



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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JUN 26 2019

RE: MUR 7620 (formerly Pre-MUR 620)
and MUR 7409
Mason Tenders District Council
of Greater New York and LI PAC
and Mike Prohaska in his official
capacity as treasurer

Dear Mr. Laufer:

On December 11, 2018, your clients, Mason Tenders District Council of Greater New York and LI PAC and Mike Prohaska in his official capacity as treasurer ("Committee"), filed a *sua sponte* submission notifying the Commission that the Committee may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the "Act").

Upon review of the available information, the Commission, on June 20, 2019, opened a matter under review, MUR 7620, and found reason to believe that the Committee violated 52 U.S.C. § 30104(b). The Factual and Legal Analysis in MUR 7620, which provides the basis for the Commission's findings, is enclosed for your information.

Please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as the Committee is notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless the Committee notifies the Commission in writing that it wishes the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

In a December 6, 2018, telephone conversation with the Office of General Counsel, you requested that the Commission resolve the *sua sponte* matter, now MUR 7620, in one agreement along with MUR 7409, in which the Committee was already engaged in pre-probable cause conciliation with the Commission. Enclosed is a conciliation agreement for MUR 7620 and MUR 7409 for your consideration

If the Committee is interested in engaging in pre-probable cause conciliation in MUR 7620, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1616 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, the Committee may submit any factual or legal materials that it believes are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if the Committee is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's Guidebook for

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Mason Tenders District Council of Greater New York
LI PAC and Mike Prohaska in his official capacity
as treasurer

MUR 7620

I. INTRODUCTION

This matter was generated by a *sua sponte* submission by Mason Tenders District Council of Greater New York LI PAC and Mike Prohaska in his official capacity as treasurer (“Committee”) acknowledging that it did not disclose receipts on its 2018 12-Day Pre-General Report. For the reasons discussed below, the Commission finds that there is reason to believe that the Committee violated 52 U.S.C. § 30104(b).

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

On October 25, 2018, the Committee filed its 2018 12-Day Pre-General Report disclosing no receipts for the reporting period.¹ The Committee amended its 2018 12-Day Pre-General Report on December 6, 2018 disclosing \$170,773.73 in receipts.² On December 11, 2018, the Committee made a *sua sponte* submission to the Commission that its original 2018 12-Day Pre-General Report failed to include \$170,773.73 in receipts, and that it had filed an amended report disclosing those receipts.³ The Committee, a separate segregated fund, states that it failed to report the receipts because its collecting agent for payroll deductions, Mason Tenders District

¹ See Committee 2018 12-Day Pre-General Report (Oct. 25, 2018).

² Committee Amended 2018 12-Day Pre-General Report (Dec. 6, 2018).

³ Committee’s *Sua Sponte* Submission at 1. See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

