



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

OCT 07 2003

Mr. Jose Casal  
c/o Sale & Kuehne, P.A.  
Bank of America Tower, Ste. 3550  
100 S.E. 2<sup>nd</sup> Street  
Miami, FL 33131-2154

Attn: Benedict Kuehne

RE: MUR 5389

Dear Mr. Casal:

On October 1, 2003, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441e, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jesse B. Christensen, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Ellen L. Weintraub  
Chair

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

Conciliation Agreement

24-04-407-331

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

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jose Casal

MUR 5389

**I. INTRODUCTION**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). Publicly available information indicates that Jose Casal, a Venezuelan foreign national, reimbursed five employees at Victec Environmental Services, Inc. for their \$500 contributions to the authorized campaign committee of Mayor Alex Penelas ("Penelas Committee"), a candidate in the 2000 Miami-Dade County mayoral election. According to Mr. Casal's son-in-law, Luis Thula, former President of Victec, Mr. Casal told him to find five people to make \$500 contributions to the Penelas Committee and gave him the money to reimburse those contributions. Mr. Thula acquiesced, soliciting five Victec employees to make the requested contributions. The following chart sets forth the dates on which the contributions in question were made and reimbursed:

**EMPLOYEE CONTRIBUTORS' CONTRIBUTIONS TO  
THE PENELAS COMMITTEE**

NAME OF CONTRIBUTOR	DATE OF CONTRIBUTION	DATE REIMBURSED	AMOUNT OF CONTRIBUTION
Reynaldo Rodriguez	7/14/2000	7/24/2000	\$500
Ana Rodriguez	7/14/2000	7/17/2000	\$500
George Pattis	7/18/2000	7/18/2000	\$500
Hector Munio	7/13/2000	7/15/2000	\$500
Carolina Caceres	7/14/2000	7/17/2000	\$500
			<b>TOTAL: \$2,500.00</b>

## II. LAW

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits foreign nationals from making contributions in connection with an election to any political office.

2 U.S.C. § 441e(a). The term "foreign national" refers to an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence as defined by

8 U.S.C. § 1101(a)(20). 2 U.S.C. § 441e(b)(2). The Act's prohibition on contributions by foreign nationals is not limited to federal elections, but includes State and local elections.

2 U.S.C. § 441e(a); 11 C.F.R. § 110.4(a); *U.S. v. Kanchanalak*, 192 F.3d 1037, 1048 (D.C. Cir. 1999). A foreign national violates the Act regardless of whether he or she makes a direct contribution or contributes through other persons. 2 U.S.C. § 441e(a) (prohibiting foreign nationals from making contributions "directly or through any other person").

## III. ANALYSIS

Mr. Casal appears to have reimbursed each of the five contributors for their \$500 contributions to the Penelas Committee. Under the Act, the five \$500 contributions amount to \$2,500 in illegal contributions by Mr. Casal. 2 U.S.C. § 441e(a). Mr. Casal's effort to disguise his contribution indicates his knowledge of the law and intent to circumvent it. First, Mr. Casal's request that contributions be made in \$500 denominations demonstrates his awareness of Florida's statutory contribution limit. *See Fla. Stat. Ann. § 106.08(1)*. Second, the fact that Mr. Casal made his contribution through third parties, and not in his own name, indicates that he knew federal law prohibited him, as a foreign national, from contributing to the Penelas Committee. If Mr. Casal truly believed the law permitted him to make a contribution to the Penelas Committee, he likely would have contributed in his own name rather than (or at least in addition to) making his contribution through others.

IV. CONCLUSION

The Commission finds reason to believe Respondent Jose Casal knowingly and willfully violated 2 U.S.C. § 441e by contributing \$2,500 to the Penelas Committee.

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