Perkins Coie

Judith L. Corley
Graham M. Wilson
PHONE: (202) 628-6600
FAX: (202) 654-9194
EMAIL: JCorley@perkinscoie.com
GWilson@perkinscoie.com

700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
PHONE: 202.654.6200
FAX: 202.654.6211
www.perkinscoie.com





**VIA HAND DELIVERY**

May 16, 2011

Kim Collins
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

**Re: MUR 6463**

Dear Ms. Collins:

We write as counsel to the Democratic National Committee, including Organizing for America, Florida, a project of the DNC, and Andrew Tobias, Treasurer (collectively, the "DNC"), in response to a complaint filed by Iraj J. Zand and Raymond Sehayek on March 22, 2011 (the "Complaint"). The Complaint alleges that the DNC may have accepted (i) contributions made in the name of another and (ii) excessive or prohibited in-kind contributions in the form of the use of office space in Naples, Florida and associated expenses.

As to the first allegation, the DNC had no knowledge, nor does the Complaint even assert that the DNC had any knowledge, that any of the relevant contributions were made in the name of another. Furthermore, the DNC understands that the relevant contributors have submitted evidence to the Commission showing that all of their contributions were made with their own funds and on their own behalf. Secondly, the DNC has paid fair market value for the use of the Naples office space, and has paid for several associated expenses of which it was not previously aware.

Accordingly, the Commission should find no reason to believe that the DNC violated the Act and should dismiss this matter immediately.

## A. The DNC Did Not Violate 2 U.S.C. § 441f

Section 441f of the Federal Election Campaign Act of 1971, as amended (the "Act") states as follows:

> No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person.

2 U.S.C. § 441f (2011) (emphasis added). The Commission's regulations implementing this provision similarly state that "No person shall— ... (iv) Knowingly accept a contribution made by one person in the name of another." 11 C.F.R. § 110.4(b)(iv) (emphasis added). The Commission has repeatedly interpreted "knowingly" in this context to mean that one has "knowledge of the operative facts of the activity," even if it is not necessary to know "the legality of the activity." *See* FEC Matter Under Review 4322/4650, General Counsel's Report 5-6 (Dec. 2, 1998). For example, if Jack Antaramian transferred funds to third party to have them make a contribution to the DNC, the DNC would have had to know about the transfer for the DNC to have "knowingly" accepted a contribution made in the name of another from the third party. That there was a transfer to fund the third party's contribution is the "operative fact" of the activity. On the other hand, the DNC would not need to know that the transfer was actually illegal in order to have violated § 441f.

Here, the DNC had no factual knowledge and no reason to believe that any of the contributions at issue were made in the name of another, nor was the DNC aware of any evidence that should have led it to such a conclusion.

For example, the Complaint discusses contributions received from David Antaramian and Yasmeen Wilson. However, all of these contributions were made directly from each contributor, from his or her own individual checking account. The DNC was not aware of any other facts concerning these contributions that would indicate that they were made using funds intentionally being provided by any other individual, or that they were otherwise made in the name of another. The Complaint theorizes that Jack Antaramian may have funded these contributions, but the DNC was not aware of any such information. It is also the DNC's understanding that the contributors have now submitted information to the Commission affirming that each contributor made the contributions with their own funds on their own behalf.

The Complaint also speculates that contributions to the DNC from Jack Antaramian may have violated the Act because the Complainants, foreign nationals, made a transfer of funds to a trust account called the Antaramian Family Trust. Again, however, the DNC had no knowledge of any such operative facts, or reason to believe that any of Jack Antaramian's contributions were

actually contributions made in the name of another or from a foreign national. When the DNC received the contributions none of the factors set out at 11 C.F.R. § 110.20(a)(5), which could indicate a contribution from a foreign national, were present. The DNC also understands that Jack Antaramian has submitted an affidavit to the Commission indicating that all of his contributions were made exclusively on his own behalf, with his own personal funds, and not on behalf of or with the funds of Complainants.

If despite the contributors' evidence, the Commission determines that any of the contributions at issue were in fact made in violation of § 441f or any other provisions of the Act, the DNC still had no knowledge of the operative facts at the time the contributions were accepted, and hence did not violate the Act. In that case, however, the DNC will take appropriate ameliorative action pursuant to 11 C.F.R. § 103.3(b) as set forth in FEC Advisory Opinion 1995-19 (discussing the proper procedure for when a treasurer determined "at the time the contribution was received and deposited that it did not appear to be from an unlawful source or made in the name of another, but 'later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit.'").

**B. The DNC Has Paid Fair Market Value for Its Use of the Naples Office Space and All Associated Expenses**

The Complaint alleges that the DNC may have accepted a prohibited in-kind corporate contribution in the form of the use of office space located at 296 14th Avenue South, Naples, Florida (the "Naples Space") and excessive contributions from the Antaramians in the form of related office expenses.

The DNC occupied the Naples Space from on or about July 23, 2009 to on or about March 3, 2010. The DNC has paid for the full fair market value of the use of the Naples Space.

There was some initial confusion on the part of local political staff in Florida regarding what individual or entity was actually providing the space, whether the use of the space could be accepted as an in-kind contribution to the DNC, and whether it was necessary to pay or treat the use of the space as an in-kind contribution given that no rent was due under the lease for Naples Space from July 1, 2009 to January 1, 2010. *See* Complaint, Exhibit G at 1 (the "Lease"). There was also a miscommunication between local political staff and permanent DNC operations staff in Washington, DC regarding who would be entering into a sublease and actually paying the rent.

Accordingly, it was not until a lawsuit was filed in March 2010 that it became clear that rent was due for the Naples Space. *See* Antaramian/Petit Square Partners, LLC v. Antaramian Development Corporation et al., Case No. 10-1759-CA (Fla. 20th Cir. Ct. filed March 12, 2010) (the "Lawsuit"). At that point in time, the DNC immediately investigated the matter and offered

to pay the fair market value of the rent for the time that it occupied the Naples Space. Although no rent for the Naples Space was due under the Lease for the majority of the time that it was occupied by the DNC, the DNC offered to pay $29,166.64. This amount was calculated by multiplying the rent due under the Lease after the conclusion of the free rent period times the eight months that the DNC occupied the space, even though the sub-lessor was not obligated to pay rent during most of this period.

As a result of this Complaint, it has come to the DNC's attention that Jack and Mona Antaramian may have also individually paid for some expenses or provided items of value associated with the Naples Space which could have benefited the DNC. However, some such expenses occurred and were paid for before the DNC occupied the space or were paid for or provided without the direct knowledge of the DNC. Some of the amenities should also be considered as part and parcel of the normal occupation of office space, which was thus paid for by the DNC when it submitted rent for the Naples Space. Nevertheless, Counsel for the Antaramians has submitted a request for payment to the DNC for all expenses or items of value associated with the Naples Space described in the Complaint, and the DNC has paid for such expenses.

Accordingly, the DNC has paid the full fair market value of its use of the Naples Space and all of the related expenses set forth in the Complaint.

**C. Conclusion**

The Commission should find no reason to believe that the DNC violated the Act and should dismiss this matter immediately.

Very truly yours,

Judith L. Corley
Graham M. Wilson
Counsel to Respondents

Enclosures

Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com





May 6, 2011

Jeff S. Gordon
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

**Re: MUR 6463**

Dear Mr. Gordon:

In response to the allegations raised in the complaint dated March 23, 2011 (MUR 6463), and on behalf of Jack J. Antaramian ("Jack") (in his personal capacity, in his capacity as President of the Antaramian Development Corporation of Naples, and in his capacity as Trustee of the Antaramian Family Trust), Mona Antaramian ("Mona") (Jack's wife), David Antaramian ("David") (Jack and Mona's son), and Yasmeen Wilson ("Yasmeen") (Jack's sister-in-law), (collectively "the Respondents") we respectfully submit the following response and supporting documentation, and request that the Commission dismiss this complaint.

The allegations made in the complaint are baseless, and in most cases based on nothing more than conjecture. In addition, the complaint is factually incorrect in most cases. Under no circumstances did Jack, Mona or any of the Respondents knowingly or willfully violate the Federal Election Commission Act, or any other law. Any potential violations of federal campaign finance laws were unintentional or accidental, and attempts have been made to rectify any potential violations that have been uncovered as a result of this complaint. See attached declaration from Jack – Exhibit 1.

Jack is a real estate developer and has, on a number of occasions, partnered with Iraj J. Zand and Raymond Sehayek (the "complainants") to invest in real estate. As a result of a failed investment, the complainants have filed multiple law suits against Jack and the Antaramian Development Corporation of Naples. This, sadly, is just another attempt by the complainants to disparage Jack's name and reputation, cost him money in legal fees, and generally make his life difficult. We sincerely regret the Federal Election Commission being dragged into this failed business relationship.

1. Alleged In-Kind Contributions and Corporate Contributions

In 2009, Jack and Mona each independently provided cash contributions of $30,400 to the Democratic National Committee ("DNC"). As a result, both Jack and Mona reached their annual contribution limit to the DNC for the year. As active supporters of the Democratic Party, in mid-2009

Jack and Mona also agreed to volunteer their time to assist the OFA/DNC in locating and setting up an office in Tampa, Florida. Jack and Mona worked closely with Francesca Fryer of the DNC and Ashley Walker of the OFA in this endeavor. As is made clear through the exchange of emails between Mona and Jack and the OFA/DNC staff, the parties wanted to make absolutely sure that this assistance did not result in illegal contributions to the DNC. At no point during this time did Jack and Mona intend to make contributions to OFA/DNC above the cash contributions they had made earlier in the year. They certainly, in no way, knowingly or willfully violated federal election laws as is alleged in the complaint. This allegation is baseless and completely without merit.

The complaint alleges that Jack and Mona provided in-kind contributions to Organizing for America ("OFA")[1] through free office space, office furniture, costs associated with opening the office, and utilities. With regard to the office space, due to the economic recession many office buildings in Florida went unoccupied which tended to significantly reduce property value. Jack, as a real estate developer, was concerned about his properties losing value because of the difficulties in finding tenants. When Jack learned that the OFA was looking for an office space in the Naples area, he offered them tenancy at a commercial development called Pettit Square, which was owned by Antaramian/Pettit Square Partners, LLC, a company in which Jack maintained an ownership stake.

After OFA expressed interest in occupying the office space at Pettit Square, Jack and Mona informed OFA that they had already reached their contribution limit to DNC and would only agree to supply the office space if it could be done without exceeding the contribution limits. In a May 12, 2009 email from Lisa McClenaghan, the Co-Facilitator of OFA, to Mona and Jack, the OFA recognized Jack's and Mona's concern about the contribution limits and agreed that there would have to be a lease at the usual and normal rate to rent the office space. *See* Exhibit N of the complaint, at p. 3, and attached to this response as Exhibit 2.

OFA wanted to move into the office space starting in July 2009. In order to have the office ready for a July move-in, Pettit Square needed a completed lease as soon as possible. Jack, in order to expedite the process, executed a four year lease between Antaramian/Pettit Square Partners, LLC, and the Antaramian Development Corporation of Naples ("ADCN"). Based on telephone conversations with the OFA and/or DNC, Jack understood that the OFA/DNC would be subsumed under the terms of the lease either through a sublease or through modification of the original lease to be made the original tenant. Before signing the lease, Jack received advice from counsel that the lease should be in the name of ADCN and not him personally.

The terms of the four year lease included six months free rent and monthly rent at $3,639.58 thereafter. These terms were the commercially prevailing rate for the office space at the time. Due to the economic recession, Antaramian/Pettit Square Partners and other similar property owners regularly offered discounted rent, and even free rent, in an effort to entice tenants to sign long-term leases in their buildings. *See* Exhibit 3.[2] In addition, a rental rate of $3,639.58 per month for 1,747 square feet of office space in Naples was the prevailing rate at the time. *See* Exhibit 4.[3]

---

[1] OFA is affiliated with the DNC; however, Jack and Mona lack sufficient knowledge and information about the relationship and organizational structure between OFA and the DNC. For the purpose of this letter, it is assumed that OFA and the DNC are the same.

[2] In an e-mail (dated July 20, 2009) from Frank Delgado, with the Summit Management Group of Florida (a leading property management firm in the area) Frank states: "There is a lot of space being offered at 12-15sqft 'ALL IN' just off third (location of Pettit Square), with deals to be had on front side free rent periods...etc." Offering free rent at the beginning of a lease, or other significant enticements, was common at the time to lure tenants to vacant space.

OFA moved into the Pettit Square office on or around July 23, 2009. Although the lease was not modified and no sublease was executed, Jack understood that an agreement was made with OFA and that OFA was assuming all the obligations under the lease.[4] After the six month free rent period expired, OFA was supposed to start paying rent on January 1, 2010. Because OFA failed to pay rent, it was forced to leave around March 3, 2010.

Antaramian/Pettit Square Partners subsequently brought suit against the DNC to recover the rent. The DNC agreed to pay for the full eight months that it occupied the Pettit Square office, at the monthly rental rate prescribed in the lease. The DNC paid Pettit Square Partners $29,116.64. Pettit Square Partners recognized that $29,116.64 satisfied OFA's rental obligations and dismissed the lawsuit against the DNC. *See* Exhibit L of the complaint, and attached to this response as Exhibit 5. Jack had no involvement in this settlement decision; rather, the complainants decided that $29,116.64 was the appropriate amount for OFA's rental of the Pettit Square office.

OFA's rental of the Pettit Square office was not a contribution of any kind. The terms of the rental agreement were the usual and normal charge for such an office in the Naples area at that time. In addition, the DNC ultimately paid $29,116.64 in rent, which satisfied its rental obligation to Antaramian/Pettit Square Partners. Because the DNC paid the usual and normal rental rate for the use of this office space, there is no contribution.

With regard to the furniture mentioned in the complaint, Jack and Mona assisted OFA in locating some random pieces of furniture for the office. According to a June 18, 2009 e-mail sent by Mona, the pieces of furniture consist of sofas, tables, lamps, storage drawers, and a desk. These pieces of furniture were discarded by previous tenants and left in unoccupied offices that in some cases were partially owned by Jack's real estate interests. The furniture was in very poor condition and had no discernable market value in itself. In fact, after OFA left the office space, the Pettit Square property managers threw out these pieces of furniture from the office space, as they were considered garbage.

At no point did Jack or Mona consider these pieces of furniture a contribution to the DNC. Indeed, it was unclear who actually owned the furniture. The furniture was discarded by prior tenants of various properties and left in the various vacant offices for the property managers and/or the

---

[3] Rent roll for "The Pettit Square Building" dated 8/31/2009. This clearly demonstrates the trend in rental rates in the area. In 2004, Truly Nolen of America negotiated rent in Pettit Square of $45.97/sqft. In 2006, Kathryn's Collection agreed to pay $26.26/sqft. The lease at issue in this complaint took effect on 7/01/2009, after the economic depression was well under way, and was for $25.00/sqft. Note – this rent roll also shows the vacancy rate in Pettit Square. Prior to the OFA occupancy, the OFA's office space had been vacant for a significant period of time.

[4] The complaint attaches an email from Steven Hemping claiming that Jack had donated the office space. *See* Exhibit K of the complaint. Hemping is a member of the state political party, which is different from the DNC and OFA. He sought to use OFA's office space for his state political party, but this arrangement never occurred. Hemping was not privy to any discussion that Jack had with OFA and did not know what agreement Jack reached with OFA. His statements do not reflect upon Jack. In addition, the complainants make far too much out of a reference that Jack's son, David Antaramian, could possibly donate the office space in an October 5, 2009 email. During Jack's conversation with the OFA/DNC, someone had inquired whether David could donate the office space instead of OFA renting the space at fair market value. This idea was readily rejected. By October, OFA had already been operating under the lease for three months. The DNC wanted to revisit this issue, but it was again rejected.

landlords to handle. As such, the furniture was not the personal property of Jack or Mona, or any of the Respondents, and any potential in-kind contribution of the furniture to the DNC would not count toward Jack's or Mona's individual contribution limits. As far as we can tell, the furniture was obtained from vacant office space owned by the following companies: Kraft Office Center, LLC, A&N of Maroa, Inc., and Antaramian/Pettit Square Partners, LLC. These companies were not named as respondents in the complaint.

If it is determined that the rental use of these pieces of furniture by OFA were an in-kind contribution by the above named companies, it remains unclear what, if any, value these pieces of furniture had. There is no market value for the rental of ill-conditioned, discarded furniture. It has been determined that the monthly rental value of the same items of furniture, in new condition, by a rental company in the Naples area is approximately $160/month. The furniture was used by OFA for approximately eight months for a total rental value of $1,180.00. If it is determined that the use of the furniture was an in-kind contribution to the DNC, we are prepared to request the DNC to reimburse the various corporations that owned the vacant offices where the furniture was originally found.

Regarding the other items listed in the complaint, Jack and Mona have learned for the first time through their attorneys in preparing this response to the complaint that they may have inadvertently made in-kind contributions to the DNC made with respect to some minimal office set-up expenses and the utilities for the OFA office. Jack and Mona deeply regret this and have taken immediate measures to rectify it.

Jack assisted OFA in locating a copier for its temporary use. The copier was owned by DeLage (a copy machine rental/sales company) and leased to a property called Renaissance Village[5] until September 7, 2009. Because it was not being used, Jack had it moved to the OFA office. The copier was returned to its owner, DeLage, upon the expiration of the lease. *See* Exhibit 6. The OFA thus used the copier for approximately seven weeks from July 23, 2009 to September 7, 2009. As a result, the use of the copier may be considered an in-kind contribution in the amount of approximately $500.00 by a corporation in violation of 2 U.S.C. § 441b.

Jack was unaware and did not intend for the use of this copier to be a contribution to OFA. However, upon learning that the copier may be considered an in-kind contribution by a corporate entity, through the attached May 6, 2011 letter (See Exhibit 7), we have requested that the DNC reimburse Brompton Road Partners, LLC in the amount of $500.00.

Regarding the moving expenses, professional movers were hired to collect the pieces of furniture and the copier and deliver them to OFA's office. The total cost of this service to the OFA was $487.50. OFA should have paid this cost. In addition, an electrician was hired to install new electrical outlets in the office to enable the use of the copier and computers. The total cost of this service was $511.06

Based on a July 22, 2009 email by Bob Frazitta, the Controller of ADON, it appears that Jack paid these invoices from his personal funds since the vendors had been waiting for quite some time and OFA had yet to move into the office. See Exhibit O of the complaint, at p. 22, and attached to this response as Exhibit 8. Jack's intention was only to pay these invoices because they were outstanding and because the vendors were used frequently by Jack and his companies. Jack did not realize that by paying these invoices he may be making an in-kind contribution to the DNC. Upon learning that this payment may be considered an in-kind contribution to the DNC, through the

[5] Renaissance Village is owned by Brompton Road Partners, LLC. The Antaramian Family, LLC is a 1/3 owner of Brompton Road Partners, LLC.

attached May 6, 2011 letter (*See* Exhibit 7), we have requested the DNC to reimburse him for the cost of these services in the amount of $998.50.

With regard to the utilities, we have discovered that some of OFA's utilities and service bills were inadvertently paid by others. Because ADCN unintentionally remained on the lease, The Client Server sent ADCN a bill for $135.00 for work performed on the computer systems at the OFA office. Bob Frazitta paid this invoice on behalf of ADCN as a matter of course. Bob did not realize and did not intend for this payment to be an in-kind contribution by the corporation to OFA. It was simply an accounting error. Upon learning that this payment may be considered an in-kind contribution, through the attached May 6, 2011 letter (*See* Exhibit 7), we have requested that the DNC reimburse ADCN $135.00 for the cost of this service.

Finally, the electric bill (Florida Power and Light) and the internet/phone bill (Comcast) were placed in Mona's name. Although these bills were paid by Mona, she did not realize that doing so may be considered an in-kind contribution to the DNC. In a July 27, 2009 email, Jack informed the building management group that such bills are to be paid by "the subs," *i.e.*, OFA. *See* Exhibit O of the complaint, at p. 2, and attached to this response as Exhibit 9. The building management even discussed the bills with OFA. Jack understood that the building management was to ask OFA to pay all such bills. Nonetheless, because these utilities were paid by Mona and she was not reimbursed by OFA, and they may be considered an in-kind contribution, in the attached May 6, 2011 letter (*See* Exhibit 7), we have requested that the DNC reimburse Mona for the costs of these expenses in the amount of $898.16.



2. Alleged Contributions of Possibly Laundered Money from the Antaramian Family Trust and/or Overseas Bank and/or Other Accounts

The complaint further alleges that Jack laundered money from foreign sources to make political contributions. Specifically, it alleges that Jack received a $1 million payment from overseas investors (the complainants) in 4 installments to the Antaramian Family Trust, and that Jack used these funds to make political contributions. This allegation is baseless, factually incorrect, and furthermore alleges no specific violation of federal campaign finance laws.

Jack (a US citizen) has many sources of income, largely from real estate developments. He has consistently made his political contributions from his personal checking account or using his personal credit card. In 2010, Jack and Mona made contributions to the DNC on their personal American Express cards.

The complaint is also factually incorrect in its allegation that the $1 million payment was made to the Antaramian Family Trust. The investment fee was made in four installments in 2001, 2003, and 2004 to two separate accounts: (1) a personal bank account owned and used by Jack and Mona; and (2) an account owned by Classico Design Ltd. (a London-based property management and design firm – these funds were subsequently used to renovate and manage a London apartment owned by Jack and Mona).

Although it is unclear, the complaint seems to allege that the $1 million payment, which the complainants paid to Jack, raises a concern about foreign contributions to influence an election to political office. As the Commission is aware, foreign nationals are prohibited from making contributions, directly or through any other person, in connection with an election to any political office. It is also unlawful for any person to solicit, accept, or receive any such contribution from a foreign national. 2 U.S.C. § 441e; 11 C.F.R § 110.20(b). In addition, "[a] foreign national shall not

direct, dictate, control, or directly or indirectly participate in the decision-making process of any person . . . with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions . . . ." 11 C.F.R. § 110.20(i).

As such, it appears that § 441e is violated if a foreign national (1) has any decision-making role concerning contributions or (2) has any control over the money that is being contributed. This is clearly not the case in the matter at hand. In fact, the complainants express concern that their payment might have been used to make political contributions, suggesting that they would have disagreed with the contributions had they been consulted. Certainly they did not have any decision-making role concerning Jack's political contributions, nor did they have any control over the money that was donated to political candidates or the DNC. Indeed, this is precisely why the complainants filed suit in the case referenced in the complaint, namely *Zand et al. v. Jack J. Antonmaa et al.*, Case No. 10-6603-CA (Fla. 20th Cir. Ct., filed Nov. 24, 2010). The $1 million payment was a legitimate business payment to join in partnership with Jack for the purpose of investing in Florida real estate. The money became Jack's own personal income/earnings. The complainants had no control over the $1 million payment, have questioned Jack's performance of his obligation to them, and have filed suit to reclaim the funds.

The money Jack used to make political contributions was Jack's, and Jack's alone. It was money he earned from his business dealings, and over which he maintained complete control. All contributions provided by Jack were of his own decision-making and not influenced by anyone, certainly not the complainants. See attached declaration from Jack – Exhibit 1.

3. Alleged Contributions in the Name of Another

Finally, the complaint alleges that Jack made contributions to the DNC and individual candidates in the name of Yasmeen and David. As with previous allegations, this allegation is baseless and completely without merit. This allegation is based on pure speculation and the complaint makes no attempt to substantiate this claim.

Jack did not direct Yasmeen or David to make political contributions, nor did he reimburse them for any political contributions they provided. See attached declaration from Jack – Exhibit 1.

As the Committee is aware, contributions made in the name of another are illegal under 2 U.S.C. § 441f. *See United States v. O'Donnell*, 608 F.3d 546, 549 (9th Cir. 2010); *United States v. Boender*, 691 F. Supp. 2d 833, 838-42 (N.D. Ill. 2010). In its decision, the Ninth Circuit recognized that the main question in a § 441f case is determining "who" actually made the donation. *See O'Donnell*, 608 F.3d at 550. In this case, the court found that the intermediaries only had a ministerial role and that O'Donnell gave the money for the common purpose of advancing the campaign. *Id.* The court stated that the person "giving" the donation is the person "providing from one's own resources." *Id. at 550.* In another case, the Eastern District of Michigan noted that § 441f requires "active involvement" on the part of the true contributor. *See United States v. Fioger*, 2007 WL 4181312, *4 (E.D. Mich. 2007) (unpublished). Based on these and similar cases, the determinative factors in deciding who donated appear to be who exercised direction and control over the money contributed and the choice of the recipient.

As to Yasmeen, the complaint alleges that Yasmeen's contributions are excessive given her income, and therefore her contributions must have been made by Jack in her name. Yasmeen does in fact work for ADCN (despite the complainants' allegation to the contrary) and receives a regular pay check in addition to commission checks. In addition, Yasmeen does receive financial gifts from Jack

and Mona on a fairly regular basis to supplement her income and help maintain her lifestyle. Upon receiving these financial gifts, she has complete control over the funds and makes her own decisions as to how the money is spent. She has very minimal expenses. Thus, contributions of the size reported are not inconsistent with her spending and financial situation.

She has never been directed by Jack, or anyone else, to make specific political contributions, nor has she been reimbursed by Jack, or anyone else, for any political contributions she has made. Regardless of the source of her income, Yasmeen used her own resources to make such contributions, and she makes her own decisions as to whom the contributions should be given.

The complaint further alleges that as a student David would not have sufficient resources to make a maximum contribution to the DNC ($30,400). The Antaramian family is a family with substantial means. Moreover, David is a beneficiary of the Antaramian Family Trust. He has the ability to request funds from the trust for his personal use, and does so on a regular basis. If the trustees approve of the request, the funds are distributed to David and he spends the money in the manner of his choosing. A contribution of this size is not inconsistent with David's spending or financial situation. David's contribution was of his own volition and made with his own resources. David was not directed to make the contribution to the DNC by Jack, nor was he reimbursed by Jack for doing so.

As is explained above, this complaint is largely speculative, inaccurate, and misleading. Jack and Mona in no way intended to violate federal campaign finance law, or any other laws. Any inappropriate contributions were inadvertent. And, where those inappropriate contributions have been discovered, every attempt has been made to rectify the problem, including requesting reimbursement from the DNC. As such, we request that the Commission dismiss this matter.

Respectfully submitted,

C. Michael Gilliland

Partner
mike.gilliland@hoganlovells.com
D 202.637.5619

Enclosures

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA
CIVIL DIVISION

COPY

ANTARAMIAN/PETTIT SQUARE PARTNERS, LLC, a Florida limited liability company

Plaintiff,

vs.

CASE NO. 010-1759CA

ANTARAMIAN DEVELOPMENT CORPORATION, a dissolved Florida corporation, a/k/a/ ANTARAMIAN DEVELOPMENT CORP., a dissolved Florida corporation, JACK ANTARAMIAN a/k/a JACK J. ANTARAMIAN, ROBERT W. WEINSTEIN, CHARLES J. THOMAS, ROBERT FRAZITTA a/k/a/ ROBERT M. FRAZITTA, ANTARAMIAN DEVELOPMENT CORPORATION OF NAPLES, a Florida corporation, f/k/a ANTARAMIAN DEVELOPMENT CORPORATION OF NAPLES, INC., a Florida corporation, ORGANIZING FOR AMERICA, FLORIDA, A PROJECT OF THE DEMOCRATIC NATIONAL COMMITTEE a/k/a ORGANIZING FOR AMERICA, A PROJECT OF THE DEMOCRATIC NATIONAL COMMITTEE AND UNKNOWN OCCUPANT(S),

Defendants.
_____/

FILED
COLLIER COUNTY, FLORIDA
2010 NOV 23 PM 3:45
CLERK OF COURTS
BY _____ D.C

12044321191

## NOTICE OF VOLUNTARY DROPPING WITH PREJUDICE OF THE DEMOCRATIC NATIONAL COMMITTEE

Pursuant to the Florida Rules of Civil Procedure, Rules 1.250(b) and 1.420(a)(1)(A), Plaintiff ANTARAMIAN/PETTIT SQUARE PARTNERS, LLC, a Florida limited liability company, hereby gives notice to the Court that Defendant, ORGANIZING FOR AMERICA, FLORIDA, A PROJECT OF THE DEMOCRATIC NATIONAL COMMITTEE a/k/a



Exhibit 5

ORGANIZING FOR AMERICA, A PROJECT OF THE DEMOCRATIC NATIONAL COMMITTEE, (the "DNC") is hereby dropped from the above captioned matter with prejudice.

Dated: 11/23/2010

ROETZEL & ANDRESS
A Legal Professional Association

Stephen E. Thompson, Esquire
Florida Bar No. 442460
Douglas A. Lewis, Esquire
Florida Bar No. 177260
850 Park Shore Drive, 3rd Floor
Naples, Florida 34103
Telephone: (239) 649-2700
Facsimile: (239)261-3659

Counsel to Plaintiff

Dated: 11/15/2010

LAW OFFICES OF HEATHER S. CASE, P.A.

Heather S. Case
Florida Bar No. 0015079
18403 Royal Hammock Blvd.
Naples, FL 34114
Telephone: (239) 304-9408
Facsimile: (800) 772-2808

Counsel to the DNC

12043211192