FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Committee to Elect Sehkon for Congress	)	MUR 5957
and Daljit Kaur Sehkon,	)	
in her official capacity as treasurer	)	

STATEMENT OF REASONS
COMMISSIONER CYNTHIA L. BAUERLY
COMMISSIONER ELLEN L. WEINTRAUB

This may be the most inexplicable resolution of a Matter Under Review that we have seen during our combined tenures on the Commission. Indeed, although the Commission closed the file in this matter over seven months ago, there is still no explanation on the public record for the Commission's action.

The Committee to Elect Sekhon for Congress ("the Committee") was the principal campaign committee for Arjinderpal Singh Sekhon, a candidate for California's 2nd Congressional District seat in 2006. The Committee filed a series of reports in the fall of 2006 that materially failed to comply with the statute. The Federal Election Campaign Act requires a candidate committee to identify those who contribute over $200 (including their occupation and employer) or to demonstrate that the committee made "best efforts" to obtain, maintain, and submit this information. 2 U.S.C. §§ 434(b)(3)(A), 431(13)(A); 11 C.F.R. §§ 100.12, 104.7. In its 2006 October Quarterly Report, 2006 12-Day Pre-General Report, and 2006 30-Day Post-General Election Report, the Committee failed to provide contributors' name, employer and/or occupation information for 219 of 245 entries (approximately **89%**) of contributions from individuals. The Committee could not claim the protection of the best efforts "safe harbor" at 11 C.F.R. § 104.7 because it failed to establish that it satisfied the explicit requirements of that section.

The errors consisted largely of reporting "self" as both employer and occupation for the vast majority of contributors, a submission that the most cursory review would have revealed as absurd. It is possible that all of these contributors were self-employed (and therefore the "employer" box may have been correctly filled out). But "self" is not an occupation. The reports as submitted simply did not make sense, and the public was denied the information that the statute requires be disclosed about contributors.

Despite repeated requests from the Commission's Reports Analysis Division, the Committee failed either to amend its reports to supply the missing information or to provide documentation that it had made best efforts to do so. Therefore, the Commission unanimously concluded on December 3, 2007, that there was reason to believe that the Committee to Elect Sekhon for Congress and Daljit Kaur Sekhon, in her official capacity as treasurer, violated 2 U.S.C. § 434(b).[1]

Although the Committee did not adequately amend its reports, it did enter into pre-probable cause conciliation with the Commission and agreed to a conciliation agreement. On September 11, 2008, this signed conciliation agreement was presented to the Commission for its approval, but three commissioners rejected the agreement.[2] Without the requisite four votes to approve the agreement, and despite a clear and undisputed violation of the law, the Commission effectively tore up the signed agreement and closed the file with no action taken. Over seven months later, the public has not been provided with any reasoning to justify this result.

It is true that no one filed a complaint in this matter. But the law does not contemplate that the Commission will ignore violations that it ascertains "in the normal course of carrying out its supervisory responsibilities." 2 U.S.C. § 437g(a)(2). The law does not permit the Commission to impose fines (other than in the administrative fines program).[3] But the law does contemplate that the payment of a monetary penalty may be negotiated as part of the conciliation process. 2 U.S.C. § 437g(a)(5)(A)-(B). Nor is it inappropriate for a respondent to accept responsibility for substantial noncompliance with the law and agree to pay such a penalty.

An effective enforcement program, providing fair consequences for non-compliance, is part and parcel of encouraging voluntary compliance with the law. An unwillingness on the part of the Commission to allow respondents to accept responsibility

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[1] Chairman Lenhard, Vice-Chairman Mason, Commissioners von Spakovsky, Walther and Weintraub voted affirmatively.

[2] Then-Vice Chairman Walther, Commissioners Bauerly and Weintraub voted to approve the agreement. Then-Chairman McGahn and Commissioners Hunter and Petersen voted against approval. The Commission closed the file in the matter on October 21, 2008.

[3] *See* 11 C.F.R. § 111 (Subpart B).

and consequences for noncompliance will not encourage voluntary compliance. Rather, it will only promote disrespect for the law and encourage further noncompliance.

6/2/2009
Date

Cynthia L. Bauerly
Commissioner

6/2/09
Date

Ellen L. Weintraub
Commissioner