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

2006 FEB -3 A 10: 14

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5582  
DATE COMPLAINT FILED: October 25, 2004  
DATE OF NOTIFICATION: November 1, 2004  
LAST RESPONSE RECEIVED: November 22, 2004  
DATE ACTIVATED: October 10, 2005

EXPIRATION OF SOL: October 22, 2009

**COMPLAINANT:** Samuel M. Slom

**RESPONDENTS:** Representative Neil Abercrombie  
Abercrombie for Congress and Jack Y. Endo,  
in his official capacity as treasurer

**RELEVANT STATUTES:** 2 U.S.C. § 441a  
2 U.S.C. § 441c  
2 U.S.C. § 441f

**INTERNAL REPORTS CHECKED:** Federal Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The Complainant in this matter alleges that Neil Abercrombie and Abercrombie for Congress and Jack Y. Endo, in his official capacity as treasurer (collectively "Respondents"), violated provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), by soliciting and accepting excessive and prohibited contributions. Because Complainant's allegations are speculative, we recommend that the Commission find no reason to believe that Respondents solicited or accepted excessive or prohibited campaign contributions, in violation of 2 U.S.C. §§ 441a, 441c, and 441f.

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1 **II. FACTUAL AND LEGAL ANALYSIS**

2 The Complainant in this matter alleges that Respondents may have solicited and  
3 accepted excessive and prohibited campaign contributions from four individuals previously  
4 sanctioned by the State of Hawaii Campaign Spending Commission for violations of state  
5 campaign laws. The sanctions stemmed from a civil investigation by the Hawaii Campaign  
6 Spending Commission into the campaigns of various local and state candidates. To date, more  
7 than sixty city and state government contractors and several engineering and architecture  
8 executives have been sanctioned for violations of state laws.

9 At least four of these individuals involved in the state investigation made contributions to  
10 the Committee.<sup>1</sup> Complainant surmises that because these individuals violated state campaign  
11 laws by making excessive contributions and contributions in the names of others to state political  
12 committees, it is possible that they made the same types of Federal contributions to the  
13 Respondents. Complainant also suggests that because these individuals own and operate  
14 contracting and engineering corporations, it is possible that they made these contributions in  
15 exchange for contracts with the Federal government.<sup>2</sup>

16 Respondents admit accepting contributions from the individuals named in the complaint,  
17 but argue that the contributions are not excessive or prohibited. Respondents also insist that all  
18 of the Complainant's allegations are speculative, and that the information in the complaint  
19 offers no independent basis for investigation.

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<sup>1</sup> Individuals and associated corporations named in the complaint include: Michael Matsumoto of SSFM Engineers, Inc.; Ralph Portmore of Group 70, International; Yue-Hong Yeh of Controlpoint Surveying, Inc.; and Gary Okamoto of Wilson, Okamoto and Associates.

<sup>2</sup> Complainant offers no specific information to support his allegation. First, all contributions from the four individuals named in the complaint appear to have been made in an individual capacity. Respondents have reported no Federal contributions from any of the corporations in question. Further, the General Services Administration contractor database does not identify these corporations as Federal contractors. In any case, the allegation that these corporations may have exchanged prohibited contributions for government contracts is outside the jurisdiction of the Act and the Commission.

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1           **A. Excessive Contributions**

2           The Complainant identified four individuals in the complaint and alleged that they made  
3 excessive contributions to the Committee. According to disclosure reports filed with the  
4 Commission, these individuals have made numerous contributions to the Committee spanning  
5 several election cycles. However, none of the reported amounts is excessive, and the  
6 Complainant provided no other facts on which to base an investigation.<sup>3</sup>

7           **B. Contributions in Name of Another**

8           The Act provides that no person shall make a contribution in the name of another person  
9 or knowingly permit his name to be used to effect such a contribution, and no person shall  
10 knowingly accept a contribution made by one person in the name of another person. 2 U.S.C.  
11 § 441f. The Complainant alleges that because the contributors named in the complaint were  
12 sanctioned for making contributions to state committees in the name of another, it is possible that  
13 they also made Federal contributions to the Committee in the name of another, in violation of  
14 2 U.S.C. § 441f. However, the Complainant identifies no specific contribution that he alleges to  
15 be in violation of the Act. Further, a search of the Committee's disclosure reports does not  
16 reveal any Federal contributions to the Committee from the individuals identified as conduits in  
17 the state law violations.

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<sup>3</sup> The Bipartisan Campaign Reform Act of 2002 ("BCRA") amended 2 U.S.C. § 441a to increase contribution limits. These amendments apply with respect to contributions made on or after January 1, 2003. Because the Complainant did not specify an election cycle in which he believes Respondents accepted excessive contributions (although Complainant did refer to FEC Form 3, Schedule A itemized receipts, for the 2003-2004 election cycle filed by Respondents), we reviewed disclosure reports from all election cycles in which Neil Abercrombie was a candidate. Contributions from the named individuals began in 1999, well before reports of violations of state laws and sanctions would have become apparent. In no election cycle were reported contributions from the individuals mentioned in the complaint excessive.

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1           **C. Conclusion**

2           The Commission may find reason to believe if a complaint sets forth sufficient specific  
3 facts which, if proven true, would constitute a violation of the Act. Statement of Reasons, MUR  
4 4960 (Hillary Rodham Clinton for Senate Exploratory Committee, issued December 21, 2000)  
5 (“Complainant’s allegations are not sufficient to support a finding of reason to believe...”). *See*  
6 *also* 11 C.F.R. § 111.4(d)(2). Unwarranted legal conclusions from asserted facts or mere  
7 speculation will not be accepted as true. Statement of Reasons, MUR 4960. Complainant sets  
8 forth no facts and offers no specific information, however, that would support his allegations.  
9 Rather, Complainant’s allegations that Respondents violated the Act are based solely on the  
10 Committee’s acceptance of contributions (which were within the limits prescribed by the Act)  
11 from individuals who were sanctioned by the State authorities for violating State campaign laws.  
12 Therefore, we recommend that the Commission find no reason to believe that Representative  
13 Neil Abercrombie and Abercrombie for Congress and Jack Y. Endo, in his official capacity as  
14 treasurer, violated the Act. We also recommend that the Commission close the file as to all  
15 Respondents.

16   **III. RECOMMENDATIONS**

- 17           1. Find no reason to believe that Representative Neil Abercrombie accepted  
18           contributions in violation of the Act or the Commission’s regulations, as alleged  
19           in this matter.  
20  
21           2. Find no reason to believe that Abercrombie for Congress and Jack Y. Endo, in his  
22           official capacity as treasurer, accepted contributions in violation of the Act or the  
23           Commission’s regulations, as alleged in this matter.  
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3. Approve the appropriate letters.

4. Close the file.

Lawrence H. Norton  
General Counsel

2/2/06  
Date

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