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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6349)

BRUMBERG FOR CONGRESS AND)

DR. BARRY BRUMBERG,)

AS TREASURER)

DAVID RYAN BRUMBERG)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

CELA

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal, or in certain cases where the responses sufficiently rebut the allegations set forth in the complaint, a no reason to believe finding.

In this matter, the complainant, David Douek, alleges that David Brumberg, Brumberg for Congress¹, and Dr. Barry Brumberg, in his official capacity as treasurer² (the "Committee"), received excessive in-kind contributions from an unknown source, in violation of 2 U.S.C. § 441a(f), and failed to report them, as required by 2 U.S.C. § 434(b).³ Specifically, the complainant alleges that, in May 2010, the Brumberg Committee began leasing 1,000 square feet of office space in Manhattan which, the complainant surmises, may be worth as much as \$48 per square foot per year, or \$4,000 per month, based on what he represents as the typical rental costs in the area. In addition, the complainant alleges that the

¹ David Ryan Brumberg was an unsuccessful candidate in New York's 14th Congressional District.

² According to the Committee's Statements of Organization, Anne Sheeran was the treasurer at the time of the activity in question.

³ During the 2009-2010 election cycles, contributions from individuals were limited to \$2,400 per election cycle. The complaint does not allege that the "unknown source" was a corporation, which would have rendered the alleged contributions prohibited, rather than "excessive."

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1 Committee failed to report rental costs for its campaign office in its 2010 July Quarterly
2 Report.

3 The response, filed by Barry Brumberg, on behalf of the Committee, states that the
4 Committee paid \$2,200 per month, plus utilities, out of official campaign funds for the office
5 space. Attached to the response are three check stubs from July 1, 2010, July 2, 2010, and
6 August 6, 2010 that, according to Mr. Brumberg, represent rental payments for the
7 campaign's office space in June, July, and August of 2010. Mr. Brumberg also notes that the
8 lease for the office space began on June 1, 2010, and that no rent payments had been made at
9 the time of the filing of the Committee's 2010 July Quarterly Report (which covers the
10 period from April 1, 2010, to June 30, 2010). Accordingly, he asserts that it would not have
11 been proper to include these rental payments as expenditures on the Committee's July
12 Quarterly Report. Instead, Mr. Brumberg maintains that rental payments, consistent with the
13 amounts shown on the rental stubs, were disclosed on the Committee's 2010 Pre-Primary
14 Report, filed on September 1, 2010 (covering the period from July 1, 2010, to August 25,
15 2010).

16 Our review of the Committee's 2010 Pre-Primary Report has revealed that
17 disbursements of \$2,334.46, \$2,200 and \$2,414.94 were reported to Bravo Management
18 Company, as "rental" payments, on July 1, 2010, July 2, 2010 and August 6, 2010,
19 respectively. Although the complainant asserts that rent for comparable office space might
20 cost approximately \$4,000 a month, as opposed to the \$2,200 paid by the Committee, there is
21 no other information in the record to support the allegation that the Committee was charged
22 less than the fair market value for its use of the premises. Specifically, in support of his
23 contention, the complainant points to an April 2009 article in the *New York Times* (see

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1 Exhibit D of the complaint), which discusses the decline in rental value in Manhattan. The
2 article notes that there was a precipitous drop in the rental prices for commercial office space
3 as a result of the recession. In fact, the article points out that in a one year period from 2008
4 to 2009, rental prices fell 23.4%. Since the article was written over a year prior to the
5 Committee's lease, it is not clear whether the estimates used for the values of commercial
6 rental office space are still accurate.

7 Thus, it appears that the Committee properly reported its rental payments, and there is
8 no indication that its rental costs were paid for by an unknown source. Moreover, there is no
9 information contained in the record to support the allegation that the Committee paid less
10 than the fair market value for its lease of the commercial office space. Accordingly, based on
11 the information provided in the complaint and response in this matter, we recommend that
12 the Commission find no reason to believe that David Brumberg, Brumberg for Congress, and
13 Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and
14 434(b).

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RECOMMENDATIONS

1. Find no reason to believe that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f).
2. Find no reason to believe that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
3. Close the file and approve the appropriate letters.

Christopher Hughey
Acting General Counsel

BY:

Date

10/10/10

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