kushner Companies to Mr. Nichols on February 13, 2001 in response to his questions about the corporate entities noted on the face of most of the checks. *See* Attachment 1 at 10-13.

¹³ The letter reads, "I enclose 41 checks in the total amount of \$40,000 made payable to the Bill Bradley for President, Inc. along with an allocation schedule." Attachment 1 at 13.

1 partnerships intended to make contributions, the Office of General Counsel believes that Kushner
2 Companies and/or Mr. Kushner may well have been the genuine source of the contributions.

3 In verifying the status of these purported partnerships through Dun and Bradstreet
4 business research service, the Audit Division obtained relevant information concerning the
5 number and identity of partners of some of the partnerships. For instance, Dun and Bradstreet
6 lists the number of employees of New Puck, L.P. as "two which includes partners." However,
7 seven individuals have made contributions to various committees as partners of New Puck, L.P.¹⁴
8 Likewise, although reports list the number of employees of Sixty Six West Associates as "1
9 which includes partners," two individuals have made contributions as partners.¹⁵ Other entities
10 with individuals making contributions that appear to exceed the reported number of members
11 include Elmwood V. Associates L.P. and Pheasant Hollow Associates. In addition, Dun and
12 Bradstreet reports indicate that Oakwood Gardens is a for-profit corporation, incorporated since
13 June 12, 1962. Nonetheless, respondent Rae Kushner made a contribution to the Committee as a
14 partner of Oakwood Gardens.

15 The above discrepancies between the reported number of partners and persons
16 contributing through Kushner partnerships suggest that the partnerships may have been used to
17 funnel contributions to political committees. In order to verify the legitimacy of these

¹⁴ According to FEC disclosure reports, New Puck contributors include respondent George Gellert (DNC Services Corporation), respondent Charles Kushner (Bill Bradley for President Committee), respondent Rae Kushner (Hillary Rodham Clinton for US Senate Committee), Seryl Kushner (Friends of Giuliani Exploratory Committee), respondent Esther Schulder (Torricelli for US Senate), William Schulder (Torricelli for US Senate) and respondent Richard Stadtmauer (Dear 2000, Inc.).

¹⁵ Sixty Six West Associates contributors include Melvin Gebroe (Bill Bradley for President, Friends of Giuliani Exploratory Committee) and Morris Hammer (Bill Bradley for President Committee, Hillary Rodham Clinton for US Senate, Torricelli for US Senate and Gore 2000).

1 contributions, it is necessary to determine that the contributors were in fact bona fide partners;
2 that they agreed to make political contributions through the partnerships; and that partner profits
3 were proportionately reduced. 11 C.F.R. § 110.1(e).

4 In addition, some of the business entities involved in these transactions may be limited
5 liability companies ("LLC").¹⁶ According to the regulations, LLCs are treated consistent with the
6 tax treatment they select under the Internal Revenue Code. 11 C.F.R. § 110.1(g). Thus, a
7 contribution by an LLC is permissible, and is treated like a partnership contribution, unless the
8 LLC elects tax treatment as a corporation. *See* 11 C.F.R. § 110.1(g)(2). However, the
9 contributions at issue were made on June 16 and 17, 1999, approximately one month before the
10 new regulations governing LLCs went into effect.¹⁷ Therefore, whether contributions from these
11 LLCs are permitted depends upon the Commission rules in effect at the time the contributions to
12 the Committee were made.

13 Prior to the adoption of the LLC regulations, the Commission determined that as long as
14 state law did not classify LLCs as corporations, they were to be treated as "persons" under the
15 Act pursuant to 2 U.S.C. § 431(11). *See* Advisory Opinions ("AO") 1998-15, 1997-17, 1997-4.
16 New Jersey state law provides that an LLC of two or more members "shall be classified as a
17 partnership unless classified otherwise for federal income tax purposes, in which case the limited
18 liability company shall be classified in the same manner as it is classified for federal income tax
19 purposes." N.J. Stat. Ann. § 42:2B-69 (West 2001). Thus, New Jersey state law follows the

¹⁶ *See infra* note 3.

¹⁷ The final LLC regulations were transmitted to Congress on July 12, 1999.

1 same guidelines as the Commission's new regulations and relies upon an LLC's election under
2 the federal tax laws.

3 Barring an election of corporate status, these LLCs could make contributions within the
4 limits of the Act and without dual attribution of the amounts to the LLC's members. *See*
5 2 U.S.C. §§ 413(11) and 441a(a)(1)(A); 11 C.F.R. §§ 100.10 and 110.1(e). However, the
6 Commission's allowance for contributions by LLCs was premised on the assumption that none of
7 the individual members of the LLCs were entities prohibited by the Act from contributing. *See*
8 2 U.S.C. §§ 441b, 441c and 441e. Thus, the participation of even one corporation, federal
9 contractor, or foreign national as an LLC member would taint all LLC contributions as unlawful.
10 *See* AOs 1998-15, 1997-17, 1997-4. In the present instance, it appears that 38 of the 40
11 contributing entities have corporate managing partners. *See* Attachment 1 at 11, 13. In addition,
12 research has revealed a majority of the contributing entities are managed, controlled or owned by
13 Kushner Companies or Mr. Kushner. *See infra* note 4.

14 Therefore, the Office of the General Counsel recommends that the Commission find
15 reason to believe that Kushner Companies, Charles Kushner as Chairman, Scott Zecher as Chief
16 Operating Officer, and Richard Stadtmauer and Jeffrey Freireich, as managers, violated 2 U.S.C.
17 § 441b(a) and 11 C.F.R. § 114.2(a).¹⁸

18 3. Corporate Conduit and Corporate Facilitation

19 Corporations are explicitly forbidden from acting as conduits for contributions and from
20 using corporate resources to engage in fundraising activities. 11 C.F.R. § 110.6(b)(2); 11 C.F.R.

¹⁸ At this time, this Office is unable to identify the corporate members of the contributing LLCs. *See infra* note 3. Therefore, this Office does not make a recommendation with respect to those entities.

§ 114.2(f). When a corporation facilitates the making of a contribution by a person to a political committee, that action is in itself a contribution by the corporation to that same political committee. Examples of facilitation include directing subordinates to plan, organize, or carry out a fundraising project as a part of their work responsibilities using corporate resources and providing materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes or other similar items. 11 C.F.R. § 114.2(f)(2).

It appears that Kushner Companies and Mr. Kushner assisted employees and business associates with making federal campaign contributions, and that corporate subordinates were involved in collecting and forwarding those contributions. Committee records indicate Mr. Kushner may have obtained these contributions in connection with a March 1999 fundraising event. Apparently, Mr. Kushner was assisted in his efforts by Scott Zecher, the Chief Operating Officer. Mr. Zecher forwarded the checks to the Committee and was responsible thereafter for all communications concerning the contributions. Attachment 1 at 3. In addition, Mr. Zecher sent a letter, signed in his official capacity and printed on corporate letterhead, to accompany the contributions.¹⁹ *Id.* at 13. *See* MUR 5020 (the actual collecting and forwarding of contributions represents corporate facilitation).

This Office recommends the Commission find reason to believe that Kushner Companies, Charles Kushner as Chairman, Scott Zecher as Chief Operating Officer, and Richard Stadtmauer and Jeffrey Freireich, as managers, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(f) and 110.6(b)(2)(ii) by facilitating the making of prohibited corporate contributions.

¹⁹ As noted previously, the checks were printed by the same equipment, signed by the same person, drawn from accounts held by a Kushner Companies bank, and delivered in one bundle by Kushner Companies.

1 **4. Excessive Contributions**

2 The Act prohibits individuals from making contributions aggregating more than \$25,000
3 in any calendar year. 2 U.S.C. § 441a(a)(3). Any contribution made to a candidate with respect
4 to a particular election, but made in a non-election year, is considered to be made during the
5 calendar year in which the election is held. 11 C.F.R. § 110.5(c)(1)-(2). Based on a review of
6 the campaign disclosure database, it appears that 11 of the 39 contributors exceeded their annual
7 \$25,000 contribution limitation. Thus, this Office recommends that the Commission find reason
8 to believe that Barbara Gellert (\$31,000), George Gellert (\$62,500), Charles Kushner (\$43,000),
9 Dara Kushner (\$33,000), Jared Kushner (\$41,000), Murray Kushner (\$45,900), Rae Kushner
10 (\$27,000), Linda Laulicht (\$49,000), Pamela Laulicht (\$27,000), Mel Scheinerman (\$35,000)
11 and Richard Stadtmauer (\$36,000) violated 2 U.S.C. § 441a(a)(3) and 11 C.F.R. § 110.5(b) for
12 making contributions in excess of their limitation in 2000. *See* MURs 4568, 4633 and 4650.

13 Furthermore, if a person collects contributions as a conduit, and exercises “direction and
14 control” over the making of the contribution, the contribution is chargeable to the conduit’s limit
15 for the recipient candidate in addition to the limit of the actual donor. 11 C.F.R. § 110.6(d)(2).
16 Kushner Companies and Mr. Kushner apparently facilitated the making of the contributions by
17 collecting and forwarding the checks that were made in the name of close relatives, partners, and
18 employees. Also, many, if not all, of the contributing partnerships and LLCs were controlled,
19 managed, or owned by Kushner Companies and Mr. Kushner, a factor facilitating “direction and
20 control.”²⁰ As such, the contributions may be chargeable to Mr. Kushner’s individual

²⁰ “In the past, the Commission has considered such factors as whether the conduit controlled the amount and timing of the contribution, and whether the conduit selected the intended recipient.” Explanation and Justification for 11 C.F.R. § 110.6, 54 Fed. Reg. 34,108 (Aug. 17, 1989).

1 contribution limit. 11 C.F.R. § 110.6(d)(2). Therefore, this Office recommends that the
2 Commission find reason to believe that Mr. Kushner further exceeded his contribution limit and
3 violated 2 U.S.C. § 441a(a) and 11 C.F.R. § 110.6(d)(2) by exercising "direction and control"
4 over contributions to Bradley for President, Inc. See MURs 2314 and 4197.

5 **5. Contribution in the Name of Another**

6 Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another
7 person or knowingly permit his name to be used to effect such a contribution, and no person shall
8 knowingly accept a contribution made by one person in the name of another person. 11 C.F.R.
9 § 110.4(b)(1). A person who gives anything of value which was provided by another person
10 without disclosing the source to the recipient candidate or who makes a contribution and
11 attributes the source as someone else, when in fact the contributor is the source, has made a
12 contribution in the name of another. 11 C.F.R. § 110.4(b)(2).

13 The contributions to the Committee were attributed to 39 individual "partners" of 40
14 different business entities affiliated with Kushner Companies. However, there is no evidence to
15 confirm that these 39 people are partners in the partnerships, that they actually authorized the
16 contributions, or that their individual partnership accounts were charged. The Audit staff
17 attempted to verify the status of these partnerships through Dun and Bradstreet and the Secretary
18 of the State of New Jersey. Attachment 1 at 3. The Audit staff was unable to verify that the
19 named contributors were partners in these businesses. However, research by this Office revealed
20 that a large portion of the contributors were either Kushner employees or family relatives.

21 According to the *New Jersey Jewish News* article dated March 19, 1998, respondents
22 Murray Kushner, Linda Laulicht and Esther Schulder are Charles Kushner's siblings.

EST 04:43:55

Attachment 6 at 2. The article also indicates that respondent Rae Kushner is Charles Kushner's mother. *Id.* Other news sources indicate respondents Dara Kushner, Nicole Kushner and Josh Kushner are Charles Kushner's children, and that respondents Marc Kushner, Jonathan Kushner, Melissa Serwitz, Pamela Laulicht, Shellie Laulicht, Jacob Schulder, Jessica Schulder and Ruth Schulder are Mr. Kushner's nieces and nephews. Likewise, research has revealed that respondents George Gellert, Richard Stadtmauer and Jeffrey Freireich are employees of Kushner Companies businesses. The blood and/or employment relation of other respondents to Mr. Kushner is unknown at this time.

Given Kushner Companies and Mr. Kushner's control over the contributing partnerships and/or LLCs, Mr. Kushner's relation to the named contributors, and the fact that the contributions appear to be signed by the same individual, were written for the same amount, and delivered on the same day, it is likely that the contributions were made in the name of another. Therefore, this Office recommends the Commission find reason to believe that Kushner Companies and Charles Kushner violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i). Furthermore, because Scott Zecher forwarded the checks to the Committee and was responsible for all communications regarding the contributions, this Office also recommends the Commission find reason to believe Scott Zecher violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii) for assisting in the making of a contribution in the name of another.

The involvement of various Kushner Companies employees and relatives of Mr. Kushner appears to have varied. However, the majority of these individuals made contributions to other federal campaign committees under similar circumstances (simultaneous delivery of checks containing identical signatures, common addresses, and corporate names). *See discussion, supra*

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1 section II.B.3.a. The presence of this large-scale common bundling pattern suggests that
2 individual contributors may have allowed their names to be used to effect contributions in the
3 name of another.²¹ Therefore, the Office of General Counsel also recommends the Commission
4 find reason to believe that Abby Jo Ages, Bernard Eichler, Jeffrey Freireich, Melvin Gebroe,
5 Barbara Gellert, George Gellert, Bert Ghavami, Stuart Gladstone, Alan Hammer, Morris
6 Hammer, Seth Kaplowitz, Dara Kushner, Jonathan Kushner, Joshua Kushner, Marc Kushner,
7 Murray Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Shellie
8 Laulicht, Heywood Saland, Mel Scheinerman, Gene Scheinerman, Mark Schenkman, Esther
9 Schulder, Jacob Schulder, Jessica Schulder, Ruth Schulder, Melissa Serwitz, Steven Silverman,
10 John Sims, Richard Stadtmauer, Alex Tarapchak, Ralph Tawil, Jr., Ralph Tawil, Sr., Len
11 Whitman and Edith Wulack violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv) for
12 knowingly permitting their names to be used to make a contribution in the name of another.

13 Furthermore, because the partnerships and LLCs appear to be corporate instruments,
14 whose members may have acquiesced in Mr. Kushner's activities, this Office recommends the
15 Commission find reason to believe that the 39 contributing partnerships violated 2 U.S.C. § 441f
16 and 11 C.F.R. § 110.4(b)(1)(iii) by knowingly assisting in making contributions in the name of
17 another.

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²¹ Through investigation, this Office will seek to ascertain which individuals may have had a more active role in Kushner Companies' contribution activities. This Office may, at a later time, recommend that the Commission make additional findings and/or enter into pre-probable cause conciliation with those Respondents.

B. Liability of Campaign Committees

1. Law

Section 441b(a) makes it illegal for political committees knowingly to accept or receive contributions from prohibited entities such as corporations. 2 U.S.C. § 441(b)(a). Furthermore, contributions that present genuine questions as to whether they were made by corporations may be, within ten days of the treasurer's receipt, either deposited into a campaign depository under 11 C.F.R. § 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. The treasurer shall make at least one written or oral request for evidence of the legality of the contribution. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(1).

Pursuant to 2 U.S.C. § 434(a)(1), the treasurer of each political committee shall file reports of receipts and disbursements in accordance with certain provisions. Such reports shall include, *inter alia*, the identification of "each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year . . . together with the date and amount of any such contribution." 2 U.S.C. § 434(b)(3)(A). Where an individual is concerned, the term "identification" means "the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer." 2 U.S.C. § 431(13)(A). A treasurer must report all contributor information not provided by the

contributor, but in the political committee's possession regarding contributor identifications.

11 C.F.R. § 104.7(b)(3).

Where a treasurer does not have the requisite information, the reporting requirements will be deemed to have been met when the treasurer shows that "best efforts" have been used to obtain, maintain and submit the required information. 11 C.F.R. § 104.7(a). With regard to information concerning the "identification" of a contributor, a treasurer is required to make at least one effort after the receipt of the contribution to obtain the missing information. 11 C.F.R. § 104.7(b)(2). This effort must consist of either a written request sent to the contributor or an oral request to the contributor documented in writing, and must be made no later than 30 days after receipt of the contribution. *Id.*

2. Bill Bradley for President, Inc.

The Committee received 40 business checks totaling \$40,000 from Kushner Companies on June 22, 1999. Committee processing codes indicate the Committee was aware the contributions may have been solicited by Mr. Kushner and were related to a single fundraising event. Questions concerning the integrity of the contributions were apparent from the signature on the checks, the corporate name printed on the face of the checks, the reported addresses of the contributors and the method of delivery. Nonetheless, the Committee chose to deposit the checks on June 25, 1999, as permitted under 11 C.F.R. § 103.3(a), but it failed to take appropriate action to verify the legality of the contributions. 11 C.F.R. § 103.3(b)(1).

Peter Nichols, the Committee's Assistant Treasurer, told the Audit staff that he had questioned these contributions. Attachment 1 at 2. Under 11 C.F.R. § 103.3(b), if a questionable contribution was deposited, Mr. Nichols was required to use his best efforts to determine the

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1 legality of the contribution, including at least one written or oral request for evidence. Mr.
2 Nichols did not use “best efforts” since he only sent follow-up letters to determine the eligibility
3 of the contributions for matching funds. These verification letters were mailed in February 2000,
4 more than *seven months* after the Committee first received the checks.²² Under Commission
5 regulations, if the contributions could not be determined to be legal, Mr. Nichols and Mr.
6 Theodore Wells, as Treasurer, were required to refund the contributions within *thirty days* of
7 their receipt. 11 C.F.R. § 103.3(b)(1) (emphasis added). In addition to the Committee’s failure
8 to follow the thirty-day refund requirement, it also failed to later return the contributions when no
9 further information about the legality of the contributions was provided.

10 In response to its matching fund letters, the Committee received four verification letters.
11 The signed responses provided employer information and personal addresses different from those
12 initially reported by the four contributors. Thus, it appears that the Committee and its treasurer
13 had sufficient information to reasonably conclude that the addresses and employment
14 information originally given for the other 35 contributors were incorrect. Yet, the Committee did
15 nothing to obtain correct contributor information. 2 U.S.C. § 431(13)(A). Mr. Nichols did
16 contact Scott Zecher, Chief Operating Officer of Kushner Companies, but only in response to
17 questions posed by Audit staff. Attachment 1 at 3. Mr. Zecher merely provided the Committee
18 with a letter, written on Kushner Companies letterhead, explaining why corporate general
19 partners were listed on the face of the contribution checks. *Id.* Thus, it appears the Committee

²² Although a committee treasurer cannot scrutinize every contribution when receiving thousands per day, when a set of contributions is received from a corporation on the same day with the same signature on all identically printed business checks, it should raise some concerns and trigger the verification process of 11 C.F.R. § 103.3(b) on the part of the treasurer. By questioning the contributions, Peter Nichols was apparently aware of the dubious nature of these Kushner contributions but he did not follow the steps outlined in 11 C.F.R. § 103.3(b).

1 failed to report the employers and mailing addresses of contributors and failed to employ "best
2 efforts" to verify the contributions. 11 C.F.R. §§ 104.7(a), 104.7(b)(2).

3 The Committee appears to have violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv)
4 by knowingly accepting a contribution in the name of another.²³ Lastly, given the relationship of
5 the contributing partnerships and LLCs to Kushner Companies, as well as the role of Mr.
6 Kushner and Kushner Companies in collecting and forwarding the contributions, it appears the
7 Committee may have violated section 441b's prohibition against accepting "anything of value"
8 from a corporation. *See Federal Election Commission v. Friends of Jane Harman*, 59 F.Supp.2d
9 1046, 1056 (C.D.Cal. 1999) (committee violated section 441b(a) by accepting individual
10 contributions collected by a corporate intermediary).

11 Therefore, this Office recommends the Commission find reason to believe that Bill
12 Bradley for President, Inc. and Theodore V. Wells, as Treasurer, violated 2 U.S.C. §§ 441b(a),
13 441f, 434(b)(3)(A); and 11 C.F.R. §§ 114.2(d), and 110.4(b)(1)(iv).

²³ In MUR 5033, the Commission voted unanimously to take no action against the Alexander for President Committee for receiving contributions in the name of another through a corporate-reimbursement scheme. The Alexander for President Committee did not have actual knowledge of the illegal nature of the contributions. The Commission held that the facts were insufficient to justify a reason to believe finding against the Alexander for President Committee and noted that, "The fact that an authorized committee receives contributions from individuals employed by the same company, for the same amount, and on the same date, without other factors, is not sufficient to find reason to believe that a violation [by the Committee] has occurred." MUR 5033, Statement of Reasons, at 2 (June 13, 2001). Unlike in MUR 5033, the Bradley for President treasurer accepted bundled checks transmitted by a corporation that were facially questionable. Nevertheless, the Committee treasurer did not take action as required by

1 **3. Liability of Other Campaign Committees**

2 **a. Corporate Contributions, Contributions in the Name of Another**
3 **and Reporting Contributor Information**

4
5 Each of the committees listed in the chart below also received contributions from
6 individuals and partnerships affiliated with Kushner Companies.²⁴ The committees may have
7 violated section 441b's prohibition against accepting "anything of value" from a corporation and
8 may have accepted contributions made in the name of another. 2 U.S.C. §§ 441b(a), 441f.
9 However, this Office does not have specific information on all of the committees listed regarding
10 the method of delivery of the contributions. Nevertheless, the bundling technique used by
11 Kushner Companies to make contributions to the Bradley Committee was also apparently used in
12 the Corzine, Giuliani, Torricelli and New York mayoral campaigns. *See* Attachments 2, 5.
13 Furthermore, in both Schumer '98 and Gore 2000, this Office has specific evidence that the same
14 pattern (simultaneous delivery of checks containing identical signatures, common addresses, and
15 corporate names) was utilized.

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11 C.F.R. § 103.3(b). Therefore, these other factors justify a reason to believe finding that Bradley for President violated 2 U.S.C. § 441f.

²⁴ This Office identified 5 additional committees that received Kushner-affiliated contributions. However, this Office chose not to include the committees as respondents. These committees include Dear 2000, Inc. (\$4,000), Lapolla for Congress, Inc. (\$10,000), Lautenberg Committee 1994 (\$10,000), Pascrell for Congress, Inc. (\$9,900), and Senn 2000 (\$7,000). This Office believes the negligible contribution amounts imply that the committees were less likely to know of a violation. Furthermore, exclusion of these committees conserves valuable resources and allows the Commission to focus its investigation on more egregious violations.

Committee	Date	Amount
Committee for Working Families	a) June 30, 1999 b) May 2, 2000	a) \$45,000 b) \$90,000
Corzine 2000, Inc.	a) December 30, 1999 b) February 24, 2000 c) March 6, 2000	a) \$25,000 b) \$28,000 c) \$18,000
DNC Services Corp/DNC	a) July 24-25, 2000 b) August 3-17, 2000	a) \$89,000 b) \$75,000
Friends of Giuliani Exploratory Committee	a) March 31, 1999 b) April 2, 1999 c) May 27, 1999 d) December 29, 1999	a) \$63,000 b) \$12,000 c) \$24,000 d) \$35,000
Friends of Schumer	April 18, 2000	\$25,000
Gore 2000 Inc.	a) September 30, 1999 b) December 23, 1999 b) December 30, 1999 c) February 10, 2000	a) \$8,000 b) \$10,000 b) \$9,000 c) \$24,000
Hillary Rodham Clinton for US Senate	a) June 29, 2000 b) November 7, 2000	a) \$68,000 b) \$10,000
Lautenberg 2000 Committee	a) December 5, 1997 b) April 15-18, 1999	a) \$34,000 b) \$8,000
Lautenberg for US Senate	a) December 5, 1997 b) December 10, 1997	a) \$3,000 b) \$20,000
Susan Bass Levin for Congress	a) March 31, 2000 b) June 30, 2000	a) \$11,000 b) \$8,000
Menendez for Congress	a) March 15-17, 2000 b) April 24, 2000	a) \$13,000 b) \$5,000
Schumer '98	July 29, 1998	\$24,000 ²⁵
Torricelli for US Senate, Inc.	a) January 22, 1999 b) February 19, 1999	a) \$18,000 b) \$39,000

1

2 The presence of this common pattern in fundraising for the above-mentioned committees

3 raises the possibility that Kushner Companies used the same method in their contributions to

4 other committees. In light of Kushner Companies' established contribution pattern, questions

²⁵ On December 6, 2001 in MUR 5238, the Commission found reason to believe that Schumer '98 and Steven D. Goldenkranz, as treasurer, accepted excessive contributions in violation of 2 U.S.C. § 441a(f); failed to file 48-hour notices and filed 48-hour notices late in violation of 2 U.S.C. § 434(a)(6)(A); and failed to file accurate reports in violation of 2 U.S.C. § 434(b). The Commission also found that four Kushner business entities, Bruckner Plaza Associates, Puck Associates, Q.E.M. Associates, Quail Ridge Associates, and Wallkill Apartments Associates, L.P., made excessive contributions to Schumer '98 in violation of 2 U.S.C. § 441a(a)(1)(A).

1 concerning the integrity of the contributions may have been apparent from the signature on the
2 checks, the corporate name printed on the face of the checks, and the same reported address for
3 each contributor. However, this Office does not have any information that the treasurers of these
4 recipient committees questioned the contributions or took action to obtain correct contributor
5 information. 2 U.S.C. § 434(b)(3)(A).

6 Therefore, this Office recommends the Commission find reason to believe that
7 Committee for Working Families and Paul Levinsohn, as Treasurer; Corzine 2000, Inc. and Terry
8 Turko, as Treasurer; DNC Services Corporation/DNC and Andrew Tobias, as Treasurer; Friends
9 of Giuliani Exploratory Committee and John H. Goss, as Treasurer; Friends of Schumer and
10 Steven D. Goldenkranz, as Treasurer; Schumer '98 and Steven D. Goldenkranz, as Treasurer;
11 Gore 2000, Inc. and Jose Villareal, as Treasurer; Hillary Rodham Clinton for US Senate
12 Committee and Shelly Moskua, as Treasurer; Lautenberg 2000 Committee and A.H. Nechemie,
13 as Treasurer; Lautenberg for US Senate Committee and Alan K. Bloom, as Treasurer; Susan Bass
14 Levin for Congress and Patrick Brennan, as Treasurer; Menendez for Congress and Donald
15 Scarcini, as Treasurer; and Torricelli for US Senate, Inc. and Angelo Genora, Esq., as Treasurer,
16 accepted corporate contributions in violation of 2 U.S.C. § 441(b)(a) and 11 C.F.R. § 114.2(d);
17 knowingly accepted contributions made in the name of another in violation of 2 U.S.C. § 441f
18 and 11 C.F.R. § 110.4(b)(1)(iv); and failed to report all contributor information in violation of
19 2 U.S.C. § 434(b)(3)(A).

20 **b. Excessive Contributions**

21 This Office identified three committees which may have accepted excessive contributions
22 in violation of the contribution limitations in 2 U.S.C. § 441a(a)(1)(B). It appears that Friends of

Giuliani Exploratory Committee, Torricelli for U.S. Senate, Inc. and Lautenberg 2000 Committee accepted excessive contributions totaling \$27,000, \$5,000 and \$1,000, respectively. The contributions were attributed to 29 partnerships affiliated with Kushner Companies.²⁶ Therefore, this Office recommends the Commission find reason to believe that Friends of Giuliani Exploratory Committee and John H. Goss, as Treasurer; Lautenberg 2000 Committee and A.H. Nechemie, as Treasurer; and Torricelli for US Senate, Inc. and Angelo Genora, Esq., as Treasurer violated 2 U.S.C. §441a(f) by knowingly accepting excessive contributions. Although the Committees may have violated 2 U.S.C. § 441a(f), investigation into these activities requires significant Commission resources, and this Office believes it should exercise its discretion by focusing on the other aspects of this matter and recommends taking no action with respect to this issue. Thus, the Office of General Counsel recommends that the Commission take no further action against the Committees.

III. INVESTIGATION

With respect to Kushner Companies and its associated partnerships, limited liability companies, and corporations, this Office will seek all letters, memos, bank statements, and records of oral and written communications related to the fundraising effort. Because of this Office's desire to proceed expeditiously in this matter, this Office recommends that the Commission issue the attached Subpoena to Produce Documents and Order to Submit Written

²⁶ Partnerships making excessive contributions include 135 Montgomery Associates, 176 Millburn Associates, 836 Avenue Associates, BP Developers, Brick Building Associates LP, Bruckner Plaza Associates, Colfax Manor Associates, Constantine Village Associates, East Brunswick Corp. Center, Edgewater Apartments Associates, Elmwood V. Associates LP, Florham Associates, Gebroe-Hammer Associates, Hackettstown Square Associates, Harbor Island Realty, Long Brook Associates, Montgomery Associates, Mt. Arlington Apartments Associates LP, Oakwood Garden Developers, Pitney Farms Associates, Quail Ridge Associates, Sixty Six West Associates, Sod Farm Associates, Sparta Building Associates, Township Associates, Walkill Apartments Associates and Westminster Sales and Marketing.

1 Answers. Attachment 7. The information will help this Office determine the legal status of
2 Kushner business entities, whether the contributors were bona fide partners who intended to
3 make contributions, and whether those contributions originated from bank accounts they
4 controlled. Attached are sample subpoenas in the event this Office later deems it necessary to
5 obtain information from Kushner Companies banks. Attachments 8 and 9.

6 This Office will seek to conduct informal interviews with some individual contributors
7 and Kushner Companies personnel.²⁷ On a case-by-case basis, depending on the responsiveness
8 of individual contributors and personnel, this Office proposes to follow-up with the attached
9 sample Subpoena to Produce Documents and Order to Submit Written Answers. Attachment 10.
10 At this time, this Office does not seek to subpoena any of the political Committees. Rather, this
11 Office recommends awaiting the Committees' responses to the reason to believe finding as well
12 as responses to the subpoena to Kushner Companies.

13 Once the information obtained is properly analyzed, this Office may recommend
14 appropriate subpoenas for depositions to the Commission. Accordingly, this Office recommends
15 that the Commission approve the proposed Subpoenas to Produce Documents and Orders to
16 Submit Written Answers, and authorize informal interviews as deemed necessary.

17 **IV. RECOMMENDATIONS**

- 18 1. Open a Matter Under Review;
- 19 2. Find reason to believe that Kushner Companies made corporate contributions
20 in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a); acted as a
21 corporate conduit in violation of 11 C.F.R. § 110.6(b)(2)(ii); facilitated the
22 making of contributions in violation of 11 C.F.R. § 114.2(f); and made

²⁷ Informal interviews for individual contributors and lower level personnel might afford greater flexibility of action and investigative options than formal subpoenas. This Office could resort to subpoenas in the event informal interviews are later deemed insufficient.

- 1 contributions in the name of another in violation of 2 U.S.C. § 441f and
2 11 C.F.R. § 110.4(b)(1)(i);
3
4 3. Find reason to believe that Charles Kushner consented to corporate
5 contributions in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a);
6 acted as a corporate conduit in violation of 11 C.F.R. § 110.6(b)(2)(ii);
7 facilitated the making of contributions in violation of 11 C.F.R. § 114.2(f);
8 made excessive contributions in violation of 2 U.S.C. § 441a(a) and 11 C.F.R.
9 § 110.6(d)(2); and made contributions in the name of another in violation of
10 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i);
11
12 4. Find reason to believe that Scott Zecher consented to corporate contributions
13 in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a); acted as a
14 corporate conduit in violation of 11 C.F.R. § 110.6(b)(2)(ii); facilitated the
15 making of contributions in violation of 11 C.F.R. § 114.2(f); and knowingly
16 assisted in the making of contributions in the name of another in violation of
17 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii);
18
19 5. Find reason to believe that Richard Stadtmauer and Jeffrey Freireich
20 consented to corporate contributions in violation of 2 U.S.C. § 441b(a) and
21 11 C.F.R. § 114.2(a); acted as corporate conduits in violation of 11 C.F.R.
22 § 110.6(b)(2)(ii); facilitated the making of contributions in violation of
23 11 C.F.R. § 114.2(f); and knowingly permitted their names to be used to make
24 a contribution in the name of another in violation of 2 U.S.C. § 441f and
25 11 C.F.R. § 110.4(b)(1)(iv).
26
27 6. Find reason to believe that Barbara Gellert, George Gellert, Charles Kushner,
28 Dara Kushner, Jared Kushner, Murray Kushner, Rae Kushner, Linda Laulicht,
29 Pamela Laulicht, Mel Scheinerman and Richard Stadtmauer made
30 contributions exceeding the annual limitation in violation of 2 U.S.C.
31 § 441a(a)(3) and 11 C.F.R. § 110.5(b).
32
33 7. Find reason to believe that 135 Montgomery Associates, 836 Avenue
34 Associates, BP Developers, L.P., Brick Building Associates, L.P., Bruckner
35 Plaza Associates, Colfax Manor, L.P., College Park Associates, L.P.,
36 Constantine Village Associates, Dara Building Associates, L.P., East
37 Brunswick Corporate Center, Edgewater Apartments Associates, L.P.,
38 Elmwood V. Associates, L.P., General Green Village Associates, Glen Ellen
39 Associates, L.P., Hackettstown Square Associates, Harbor Island Realty
40 Associates, L.P., Kent Gardens Associates, Kushner Seiden Madison 64th,
41 L.P., LMEC Associates, L.P., Millburn Associates, L.P., Montgomery
42 Associates, Mt. Arlington Apartments Associates, L.P., New Puck, L.P.,
43 Oakwood Garden Developers, L.P., Pheasant Hollow Associates, Pitney

1 Farms Associates, L.P., Q.E.M. Associates, L.P., Quail Ridge Associates,
2 L.P., Randolph Building Associates, L.P., Reike, L.P., Riverside Park
3 Industrial Associates, L.P., Rolling Gardens Associates, Seven S.L.P.
4 Associates, L.P., Sixty Six West Associates, Sod Farms Associates, L.P.,
5 Sparta Building Associates, L.P., Township Associates, Wallkill Apartments
6 Associates, L.P., West Brook Associates, L.P. and Westminster Sales &
7 Marketing, L.P. knowingly assisted in making contributions in the name of
8 another in violation of 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii);
9

- 10 8. Find reason to believe that Abby Jo Ages, Bernard Eichler, Melvin Gebroe,
11 Barbara Gellert, George Gellert, Bert Ghavami, Stuart Gladstone, Alan
12 Hammer, Morris Hammer, Seth Kaplowitz, Dara Kushner, Jonathan Kushner,
13 Joshua Kushner, Marc Kushner, Murray Kushner, Nicole Kushner, Rae
14 Kushner, Linda Laulicht, Pamela Laulicht, Shellie Laulicht, Heywood Saland,
15 Mel Scheinerman, Gene Scheinerman, Mark Schenkman, Esther Schulder,
16 Jacob Schulder, Jessica Schulder, Ruth Schulder, Melissa Serwitz, Steven
17 Silverman, John Sims, Alex Tarapchak, Ralph Tawil, Jr., Ralph Tawil, Sr.,
18 Len Whitman and Edith Wulack knowingly permitted their names to be used
19 to make contributions in the name of another in violation of 2 U.S.C. § 441f
20 and 11 C.F.R. § 110.4(b)(1)(iv).
21

- 22 9. Find reason to believe that Bill Bradley for President, Inc. and Theodore V.
23 Wells, as Treasurer, accepted corporate contributions in violation of 2 U.S.C.
24 § 441(b)(a) and 11 C.F.R. § 114.2(d); knowingly accepted contributions made
25 in the name of another in violation of 2 U.S.C. § 441f and 11 C.F.R.
26 § 110.4(b)(1)(iv); and failed to report all contributor information in violation
27 of 2 U.S.C. § 434(b)(3)(A).
28

- 29 10. Find reason to believe that Committee for Working Families and Paul
30 Levinsohn, as Treasurer; Corzine 2000, Inc. and Terry Turko, as Treasurer;
31 DNC Services Corporation/DNC and Andrew Tobias, as Treasurer; Friends of
32 Giuliani Exploratory Committee and John H. Goss, as Treasurer; Friends of
33 Schumer and Steven D. Goldenkranz, as Treasurer; Schumer '98 and Steven
34 D. Goldenkranz, as Treasurer; Gore 2000, Inc. and Jose Villareal, as
35 Treasurer; Hillary Rodham Clinton for US Senate Committee and Shelly
36 Moskua, as Treasurer; Lautenberg 2000 Committee and A.H. Nechemie, as
37 Treasurer; Lautenberg for US Senate Committee and Alan K. Bloom, as
38 Treasurer; Susan Bass Levin for Congress and Patrick Brennan, as Treasurer;
39 Menendez for Congress and Donald Scarcini, as Treasurer; and Torricelli for
40 US Senate, Inc. and Angelo Genora, Esq., as Treasurer, accepted corporate
41 contributions in violation of 2 U.S.C. § 441(b)(a) and 11 C.F.R. § 114.2(d);
42 knowingly accepted contributions made in the name of another in violation of

2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv); and failed to report all contributor information in violation of 2 U.S.C. § 434(b)(3)(A).

11. Find reason to believe that Friends of Giuliani Exploratory Committee and John H. Goss, as Treasurer; Lautenberg 2000 Committee and A.H. Nechemie, as Treasurer; and Torricelli for US Senate, Inc. and Angelo Genora, Esq., as Treasurer knowingly accepted excessive contributions in violation of 2 U.S.C. §441a(f) but take no further action.

12. Approve deposition and document subpoenas to:

a. Kushner Companies and its associated partnerships, limited liability companies, and corporations.

b. Valley National Bank and Norcrown Bank.

c. Abby Jo Ages, Bernard Eichler, Jeffrey Freireich, Melvin Gebroe, Barbara Gellert, George Gellert, Bert Ghavami, Stuart Gladstone, Alan Hammer, Morris Hammer, Seth Kaplowitz, Charles Kushner, Dara Kushner, Jonathan Kushner, Joshua Kushner, Marc Kushner, Murray Kushner, Nicole Kushner, Rae Kushner, Linda Laulicht, Pamela Laulicht, Shellie Laulicht, Heywood Saland, Mel Scheinerman, Gene Scheinerman, Mark Schenkman, Esther Schulder, Jacob Schulder, Jessica Schulder, Ruth Schulder, Melissa Serwitz, Steven Silverman, John Sims, Richard Stadtmauer, Alex Tarapchak, Ralph Tawil, Jr., Ralph Tawil, Sr., Len Whitman, Edith Wulack and Scott Zecher.


13. Approve the attached Factual and Legal Analyses to all the above-identified respondents;

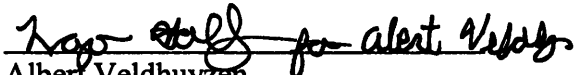
14. Approve the appropriate letters.

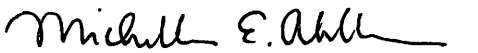
8/27/02
Date

Lawrence H. Norton
Lawrence H. Norton
General Counsel

Gregory R. Baker
Gregory R. Baker
Acting Associate General Counsel


Lorenzo Holloway
Assistant General Counsel


Albert Veldhuyzen
Attorney


Michelle E. Abellera
Attorney

Attachments:

1. Audit Referral Materials for AR 01-11
2. Article from *The Star-Ledger*, dated August 19, 2001
3. Article from *The Record*, dated August 13, 1999
4. Article from *The New York Times*, dated August 12, 1999
5. Article from *The Record*, dated August 5, 2001
6. Article from *New Jersey Jewish News*, dated March 19, 1998
7. Proposed Subpoena and Order to Kushner Companies and associated business entities
8. Proposed Subpoena to Norcrown Bank
9. Proposed Subpoena to Valley National Bank
10. Proposed Subpoena and Order to individual contributors
11. Factual and Legal Analysis (Kushner Companies and Associated Partnerships)
12. Factual and Legal Analysis (Charles Kushner)
13. Factual and Legal Analysis (Scott Zecher)
14. Factual and Legal Analysis (Richard Stadtmauer)
15. Factual and Legal Analysis (Jeffrey Freireich)
16. Factual and Legal Analysis (36 other individual contributors)
17. Factual and Legal Analysis (Bill Bradley for President, Inc. and Theodore V. Wells, as Treasurer)
18. Factual and Legal Analysis (13 other political committees)

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Sunday, August 19, 2001

NEW JERSEY

Magnate develops into a fund-raising force
JOE DONOHUE
STAR-LEDGER STAFF

When Charles Kushner speaks, people such as President Clinton listen. They shared the stage at Kushner's Florham Park headquarters in 1997. A lot of political cash these days comes out of a low-profile group of companies in Florham Park with nondescript but pleasant-sounding names like Quail Ridge, Pheasant Hollow and Rolling Gardens.

The contributions - to presidents, senators, congressmen and governors - come from dozens of employees and family members. They are usually sent on the same dates, carry the same address on Columbia Turnpike, with the donors listing one of those firms or others as their employers.

And at its center is one man, Charles Kushner, a real estate developer who has become one of New Jersey's top political contributors and fund-raisers during the past decade.

In recent years, Kushner has funneled hundreds of thousands of dollars into the campaigns of President Bill Clinton and his wife, Vice President Al Gore, Sens. Joe Lieberman, Robert Torricelli and Jon Corzine, and Reps. William Pascrell and Robert Menendez.

But no candidate has benefited more than Jim McGreevey, the mayor of Woodbridge and the Democratic candidate for governor, according to an analysis of state and federal campaign records.

Since his first run for governor in 1997, McGreevey has received at least \$369,050 from Kushner, family members and employees of his sprawling real estate empire. That makes the 47-year-old Kushner the single largest source of contributions to McGreevey's various political committees, accounting for nearly 5 percent of the \$7.9 million he has raised in New Jersey during the past 10 years.

And Kushner's munificence has not stopped there. He has directed at least \$415,000 to the Democratic State Committee since 1998, \$79,000 to

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Sen. Jon Corzine's campaign last year, and \$57,000 to Sen. Robert Torricelli since 1999. The list of candidates and contributions goes on.

"When you look at New Jersey, Charlie Kushner's name surfaces as the top giver whether it be a campaign for president, the U.S. Senate, or governor," said lobbyist and Democratic strategist Harold Hodes.

Kushner's empire began with his late father, Joseph, a Holocaust survivor who started a small construction business in New Jersey in 1949. Today, Kushner Cos. is a sprawling, \$1 billion real estate development company that owns or manages 20,000 apartments in New Jersey and several other states, builds 500 to 1,000 new homes a year and has commercial properties in New York, Newark, Jersey City, Plainsboro, Hoboken and several other cities.

While Kushner will talk about his business dealings and is a major philanthropist in the Jewish community, he is silent about his support of mostly Democratic political causes. He declined to be interviewed.

His impact, however, is enormous.

Political Moneyline, a Washington-based Web publication that monitors campaign contributions, reported recently that in the 1999-2000 federal election cycle, Kushner and his network of friends and employees gave more than \$1 million to state and federal candidates.

"The Kushners pack a big punch. Their ability to pull together many contributions is practically unparalleled," said Sheila Krumholz, a spokeswoman for the Center for Responsive Politics, another Washington-based campaign watchdog group. "Kushner's one of the upcoming bundling powerhouses in both state and federal politics."

As a political fund-raiser, Kushner is a master of bundling - the packaging of contributions from family, friends and employees into blocks of donations that all reach the candidate at the roughly same time. It is a hallmark of high-stakes political races, in which politicians must raise millions of dollars in limited increments - \$2,000 per election in federal races and \$2,200 per election in New Jersey political contests.

Bundling is a legal way to sidestep laws intended to limit the financial clout of any one donor. But there is no doubt that the multiple contributions are coming from the same source - whether it is a family or a business or both.

Toward that end, Kushner enjoys an advantage over many political donors - he controls an array of more than 60 partnerships and corporations that he routinely uses to step around the individual

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contribution limits.

Kushner's pattern of giving has nonetheless caused him problems in New York.

Mayoral candidates Alan Hevesi and Mark Green recently had to return tens of thousands of the \$60,000 sent to them by Kushner-associated partnerships. The reason: City rules prohibit candidates from accepting more than \$4,500 from a single source - defined as any person or group of entities controlled by the same person or group of people.

In New Jersey, by contrast, contributions by the partnerships he controls are legal - as long as the partners in the partnership assert in writing that their contributions were drawn against their share of the partnership.

If McGreevey wins in November, he won't be the first governor whose campaign had significant financial support from major developers. Former Govs. Tom Kean, Jim Florio and Christie Whitman all counted big developers among their most important fund-raisers.

"The development industry is the premier lobbying industry that really works on influencing policy," Florio said.

New Jersey is the center of Kushner's expanding business. In addition to apartments and home construction, he bought the former Mutual Benefit Life Building in Newark in 1999, turning it into a thriving office complex. He also owns the nine-story Puck office building in Soho in Manhattan. His goal, he told the Wall Street Journal last year, is to become "one of the largest owners in the country in the next 10 years."

Perhaps his most ambitious project to date is the \$600 million Landing at Harborside planned for Perth Amboy's waterfront, a complex of 2,000 housing units and 500,000 square feet of shops and restaurants that local officials say could create 2,500 jobs. Construction could begin next March.

Several of his projects involve public subsidies, and in addition to oversight by local governments, are subject to review by state agencies concerned with environmental and transportation issues.

Howard Rubenstein, the New York public relations executive who represents Kushner, said he is an active political donor for a simple reason. "He wants a good, solid, honest government where any decision they make is based on merit," he said.

Frank Lautenberg, the former U.S. senator from New Jersey, said Kushner "believes in the process and I think is one of the outstanding public citizens that we have."

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Lautenberg, who has known Kushner for 10 years, sits on the board of NorCrown Bank, owned by Kushner Cos., and in his last Senate campaign received \$85,000 from Kushner-associated contributors.

Another political beneficiary, Rep. William Pascrell (D-8th Dist.), said that while he often talks with Kushner about issues, he cannot recall him ever asking for a favor.

"A lot of people contribute and you almost think there's a quid pro quo. It's in the air. I've never felt that with Charlie. I think he's beyond that," said Pascrell, who has received at least \$12,000 from Kushner and others associated with him.

McGreevey attributes Kushner's support to what he said is their "close personal relationship" and to what he said is Kushner's belief that he will shake up things in Trenton.

"He was my single largest contributor out of a sense of principle and conviction," McGreevey said. "He has then and to this day never built a single house, a single building in Woodbridge."

McGreevey said that if he becomes governor, Kushner would enjoy no favors from several state agencies that often interact with developers. He also insists he can be a credible champion against sprawl even though he has depended heavily on a major developer for campaign support since he opposed many housing complexes in Woodbridge, "unambiguously" supports the state's master plan for growth, which many developers despise, and wants more open space.

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When Charles Kushner speaks, people such as President Clinton listen. They shared the stage at Kushner's Florham Park headquarters in 1997.

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The Record, Northern New Jersey
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Friday, August 13, 1999

NEWS

GIULIANI CAMPAIGN RETURNS THOUSANDS IN IMPROPER DONATIONS
By SHANNON McCAFFREY, The Associated Press

A New Jersey fund-raiser last March was one of New York Mayor Rudolph Giuliani's most successful, raking in more than \$100,000 for his likely U.S. Senate bid and thrown by heavy-hitters known more for their support of Democrats.

But when all the checks were counted, the Republican mayor's exploratory committee was forced to return more than half the money.

For Giuliani, it was the latest in a string of fund-raising missteps.

The Giuliani camp accepted a \$2,000 donation from Phillip Castellano, then returned the cash after learning he was the son of slain mob boss Paul Castellano.

And they hastily replaced their Washington, D.C., fund-raising chief after a disappointing Capitol Hill event that took in well below the expected six-figure haul.

"We've raised over \$3 million in four months. I think that record speaks for itself," Giuliani campaign spokesman Bruce Teitlebaum said Thursday.

Giuliani aides and organizers of the New Jersey fund-raiser say that most of the money had been returned because of simple paperwork errors and that once those discrepancies were resolved new checks would be issued.

The Livingston event, held by Charles Kushner, could have given the Giuliani camp reason to gloat. Kushner and his family have been generous in their support of Democrats in general and President Clinton in particular. The New Jersey developer has organized political events for Clinton, Vice President Al Gore, and New Jersey Democratic Sen. Robert G. Torricelli.

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With Hillary Rodham Clinton expected to raise \$25 million for her anticipated Senate bid on the Democratic side, Kushner's support of Giuliani could have been viewed as a coup.

But that soured when technical problems were spotted in many of the donations. Many contributors had given \$2,000 without stipulating that the \$1,000 was to go to the primary and the other \$1,000 to the general election. Federal election law limits individual donations to \$1,000 per election.

Letters were sent to the contributors asking them to make clear which portion of the donation was to go to the primary and which to the general election. The requests from the Giuliani camp were not followed and, according to Federal Election Commission records, the mayor's exploratory committee returned \$45,000 in questionable donations.

"The message that comes out of this is that this campaign will not hesitate to return money that was not given to us in the correct manner," Teitlebaum said.

Kushner's spokesman, Peter Rosenthal, described the problem as an administrative error that had left Kushner "embarrassed."

"The individual who he asked to handle the administrative end of this actually made a series of technical mistakes and was generally sloppy," Rosenthal said. "That's why the checks had to be returned."

Asked why Kushner was supporting Giuliani, Rosenthal said, "he thinks the mayor has done a wonderful and effective job in New York City."

Also returned were \$14,000 in donations made by Kushner's brother, wife, and sister because they had donated more than the allowable \$2,000.

Kushner's brother, Murray, attempted to give \$8,000, writing out checks from four different company names, according to FEC records. Companies are not allowed to contribute to federal candidates. Only individuals and political action committees can make contributions.

---- INDEX REFERENCES ----

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August 12, 1999

Errors Turn Fund-Raising Coup Into Embarrassment for Giuliani

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By DAN BARRY and ABBY GOODNOUGH

The aides handling Mayor Rudolph W. Giuliani's fund-raising operations bragged of scoring a coup in March when a New Jersey developer, best known for his ties to President Clinton and other national Democrats, agreed to hold a fund-raising event for the Republican Mayor.

Making the fund-raising coup all the more delicious, the \$100,000 raised at the party would probably be spent thwarting the First Lady, Hillary Rodham Clinton, the Mayor's likely opponent in the race for the United States Senate in 2000.

Since then, however, the sweet taste of that event has soured a bit. Because of technical mistakes and violations of the Federal election laws, the Mayor's fund-raising committee has returned \$57,000, more than half the total raised at the March party held by the New Jersey developer, Charles J. Kushner.

Aides to the Mayor said that the return of contributions reflected nothing more than the minor mistakes so frequently made by political donors and campaigns when trying to comply with Federal election laws. For example, one official said, many of the checks were returned because they did not specify whether the contribution

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was being designated for a primary or a general election, as required.

The aides and a spokesman for Kushner also said that the donors were correcting the errors, and that the Giuliani exploratory campaign for the Senate would eventually get the contributions back.

But the mistakes made in collecting the money at the New Jersey party are so elementary as to be stunning, considering that it was put together by Kushner, a veteran fund-raiser who has organized big-money political events for Clinton, Vice President Al Gore and others. In March, for example, he helped to arrange a lavish fund-raiser in Newark for Senator Robert G. Torricelli of New Jersey, at which Kushner was publicly thanked by President Clinton, the event's honored guest.

For the Giuliani event later in March, Kushner's brother, Murray Kushner, wrote out four checks from four different companies -- but all in his own name -- to the Giuliani campaign, for a total of \$8,000.

Fred Wertheimer, the president of Democracy 21, a nonprofit public-policy organization based in Washington, said that those contributions violated a basic law regarding Federal campaigns: no one can contribute a total of more than \$2,000 to any candidate during an election cycle.

"No, he can't do that," Wertheimer said. "He can't keep making contributions under different professional positions. Anyone who raises money at the Federal level *knows* an individual can't give more than \$2,000 for a race."

Kushner referred questions about the Giuliani event to Peter Rosenthal, a public-relations consultant, who described the developer as "embarrassed." He acknowledged that the errors were highly unusual, given Kushner's experience in fund-raising.

"It's embarrassing, but it's not complicated," Rosenthal said. The employee "who was in charge of this, from an administrative point of view, really messed up."

These gaffes marred what would otherwise have been a gleeful Giuliani raid into Clinton territory.

Charles Kushner, 45, heads the Kushner Companies, a family-owned real-estate empire that owns and manages more than 10,000 apartment units in New York, New Jersey, Pennsylvania and Florida. But he has also been one of the go-to people for the Democratic National Committee when it wants to raise money in

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New Jersey -- as evidenced by the Torricelli event in Newark, which raised \$2.15 million.

Kushner has many photographs showing him standing with President Clinton, Vice President Gore and other notable Democrats. And when the President appointed 10 people to the United States Holocaust Memorial Council in December, Kushner was one of them.

But Kushner also has a friendly relationship with Bruce Teitelbaum, the Mayor's chief fund-raiser and former chief of staff; both men are active in Jewish-American affairs. "He's a friend of mine," Teitelbaum said. "I asked him if he would support the Mayor, and he said he would."

Rosenthal said that Kushner "has significant involvement in New York City, both owning property and in a variety of philanthropic activities, and he thinks the Mayor has done a terrific job and supports his goals for the future."

In late March, Giuliani left City Hall for Livingston, N.J., where he gave a talk at the Joseph Kushner Hebrew Academy, a school that Kushner and his siblings established in honor of their late father. The event segued into a fund-raising event in the Mayor's honor, attended by various friends and relatives of the Kushners.

The event appeared to be among the most successful of the year for the Mayor. It took more than 25 pages in a campaign-contribution report filed by Friends of Giuliani with the Federal Election Commission to list all the donors who gave at least \$1,000, and often \$2,000. To a person, they all listed the same address, that of Kushner's office complex in Florham Park, N.J.

But the Mayor's aides soon realized that the event was fraught with technical problems. They immediately sent letters to many of the party's guests, asking them to write a letter back that would stipulate how much of their donation was earmarked for a primary, and how much for a general election, as required by law.

None of those requests were answered. The Mayor's aides said they did not know whether those letters were all sent to the address of the Florham Park office complex.

Eventually, the aides said, they had no choice but to return \$43,000 to the donors because the checks did not include the required information. They also returned \$14,000 because Murray Kushner and three others, including Charles Kushner's wife and sister, had contributed money beyond the \$2,000 cap allowed by campaign-finance laws.

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Teitelbaum declined to comment on the Kushner event. But officials who insisted on anonymity said that the campaign had done nothing wrong and everything right; aides sought to address the problems as soon as they surfaced, and returned any check that was in question.

They also said that such matters are routine, particularly in campaigns that handle millions of dollars. (The Giuliani exploratory campaign has raised more than \$3 million so far.) For example, they recently returned a donation after learning that it came from a son of Paul Castellano, the late leader of the Gambino crime family.

Rosenthal said that while Mr. Kushner regretted the mishap, it would not stop him from organizing more fund-raising events. Asked whether the longtime supporter of Mr. Clinton would also hold a fund-raiser for the First Lady, he answered: "We'll say that's a rhetorical question, right?"

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Sunday, August 5, 2001

NEWS

POLITICAL FUNNEL OF MONEY SKIRTS LAW FEDERAL RULES LESS STRICT THAN N.J.
 ADAM LISBERG, Staff Writer

At first glance, the law looks solid: You can't give more than \$2,000 to a candidate running for federal office, and corporations can't give anything at all.

Look closely, though, and a crack starts to appear: Under the right circumstances, you might be able to write an unlimited number of \$2,000 checks to a single candidate from a business checking account using other people's names.

Is it legal? Maybe, but no one has ever asked the Federal Election Commission to decide. New Jersey and New York City have taken steps to stop the practice.

Is it lucrative? Definitely. Sen. Robert G. Torricelli's reelection campaign collected \$154,000 on three days in 1999 from just two real estate executives who wrote checks in the names of their business partners.

One of those executives, Florham Park real estate investor Charles Kushner, used the loophole to donate more than \$1 million to candidates and parties in 1999 and 2000.

Campaign finance experts say the loophole, known as "partnership attribution," is one of the murkiest and least-understood areas of political giving. No one tracks how often it is used, and no one knows whether it is on the rise.

"I don't think most people even active donors know about these little exceptions in the law," said Larry Makinson, a senior fellow at the Center for Responsive Politics in Washington, D.C. "I don't think this has gotten any attention at all." Partnership attribution is a way for businesses to write checks to federal candidates something that is usually forbidden. It applies to partnerships and some other types of unincorporated companies, in which the profits and losses are allocated to individual partners.

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A partnership is allowed to donate money to a candidate, but the money must be attributed to one or more of the partners, must come out of the partner's share of the profits, and is treated as if it had come straight from the partner's pocket including the \$2,000 limit on donations to a single candidate.

But the law never requires that a partner explicitly give permission for another partner to write a check in his name.

That's why Kushner and Richard Kurtz, who runs a real estate management firm in Englewood Cliffs, were able to donate so much to Torricelli. As the controlling partners in dozens of partnerships, they drew \$2,000 checks on the accounts of those partnerships and attributed them to dozens of different partners, according to records and interviews.

Kushner delivered an \$18,000 bundle of checks to Torricelli's reelection campaign on Jan. 22, 1999, and an additional \$74,000 on Feb. 19, 1999, campaign finance reports show. Kushner declined to be interviewed, but a spokesman confirmed that Kushner controlled all of the partnerships involved.

Kurtz gave the campaign \$62,000 in checks on March 10, 1999, records show. He told The Record last week that he, not the partners whose names were on the donations, made the decision to contribute.

One of Kurtz's partners, Josh Krantz, first learned from The Record that a donation had been made in his name. Krantz said he was interviewed about the donation last week by the FBI.

An attorney for the Torricelli campaign said last week that any mistakes in Kurtz's donations were based on information he provided, and that the campaign would amend its reports if necessary. A spokeswoman for Torricelli declined to elaborate Saturday.

The \$2,000 donation limit, as well as the ban on corporate contributions, is designed to limit the influence any single person or company can have on a politician.

Another fundamental principle of federal campaign finance law is that people are not permitted to donate in other people's names.

Makinson and others said that at first blush, that's exactly what the massive partnership attributions appear to do.

But several campaign finance experts interviewed cannot recall the FEC ever addressing that situation. And investors in a partnership often agree to let a controlling partner decide how to spend money on a wide range of expenses which could include making political

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donations.

Trevor Potter, a former FEC chairman, said that leaves open the possibility that a controlling partner could legally make donations in other partners names without informing them first which would conflict with the prohibition against making donations in other people's names.

"It raises some serious questions," Potter said. "The partnership is acting on your behalf, effectively with or without your consent."

"This is certainly a loophole in the federal law," said Kent Cooper, co-founder of FECInfo, a Web site that tracks political donations. "You'd almost need to see the partnership agreement to see what control that person has."

Cooper combed through millions of records in his database to discover that the Kushner partnerships had donated more than \$1 million to federal candidates in 1999 and 2000.

Most of the donations Cooper found share similar attributes: They were given in the names of partners, they listed the same address as the Kushner Companies office in Florham Park, they were delivered in checks of identical amounts, and they were given on a single day.

Using that technique, Cooper's database shows, Kushner gave \$38,000 to Bill Bradley's presidential campaign on June 22, 1999, and then gave \$25,000 to Al Gore's campaign on Feb. 10, 2000.

The Kushner companies also gave \$68,000 to the campaign of Sen. Hillary Rodham Clinton, D-N.Y., on June 29, 2000; \$28,000 to the campaign of Sen. Jon Corzine, D-N.J., on Feb. 24, 2000; and \$25,000 to Sen. Charles Schumer, D-N.Y., on April 18, 2000, according to Cooper's database.

None of those donations has raised any unusual attention. Yet when Kushner used similar methods to donate \$60,000 from his partnerships to two New York City mayoral candidates last year, the city's campaign finance board ruled that the money should all be considered as having come from Kushner alone.

The campaigns of mayoral hopefuls Alan G. Hevesi and Mark Green returned all but \$4,500 of the money, which is the legal limit for individual donations in New York City.

The campaign finance board's June ruling appears to close the partnership loophole in New York City: "Separate limited partnerships, together with a common managing member or general partner, will be considered a single source . . . for the purpose of

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calculating contribution limits."

* New Jersey closed the same loophole years ago. If a donor to candidates for state office wants to write checks under the names of his partners, he must obtain "a signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check," according to the law.

"This approach has been in the regulations for quite some time," said Jeff Brindle, deputy director of New Jersey's Election Law Enforcement Commission. "They have to be notified. They have to sign off on it." The requirement doesn't seem to have put a crimp in Kushner's donations, however. Kushner partners gave \$85,050 to Democrat Jim McGreevey's gubernatorial campaign on Aug. 9, 2000, and according to a campaign spokesman, all the partners signed statements agreeing to the donations.

The McGreevey donations show that while the New Jersey law is a good step, it still doesn't stop one person from steering tens of thousands of dollars to a single candidate, Makinson said.

Kushner "is a guy who wanted to give a lot of money and found a way to do it," he said.

Staff Writer Adam Lisberg's e-mail address is lisberg(at)northjersey.com

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PHOTO; Caption: ROBERT G. TORRICELLI, Big donations from partnerships.

---- INDEX REFERENCES ----

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Thursday, March 19, 1998

V.LII; N.12

Kushner family key to school growth
 Donna Oshri

Jewish; English

Kushner family key to school growth

JOSEPH KUSHNER Hebrew Academy has come a long way since its establishment 50 years ago, but its massive growth during the past decade perhaps would not have been possible without the family of the late Joseph Kushner -- for whom the school was named in 1986.

In addition to relocating to the current \$19 million campus in Livingston and the development of Joseph Kushner Yeshiva High School, the school has also grown academically.

"My father was a man whose values for honesty and integrity are all the qualities that are important to teach children," said Charles Kushner of Livingston, one of Joseph Kushner's four children. Naming the school in his father's honor, he added, was the best way to reflect "his value and support for Jewish education."

In a family book, The Miracle of Life, dedicated to their mother on her 75th birthday, the children wrote: "Regardless of the difficulties they encountered [in their lives], our parents were most grateful of the opportunities America granted them to re-build their lives.... They were successful in transmitting those values and perspective to us."

Holocaust survivors Joseph and Rae Kushner -- both from small villages in eastern Poland that later became part of Russia -- after having both lost much of their family in concentration camps, married in Budapest, Hungary, in August 1945, with a borrowed ring and accompanied by 20 other couples who were being married at the same time.

Traveling by foot and train, with no passports or other legal documents, the Kushners found their way to a DP camp in Ladispoli, Italy. There, their eldest child, Linda (Laulicht), was born in April 1947.

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After waiting more than three years in Italy for visas for passage to America, the Kushners finally sailed to America in 1949 -- speaking no English and having no prospects for a home or job. With assistance from Jewish agencies, the Kushners found a one-bedroom apartment in Brooklyn, NY, and Joseph found a job as a carpenter. In 1951, the couple had a second child -- Murray.

In 1954, after he was told he could not take off from work on both Rosh Hashana and Yom Kippur, Joseph Kushner decided to start his own construction business and formed a partnership with two acquaintances.

The Kushners soon had two more children, Charlie and Esther (Schulder), and moved to Elizabeth, where they had heard that there was an Orthodox Jewish community.

The business later evolved into what is today Kushner Companies in Florham Park.

After the 1995 death of Joseph Kushner, the children decided to name the JKHA in his memory and in their mother's honor.

In Miracle, Rae Kushner, who now lives in Hillside, says she and her husband "lived our lost lives through our children. We had no youth, our early years were spent hiding. Our middle years were spent rebuilding."

Decades after the Kushners' escape from Polish concentration camps during the Holocaust, their children are showing their appreciation.

-- DONNA OSHRI

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Photo (Joseph Kushner)

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