

FEDERAL ELECTION
COMMISSION
SECRETARIAT

2011 FEB 28 A 9 56

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
St. John Properties, Inc.)
Edward St. John)
Robert Becker)
Jeffrey Gish)
Lawrence Maykrantz)
Stanley Meros)
H. Richard Williamson)
Gerard Wit)

MUR 6223

SENSITIVE

CELA

2011 FEB 28 PM 9:48

RECEIVED
FEDERAL ELECTION
COMMISSION

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

(3) Take no further action and close the file as to Robert Becker, Jeffrey Gish, Lawrence Maykrantz, Stanley Meros, H. Richard Williamson, and Gerard Wit.

II. INTRODUCTION

The Commission previously found reason to believe that St. John Properties, Inc. ("SJPI") and Edward St. John, SJPI's president and principal owner, violated 2 U.S.C. §§ 441b(a) and 441f by using corporate funds to reimburse six SJPI Senior Vice Presidents for a total of \$60,000 (\$10,000 each) in contributions made to the federal account of the Maryland Republican State Central Committee ("MRSCC") between late October and early November 2006. See MUR 6223, Factual and Legal Analysis. The Commission also found reason to believe that the six SJPI Senior Vice Presidents violated 2 U.S.C. §§ 441b(a) and 441f by knowingly permitting their names to be used to make contributions in the name of others and

11044302950

1 consenting to the use of corporate funds to make the contributions. *Id.* The Commission
2 authorized an investigation into whether any or all of the respondents acted in a knowing and
3 willful manner and whether SJPI reimbursed other federal contributions.

4 During the investigation, respondents provided detailed affidavits and relevant
5 documents, including financial information _____
6 _____ business information (e.g., organizational information, partnership
7 agreements, etc.), and political contribution information (e.g., contribution charts, solicitations,
8 correspondence, contribution checks, etc.). See SJPI Joint RTB Response dated May 14, 2010;
9 SJPI Joint Supp. RTB Responses dated June 18 and 25, 2010; August 31, 2010; and September
10 8, and 30, 2010. In addition to reviewing the submissions, we interviewed Mr. St. John, SJPI
11 CFO Lawrence Maykrantz, and SJPI Controller Lori Rice.

12 The investigation has not shown that either Mr. St. John or any of the senior executives
13 acted in a knowing and willful manner, or that Mr. St. John or SJPI reimbursed other federal
14 contributions. We have uncovered no evidence that the SJPI Senior Vice Presidents were told or
15 expected that they would be reimbursed at the time they made the contributions, and with the
16 exception of one, they did not even realize their _____ annual bonuses paid in February
17 2007 included reimbursements of the \$10,000 contributions made in October 2006.

18 _____
19 _____ We also recommend that the
20 Commission take no further action and close the file as to the senior executives - Robert Becker,
21 Jeffrey Gish, Lawrence Maykrantz, Stanley Meros, H. Richard Williamson, and Gerard Wit.

22

11044302951

1 **III. DISCUSSION**

2
3 **A. Factual Background**

4 SJPI is a privately held real estate development company headquartered in Baltimore,
5 Maryland. Mr. St. John is SJPI's president and principal owner. SJPI employs six Senior Vice
6 Presidents - Lawrence Maykrantz, Robert Becker, Jeffrey Gish, Stanley Meros, H. Richard
7 Williamson, and Gerard Wit ("Vice Presidents"). Mr. Maykrantz is also SJPI's Chief Financial
8 Officer, and he oversees SJPI's Controller, Lori Rice.

9 All of the Vice Presidents are also minority members of numerous real estate partnerships
10 with Mr. St. John. _____

11
12
13
14
15 Mr. St. John and the Vice Presidents have a history of contributing to federal campaigns.
16 Mr. St. John made over \$150,000 in contributions to federal candidates and committees between
17 2000 and 2006. Each of the Vice Presidents made between \$2,000 and \$6,000 in total
18 contributions during the same period, but none of them had made a federal contribution greater
19 than \$2,000 prior to October 2006.¹ SJPI's Controller, Lori Rice, routinely monitors SJPI senior

¹ Both Mr. St. John and the Vice Presidents also previously made contributions through various partnerships established in connection with SJPI real estate ventures. For example, the Commission reviewed \$2,500 contributions that two of the partnerships, Riverside Technology Park LLC ("Riverside") and BWI Technology LLC ("BWI") each made to Steele for Maryland, Inc. on December 30, 2005, which were proportionately attributed to various SJPI officers who were members of the partnerships, and concluded that those contributions were not reimbursed. As a result of contributions made through 17 of the partnerships in which they had an ownership interest, the Vice Presidents collectively made a total of \$49,190 in federal contributions between 2000 and 2007. Respondents have acknowledged that prior to 2008, those partnerships, in which different partners owned different percentages of the entity, did not always contemporaneously adjust each partner's capital account to reflect their share of the partnership contributions, and they did not prorate the contributions among the partners according to the

11044302952

1 officers' contributions to prevent their individual contributions from becoming excessive when
2 combined with the contributions they make through the partnerships they own in conjunction
3 with Mr. St. John. *See* Affidavit of Lori Rice dated May 13, 2010 at 2.

4 Sometime in May of 2006, Dick Hug of the MRSCC solicited Mr. St. John to attend a
5 fundraiser featuring then-President George W. Bush and then-Governor Robert Ehrlich costing
6 \$10,000 per couple. *See* Affidavit of Edward St. John and SJPI Joint RTB Response dated June
7 18, 2010 at 2. Mr. St. John made the \$10,000 contribution on June 1, 2006 through his personal
8 American Express charge account and paid off the contribution amount by personal check dated
9 June 30, 2006. *See id.* and SJPI Joint Response dated September 30, 2010 at 1. Mr. St. John did
10 not attend the fundraiser, but arranged for others to do so. SJPI Joint RTB Response dated June
11 18, 2010 at 2.

12 In an interview with Mr. St. John, he stated that around October 2006, he received a
13 follow-up telephone call from Mr. Hug seeking help to quickly raise an additional \$100,000 for
14 the MRSCC. Mr. St. John told Mr. Hug that he would try to help raise \$50,000 to \$60,000 from
15 the Vice Presidents. *See* SJPI Joint RTB Response dated June 18, 2010 at 2. Mr. St. John
16 arranged for SJPI's Controller, Lori Rice, to solicit the Vice Presidents to make the maximum
17 allowable contribution of \$10,000 apiece. *See* Affidavits of Edward St. John and Lawrence
18 Maykrantz, and Affidavit of Lori Rice dated May 13, 2010 at 2. In her interview, Ms. Rice
19 stated that she told each Vice President in person or by telephone something like "Ed is doing a
20 fundraiser, wondering if you would consider doing a contribution." Ms. Rice does not recall

attribution ratios each company provided to the respective federal political committees. *See* Affidavit of Lori Rice dated September 30, 2010. The admitted pre-2008 practice of accounting for the partnership contributions may not have complied with the Commission's regulations. *See* 11 C.F.R. § 110.1(e)(2) (requiring reduction of a contributing partner's profits or increased losses in proportion to the attribution ratio given to the political committee). Respondents have pledged to correct the internal accounting error for all of the contributions of the partnerships and to correctly account for all future partnership contributions. *Id.* at 6.

11044302953

1 having any conversations with the Vice Presidents at that time about whether or not they would
2 make the requested contributions, or if there was any possibility of reimbursement.

3 Each of the Vice Presidents made a \$10,000 contribution to the MRSCC between
4 October 31 and November 2, 2006. According to their affidavits, none of the Vice Presidents
5 were told, expected, or understood that their \$10,000 contributions would be reimbursed.
6 Affidavits of Edward St. John, Robert Becker, Jeffrey Gish, Lawrence Maykrantz, Stanley
7 Meros, H. Richard Williamson, and Gerard Wit. In accordance with her regular practice,
8 Ms. Rice recorded the Vice Presidents' \$10,000 contributions. Affidavit of Lori Rice dated May
9 13, 2010 at 2.

10 In their interviews, Mr. St. John, Mr. Maykrantz, and Ms. Rice explained that SJPI
11 normally gives annual profit sharing bonuses to its Baltimore-based employees in February or
12 March of each year. Each of the Vice Presidents generally receives the equivalent of [] of the
13 calculated profits. In the normal course, Mr. Maykrantz and Ms. Rice meet annually in January
14 or February to assess the company's cash flow from the prior year to determine the amount of
15 funds available for annual bonuses, which are based on a complex formula including the profits
16 of various partnerships. They then meet with Mr. St. John to get final approval of bonus
17 amounts. Mr. St. John usually reviews the proposed bonus for each employee and may adjust
18 the proposed bonus based on unusual events that may have occurred during the preceding year.
19 *Id.* Between 2000 and 2005, the Vice Presidents received individual bonuses ranging from
20 [] in 2000 to [] in 2005.

21 Mr. St. John, Mr. Maykrantz, and Ms. Rice also stated that in February 2007,
22 Mr. Maykrantz and Ms. Rice proposed 2006 bonuses of [] for each of the Vice Presidents.
23 During their discussion of the proposed 2006 bonuses, Mr. St. John directed Ms. Rice to include

11044302954

1 reimbursements of each of the Vice Presidents' 2006 political contributions (both federal and
2 state) in their bonuses. *See* Affidavit of Lori Rice dated May 13, 2010 at 3. Mr. St. John stated
3 that he believed that the Vice Presidents had been particularly accommodating to his heightened
4 request for political contributions in 2006, and he wanted to show his appreciation. *See* Affidavit
5 of Edward St. John at 3. Ms. Rice stated that she reviewed her records regarding each Vice
6 President's 2006 political contributions (both federal and state) and added those totals to their
7 bonuses. She also stated that she included an additional amount to account for appropriate
8 federal and state taxes on the reimbursements. As a result, each of the Vice Presidents received
9 2006 bonuses ranging from _____, instead of the normally-calculated _____
10 bonuses.

11 In the summer of 2007, the Maryland State Prosecutor's Office initiated an investigation
12 of SJPI and the St. John-related partnerships, and ultimately found that SJPI had reimbursed the
13 Vice Presidents' 2006 state contributions in violation of Maryland state law. Mr. St. John
14 admitted to civil violations for the reimbursements, agreed to pay a \$55,000 fine, and donated
15 another \$55,000 to a charitable organization that assists underprivileged children in Baltimore
16 with college expenses. *See* First General Counsel's Report at 5. Mr. St. John states that he
17 entered into the settlement to take full responsibility for reimbursing the Vice Presidents' state
18 contributions and to avoid separate charges against the Vice Presidents and their spouses. *See*
19 *also* Affidavit of Edward St. John at 4. Although the Maryland State Prosecutor's press release
20 suggested that the Vice Presidents expected reimbursements, the Vice Presidents all affirmed
21 that they did not expect the reimbursements and stated that the Maryland authorities did not even
22 ask them to give personal accounts. Affidavits of Robert Becker, Jeffrey Gish, Lawrence
23 Maykrantz, Stanley Meros, H. Richard Williamson, and Gerard Wit at 2.

11044302955

1 In November 2007, after the Maryland State Prosecutor's investigation commenced and
2 on the advice of counsel, all of the Vice Presidents repaid the federal and state reimbursements,
3 including the additional tax-related amounts, to SJPI. SJPI Joint Complaint Response dated
4 November 12, 2009 at 10; and Affidavits of Robert Becker, Jeffrey Gish, Lawrence Maykrantz,
5 Stanley Meros, H. Richard Williamson, and Gerard Wit.

6 **B. Discussion**

7 The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits a
8 corporation from making contributions from its general treasury funds in connection with any
9 election of any candidate for federal office. 2 U.S.C. § 441b(a). Furthermore, it is unlawful for
10 any officer or director of any corporation to consent to any contribution by the corporation. *Id.*
11 The Act also prohibits a person from making a contribution in the name of another person,
12 knowingly permitting his name to be used to effect such a contribution, or knowingly accepting a
13 contribution made by one person in the name of another. 2 U.S.C. § 441f. The Commission's
14 regulations further prohibit knowingly helping or assisting any person in making a contribution
15 in the name of another. 11 C.F.R. § 110.4(b)(1)(iii).

16 **1. SJPI and Mr. St. John**

17 Mr. St. John and SJPI have acknowledged reimbursing \$60,000 in contributions with
18 corporate funds. As a result, SJPI became the true source of each Vice President's \$10,000
19 contribution in violation of sections 441b(a) and 441f of the Act.

20 Mr. St. John and SJPI deny knowing that the reimbursements were unlawful.
21 Mr. St. John maintains that he did not require the Vice Presidents to make the contributions and
22 that he did not inform them, either directly or through Ms. Rice or Mr. Maykrantz, that they
23 would be reimbursed. *See also* Affidavit of Edward St. John at 2-3. He maintained in his

11044302956

1 interview that his decision to reimburse the contributions was an impromptu decision in
2 Ms. Rice's office, while he was deciding the appropriate 2006 year-end bonus levels.
3 Mr. St. John explains that he decided then to pay back the Vice Presidents' contributions because
4 he had never before asked them to contribute at the level he did in 2006 and they "gave above
5 and beyond without complaint." See Affidavit of Edward St. John at 3. Mr. St. John maintained
6 in his interview that he did not understand that the reimbursed funds would be considered
7 corporate funds, stating that "they freely gave money when we asked them to give and we gave it
8 back to them." See also SJPI Joint Response dated June 18, 2010 at 2. Mr. St. John also
9 maintains that he has never reimbursed any of the Vice Presidents' prior federal contributions
10 and vowed not to do so again. See SJPI Joint Response dated June 18, 2010 at 3.

11 The Act addresses violations of law that are knowing and willful. See 2 U.S.C.
12 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is
13 violating the law. *Federal Election Commission v. John A. Damesi for Congress Committee*,
14 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by
15 proof that the defendant acted deliberately and with knowledge that the representation was
16 false." *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). Evidence does not have to
17 show that the defendant had a specific knowledge of the regulations; an inference of a knowing
18 and willful act may be drawn from the defendant's scheme to disguise the source of funds used
19 in illegal activities. *Id.* at 213-15.

20 The investigation has not revealed evidence that Mr. St. John or SJPI acted knowingly
21 and willfully in reimbursing the Vice Presidents' \$10,000 contributions. Mr. St. John maintains
22 that he had no direct or indirect prearranged understandings to reimburse the Vice Presidents,
23 and all of the Vice Presidents (and Ms. Rice) have confirmed his statements. The investigation

11044302957

1 produced no information that challenges Mr. St. John's representation that the idea of
2 reimbursing the contributions as part of the Vice President's annual bonus did not even arise until
3 several months after the contributions were made. Further, given the totality of the
4 circumstances, we believe that Mr. St. John is credible in claiming that the separation in time of
5 several months between the events led to his failure to recognize that the later reimbursements
6 would effectively circumvent the prohibition on corporate contributions. Our judgment that
7 Mr. St. John acted in a careless, rather than a knowing and willful, fashion is based on a careful
8 evaluation of the specific facts in this matter. In other circumstances, reimbursements made a
9 similar length of time after the actual contributions could very well be part of a knowing and
10 willful scheme to avoid the Act's limits and prohibitions. Therefore, though we conclude that
11 Mr. St. John and SJPI violated sections 441b(a) and 441f of the Act by making the
12 reimbursements, we do not recommend that the Commission find that the violations were
13 knowing and willful.

14 2. Conduits

15 The Vice Presidents and Ms. Rice deny any contemporaneous expectation that any of the
16 Vice Presidents' \$10,000 contributions to MRSCC's federal account would be reimbursed.
17 Ms. Rice stated that she had no understanding that the contributions would be reimbursed and
18 that she did not inform the Vice Presidents that their contributions would be reimbursed.
19 Affidavit of Lori Rice dated May 13, 2010 at 2. The Vice Presidents acknowledge that the
20 \$10,000 contributions were "unusual in size," but denied expecting or even knowing that they
21 were reimbursed. Affidavits of Robert Becker, Jeffrey Gish, Lawrence Maykrantz, Stanley
22 Meros, H. Richard Williamson, and Gerard Wit.

11044302958

Mr. Maykrantz, who was present when Mr. St. John decided to reimburse the contributions, maintains that he was unaware that the reimbursements were unlawful. Affidavit of Lawrence Maykrantz at 4. The other Vice Presidents do not recall ever being told about the reimbursements. Affidavits of Robert Becker, Jeffrey Gish, Stanley Meros, H. Richard Williamson, and Gerard Wit at 3. We have uncovered no information to show that the Vice Presidents knew or expected that they would be reimbursed, or that five of the six Vice Presidents even knew they had been reimbursed. Thus, it appears that at least five of the six Vice Presidents did not consent to the use of corporate funds to reimburse the contributions, and did not violate the Act. Further, while Mr. Maykrantz was made aware of the reimbursements, he failed to recognize that such reimbursements would violate the Act. Accordingly, we recommend that the Commission take no further action and close the file as to Robert Becker, Jeffrey Gish, Lawrence Maykrantz, Stanley Meros, H. Richard Williamson, and Gerard Wit.

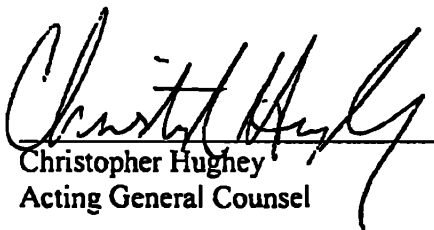
11044302959

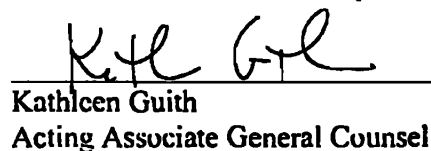
V. RECOMMENDATIONS

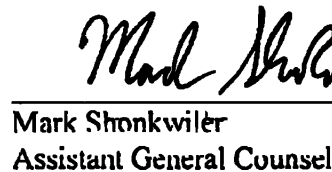
- 1.
- 2.
3. Take no further action and close the file as to Robert Becker, Jeffrey Gish, Lawrence Maykrantz, Stanley Meros, H. Richard Williamson, and Gerard Wit.
4. Approve the appropriate letter.

Date

2-25-2011


Christopher Hughey
Acting General Counsel


Kathleen Guith
Acting Associate General Counsel


Mark Shonkwiler
Assistant General Counsel


Kamau Philbert
Attorney


Margaret Ritzen
Attorney

11044302960