



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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2 **MEMORANDUM**

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4 **TO:** The Commission

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6 **FROM:** Lisa J. Stevenson  
7 Acting General Counsel

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9 Charles Kitcher  
10 Acting Associate General Counsel for Enforcement

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12 **BY:** Stephen A. Gura *SG*  
13 Deputy Associate General Counsel for Enforcement

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15 Mark Allen *MA*  
16 Assistant General Counsel

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18 Delbert K. Rigsby *DKR*  
19 Attorney

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21 **SUBJECT:** MUR 7409 and Pre-MUR 620 (Mason Tenders District Council of Greater New  
22 York and LI PAC) - Memorandum to the Commission

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25 **I. INTRODUCTION**

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27 In MUR 7409, the Commission found reason to believe that Mason Tenders District  
28 Council of Greater New York and LI PAC and Mike Prohaska in his official capacity as treasurer  
29 (“Committee”) violated 52 U.S.C. § 30104(b) by failing to report receipts on two disclosure  
30 reports in 2016 and 2017.<sup>1</sup> During pre-probable cause conciliation, the Committee filed a *sua*  
31 *sponte* submission (Pre-MUR 620) with the Commission acknowledging that it failed to  
32 disclose receipts on its 2018 12-Day Pre-General Report.<sup>2</sup> The Committee requested that the  
33 Commission resolve the *sua sponte* submission and MUR 7409 together.<sup>3</sup> We recommend that

1 See Certification in MUR 7409 (June 7, 2018).

2 See Committee *Sua Sponte* Submission at 1. See also Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

3 The Committee’s counsel made this request to the Office of General Counsel in a telephone conversation on December 6, 2018.

1 the Commission open a MUR in Pre-MUR 620, find reason to believe that the Committee  
2 violated 52 U.S.C. § 30104(b), enter into pre-probable cause conciliation with the Committee  
3 and approve an agreement covering both the new MUR and MUR 7409.

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5 **II. FACTUAL AND LEGAL ANALYSIS**

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7 **A. Facts**

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9 On October 25, 2018, the Committee filed its 2018 12-Day Pre-General Report disclosing  
10 no receipts for the reporting period.<sup>4</sup> The Committee amended its 2018 12-Day Pre-General  
11 Report on December 6, 2018, disclosing \$170,773.73 in receipts.<sup>5</sup> On December 11, 2018, the  
12 Committee made a *sua sponte* submission to the Commission that its original 2018 12-Day Pre-  
13 General Report failed to include \$170,773.73 in receipts, and that it had filed an amended report  
14 disclosing those receipts.<sup>6</sup> The Committee, a separate segregated fund, states that it failed to  
15 report the receipts because its collecting agent for payroll deductions, Mason Tenders District  
16 Council Trust Funds, did not provide it with a report of the contributions until after the close of  
17 the reporting period for the 2018 12-Day Pre-General Report.<sup>7</sup>

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19 **B. Legal Analysis**

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21 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee  
22 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
23 52 U.S.C. § 30104.<sup>8</sup> These reports must include, *inter alia*, the total amount of receipts and  
24 disbursements, including the appropriate itemizations, where required.<sup>9</sup> The Committee has  
25 admitted that it failed to report \$170,773.73 in receipts on its original 2018 Pre-General Report  
26 and filed an amended report to disclose these receipts. Therefore, we recommend that the  
27 Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b).<sup>10</sup>

4 Committee 2018 12-Day Pre-General Report (Oct. 25, 2018).

5 Committee Amended 2018 Pre-General Report (Dec. 6, 2018).

6 Committee *Sua Sponte* Submission at 1.

7 *Id.* The Committee explains that at the end of October 2018 it received a report of contributions for the entire month from its collecting agent, covering the 12-Day Pre-General Report period as well as part of the 30-Day Post-General Report period. *Id.* The Committee provided a letter from its collecting agent stating that in the future it will create contribution reports for time periods other than by calendar month. *Id.*, and Attach.

8 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

9 See 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3.

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**IV. RECOMMENDATIONS:**

1. Open a MUR for Pre-MUR 620;
2. Find reason to believe that Mason Tenders District Council of Greater New York and LI PAC and Mike Prohaska in his official capacity as treasurer violated 52 U.S.C. § 30104(b) in the new MUR;
3. Approve the attached Factual and Legal Analysis in the new MUR;
4. Enter into pre-probable cause conciliation with Mason Tenders District Council of Greater New York and LI PAC and Mike Prohaska in his official capacity as treasurer in the new MUR;
5. Approve the attached conciliation agreement for MUR 7409 and the new MUR; and
6. Approve the appropriate letter.