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SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

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COMMISSION
SECRETARIAT

2004 AUG -9 P 2: 55

FIRST GENERAL COUNSEL'S REPORT

RE: MUR 5390/ PRE-MUR 424

DATE COMPLAINT FILED: October 15, 2003

DATE OF NOTIFICATION: October 22, 2003

DATE ACTIVATED: February 2, 2004

EXPIRATION OF STATUTE OF LIMITATIONS:
March 16, 2004 – December 10, 2007¹

COMPLAINANT: Public Citizen

SUA SPONTE SUBMISSION: Federal Home Loan Mortgage Corporation
(a/k/a Freddie Mac)

RESPONDENTS: Federal Home Loan Mortgage Corporation (a/k/a Freddie Mac)
Robert Mitchell Delk
Amanda Delk
Leland Brendsel
Clarke Camper
Epiphany Productions, Inc.
Ser Inc. (d/b/a Galileo Restaurant)
Republican National Committee and
Michael L. Retzer, as treasurer

RELEVANT STATUTES

AND REGULATIONS: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(3)
2 U.S.C. § 441b
2 U.S.C. § 434b
11 C.F.R. § 114.2(f)
11 C.F.R. § 114.1(a)(2)(v)

INTERNAL REPORTS CHECKED: Disclosure Reports
Internal Indices

FEDERAL AGENCIES CHECKED: United States Department of Justice

¹ While the statute of limitations runs on the earliest violations in this matter on March 16, 2004, it does not begin to expire with respect to the vast majority of the activity until January 30, 2006

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1 **I. INTRODUCTION**

2
3 The complaint in this matter alleges that Robert Mitchell Delk ("Mitch Delk"), Senior
4 Vice President of Government Relations at the Federal Home Loan Mortgage Corporation
5 ("Freddie Mac") between January 1999 and March 2004, made excessive contributions in
6 violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection
7 with fundraising dinners he hosted at Ser Inc. (d/b/a Galileo Restaurant, hereinafter "Galileo")
8 during the 2001-2002 election cycle. The complaint further alleges that Epiphany Productions,
9 Inc., a Freddie Mac vendor, made corporate contributions in violation of the Act by failing to
10 make reasonable efforts to collect payments from campaign committees for organizational
11 services it rendered in connection with the fundraising dinners.

12 The complaint does not make any allegation of wrongdoing with respect to Freddie Mac.
13 However, in the wake of the complaint and the public disclosure of accounting improprieties
14 within the company, discussed *infra*, Freddie Mac submitted to the Commission *sua sponte* a
15 document entitled "Summary of Freddie Mac Campaign Finance Review" ("Submission").² The
16 Submission explains that "[a]s part of its efforts to reestablish Freddie Mac's credibility, the
17 company has committed to demonstrating its compliance with all laws and regulations that apply
18 to its activities." Without drawing any legal conclusions, the Submission sets forth information
19 obtained during a review by outside legal counsel of the campaign finance activities of Freddie
20 Mac personnel, including, but not limited to, the fundraising dinners hosted by Mitch Delk at
21 Galileo.

² Freddie Mac requested a meeting with this Office in order to provide information regarding campaign finance activities of Freddie Mac personnel, including information relevant to the facts alleged in the complaint. This meeting, which took place on March 19, 2004, included counsel for Freddie Mac and counsel for Mr. Delk. A few weeks after the meeting, Freddie Mac provided this Office with the Submission, which discusses in greater detail the information provided at the meeting.

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1 This Office addresses the Submission and MUR 5390 together in this Report because the
2 information contained in the Submission overlaps substantially with the subject matter of the
3 complaint. The Submission presents information concerning the role of Freddie Mac in
4 connection with the fundraising dinners that are the focal point of the complaint. Specifically,
5 the Submission examines whether Freddie Mac reimbursed Mr. Delk, then a corporate officer,
6 for expenses related to the fundraising dinners, which bears upon the nature of Mr. Delk's
7 activity and potential violations. Moreover, the Submission contains information concerning the
8 roles of Freddie Mac and Mr. Delk, as well as other Freddie Mac employees and vendors, in
9 campaign finance activities beyond the fundraising dinners addressed in the complaint. This
10 information suggests a pattern and provides a broader context in which to view the allegations of
11 the complaint.

12 **II. FACTUAL AND LEGAL ANALYSIS**

13 **A. Background**

14 Freddie Mac is a stockholder-owned corporation chartered by the U.S. Congress to
15 provide a continuous and low-cost source of capital to finance America's housing.³ Freddie Mac
16 is subject to congressional oversight by the House Committee on Financial Services. The
17 corporation is also subject to oversight by the U.S. Department of Housing and Urban
18 Development (HUD) and the Office of Federal Housing Enterprise Oversight (OFHEO).

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³ This description was taken from Freddie Mac's website, located at <http://www.freddiemac.com/where/whoware/regulation/oversight.html> (visited April 15, 2004).

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Freddie Mac and its employees and vendors engaged in the
myriad of campaign fundraising activities addressed in this matter. As considered in turn below,

1 these activities included: (1) campaign fundraising events sponsored by Freddie Mac's in-house
2 lobbyists and subsidized in part by Freddie Mac, which apparently paid certain related expenses;
3 (2) Freddie Mac vendors assisting Freddie Mac lobbyists in organizing campaign fundraising
4 events benefiting campaign committees and, in some instances, failing to promptly charge the
5 committees for their services; (3) corporate facilitation of individual earmarked contributions by
6 Freddie Mac; and (4) a Freddie Mac contribution of \$150,000 to the Republican Governors
7 Association.

8 **B. The Fundraising Dinners at Galileo**

9 **1. "The Deal" Between Mitch Delk and Galileo**

10 In 1999, Mitch Delk began sponsoring fundraising dinners at Galileo for the benefit of
11 Members of Congress who served on the House and Senate Committees that oversee Freddie
12 Mac. According to Freddie Mac, the approximately 15 dinners held in 1999 and late 2000/early
13 2001 were limited to three courses selected by Galileo, and the charge for the meals was based
14 on "the Restaurant Week menu in which the restaurant charges approximately \$20 per person for
15 a similar meal."⁵ Attachment 1 at 8-9. The fundraising dinners included wine and, therefore,
16 had a higher price of \$25 per person. *See id.* Freddie Mac and Mr. Delk maintain that the
17 dinners were not company-sponsored events but rather individual volunteer activity by Mr. Delk.
18 *See id;* *see also* Delk's Response to the Complaint at attached Affidavit of Robert Mitchell Delk.

19 According to Freddie Mac, the fee structure changed in late 2000 or early 2001 to be
20 more favorable to Galileo. *See* Attachment 1 at 9. Under the new deal, while the three-course
21 meal for \$25 remained the same, Mr. Delk committed in advance to host approximately 25

⁵ During D.C. Restaurant Week, many of the finest local restaurants offer for approximately \$20 a three-course meal exclusive of beverage, tax and tip, or any items that are not on the Restaurant Week menu. Some restaurants now offer a Restaurant Week-based menu year-round.

1 dinners a year at Galileo during the 2001-2002 period and agreed to pay Galileo for a minimum
2 of twenty dinners per event even if fewer than 20 guests actually attended. Under the deal, Mr.
3 Delk was charged a specified flat fee depending on how many people attended the dinner -- \$500
4 (for 1-20 people), \$750 (for 21 to 30 people), and \$1,000 (for 31 to 40 people). The payment
5 schedule was based on a per attendee charge of no less than \$25. Galileo reportedly applied this
6 payment schedule to the approximately 64 dinners hosted by Delk between late 2000/early 2001
7 and May 2003. *See* Attachment 1 at 9.⁶

8 **a. Alleged Violations Committed by the Delks**
9 **in Connection with the Fundraising Dinners**

10
11 The complaint alleges that the market value of the fundraising dinners was far greater
12 than the amount that Mr. Delk, and later his wife, Amanda Delk, paid for them. From this
13 premise, the complaint concludes that Mr. and Mrs. Delk made in-kind contributions in excess of
14 the individual contribution limit in violation of 2 U.S.C. § 441a(a)(1)(A) and in excess of the
15 annual contribution limit in violation of 2 U.S.C. § 441a(a)(3). The complaint further alleges
16 that the Delks underreported the value of the dinners in violation of 2 U.S.C. § 434b.

17 As an initial matter, the complaint appears to misapply the Act.⁷ If, as the complaint
18 alleges, the value of the fundraising dinners exceeded the amount Galileo charged, the amount of
19 the discount provided, *i.e.*, the difference between the usual and normal charge and the amount
20 actually charged, would potentially be an in-kind contribution *attributable to the vendor* that

⁶ For a chart detailing the 79 campaign fundraising dinners held at Galileo between March 1999 and May 2003, please refer to Attachment 2.

⁷ All of the relevant facts in these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act, codified at 2 U.S.C. §§ 431 *et seq.*, or statements of law regarding provisions of the Act contained herein refer to the Act as it existed prior to the effective date of BCRA. Further, unless specifically noted to the contrary, any reference to Title 11 of the Code of Federal Regulations refers to the regulation as it existed prior to the implementation of BCRA, and as it appears in the 2002 edition of the Code of Federal Regulations.

1 provided the discount, which was Galileo, not the Delks. *See* 11 C.F.R. § 100.7(b)(7); 11 C.F.R.
2 § 114.1(a)(2)(v). The amount of the in-kind contributions attributable to the Delks is the amount
3 that they each paid for the respective fundraising dinners, not the actual value provided by
4 Galileo, and the record indicates that Mr. Delk arranged to have a letter sent to the recipient
5 campaign committees after each fundraising dinner officially notifying the committees of the
6 amounts that he and, at times, his wife paid for the dinner. *See* Epiphany Productions' Response
7 to the Complaint at 1, 3.

8 The allegation that the Delks "under-reported the actual value of the fundraising dinners"
9 in violation of 2 U.S.C. § 434b also appears to be misplaced. Under the Act, the obligation to
10 report in-kind contributions rests with the recipient campaign committees. *See* 2 U.S.C.
11 § 434(a)-(b). Based on the foregoing, it does not appear that Mitch Delk or Amanda Delk
12 violated the Act's reporting requirements.

13 Further, it does not appear that either Mitch Delk or Amanda Delk exceeded the
14 contribution limits set forth in 2 U.S.C. § 441a(a). Under the Act, during the 2002 election
15 cycle, a person could contribute up to \$1,000 to a candidate and his or her authorized committee
16 per election, and up to \$25,000 in overall contributions in a calendar year. *See* 2 U.S.C.
17 §§ 441a(a)(1)(A) and 441a(a)(3) (2002). A review of disclosure reports indicates that the Delks'
18 reported contributions during 1999 through 2002, including the in-kind contributions in the form
19 of payments to Galileo for the fundraising dinners, were within applicable contribution limits.
20 *See* Attachment 2. Specifically, disclosure reports indicate that Mr. Delk made contributions
21 totaling \$10,500 in 1999, \$0 in 2000, \$14,850 in 2001, and \$10,250 in 2002. Disclosure reports
22 reflect that during the period 1999 through 2002, Mrs. Delk made a contribution of \$1,000 in
23 2001 and contributions totaling \$6,500 in 2002.

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However, a review of the Commission's disclosure database reveals that there were no contributions reported for 23 fundraising events hosted by Mr. Delk. *See id.* Fourteen (14) of the fundraising events for which no contribution was reported occurred between March 1999 and December 2000, the period before the fee structure for the Galileo fundraising dinners reportedly changed. *See* Attachment 1 at 9. The absence of reported contributions in connection with 23 fundraising dinners leaves questions regarding who paid the cost of the dinners and how much was paid. Should the Commission proceed to an investigation in this matter, this Office would seek to ascertain this information. Based on the foregoing, we believe the Commission should take no action at this time with respect to the allegation that Mitch Delk and Amanda Delk exceeded the contribution limitations located at 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).

**b. Potential Contributions Made by Galileo
In Connection with the Fundraising Dinners**

The central issue with respect to the fundraising dinners appears to be whether Galileo made contributions in violation of 2 U.S.C. § 441b.⁸ The Act broadly prohibits corporations from making contributions in connection with any Federal election. 2 U.S.C. § 441b(a). The sale of food or beverage by a corporation at a charge less than the normal or comparable commercial rate would be a contribution if: (1) the charge is not at least equal to the costs of such food or beverage to the vendor; (2) the discount on behalf of a single candidate exceeds \$1,000 with respect to any single election; or (3) the discount on behalf of all political committees of each political party exceeds \$2,000 in a calendar year. *See* 11 C.F.R. § 114.1(a)(2)(v).

⁸ The complaint did not make any allegation of wrongdoing against Galileo. However, because the corporation may have violated the Act, Galileo was named as a respondent in this matter and given the opportunity to respond to the complaint.

1 The information provided in the complaint and the response filed by Galileo raises
2 questions as to: (1) whether the amount Galileo charged for the dinners was a normal or
3 comparable commercial rate; and (2) if not, whether the amount of the discounts given by
4 Galileo in connection with the fundraising dinners was within the permissible range provided in
5 11 C.F.R. § 114.1(a)(2)(v). Galileo claims that it charged Mr. Delk the usual and normal amount
6 for the dinners served, which were based on the Restaurant Week lunch menu that area
7 restaurants advertise for about \$20; that Galileo's decision to enter into the arrangement was
8 based solely on commercial and economic considerations and was not in any way related to
9 political considerations; and that Galileo would have provided the same arrangement to non-
10 political patrons willing and able to commit to the number of dinners agreed upon by Mr. Delk.
11 See Galileo Supplemental Response at attached Affidavit of Michael Nayeri.

12 However, a news article attached to the complaint contained the following quote of
13 Michael Niyera, then Galileo's manager:

14 I cannot just give this to everyone who comes to the restaurant;
15 special events cannot do this. You have to become a friend of the
16 house. Only 15 to 20 of the restaurant's other customers would be
17 eligible for such a price.

18
19 See Kathleen Day, "Influence by volume; Freddie Mac lobbyist got a big discount on GOP
20 fundraising dinners at Galileo," *Washington Post* (Aug. 4, 2003); Attachment 3 to this Report.
21 The article also reported that several lobbyists who attended one or more of Mr. Delk's dinners
22 stated that they did not notice any difference between the fundraising dinner and what they
23 typically receive when they order from Galileo's regular menu. See *id.*

24 In order to assist the Commission in determining whether to find reason to believe a
25 violation occurred, by letter dated March 30, 2004, this Office sought voluntary clarification
26 from Galileo concerning its representation that the fundraising dinners were comparable to its

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1 menu during Restaurant Week. *See* Attachment 4. Specifically, we sought clarification on
2 whether the menus and prices for the fundraising events were the same as or comparable to the
3 menus and prices offered by Galileo during D.C. Restaurant week for either lunch or dinner and
4 whether Galileo had ever offered the same or comparable menu used in the fundraising events at
5 the same price to non-political customers. *See id.* Moreover, this Office asked that in clarifying
6 its response to the complaint, Galileo provide as much detail as possible, including identifying
7 the room in which the fundraisers were held.⁹ *See id.*

8 In a cursory response, Galileo stated that it offers a daily fixed-price 3-course lunch for
9 \$20.00 per person; however, it failed to clarify whether the menu provided during the fundraising
10 dinners at issue was the same as or comparable to that menu or whether Galileo ever offered a
11 comparable arrangement to non-political customers. *See* Attachment 6. Notably, the fact that
12 Galileo offers a daily fixed-price 3-course *lunch* for \$20 per person, exclusive of wine, tax and
13 tip, does not address the issue of whether the discount Galileo gave on the fundraising *dinners*,
14 which included wine, is within the permissible range provided in 11 C.F.R. § 114.1(a)(2)(v).
15 Galileo also failed to identify the room in which the dinners were held. *See id.*

16 The information provided by Galileo raises more questions than it answers. At this time,
17 this Office does not know the value of the menu items served at the fundraising dinners, how
18 many people attended, the rooms used for the events, or whether a comparable arrangement was
19 available to other customers. The information available suggests that Galileo may have granted
20 a highly lucrative discount on these fundraisers, particularly given that these events included

⁹ The location of the fundraising dinners is significant because, according to a news article, Galileo houses three separate – and differently priced – restaurants under one roof. *See Washingtonian*, Trickle-Down Ingenuity at Galileo's Bar (April 2004); Attachment 5. Among these are the "Laboratoria del Galileo," located in the back of the restaurant, where dinners are reportedly offered for \$125-a-person. *Id.*

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dinner, beverages (including wine), tax and tip at an otherwise very expensive restaurant for only \$25 per person.

c. Recommendations

Based on the foregoing, this Office recommends that the Commission find reason to believe Galileo Restaurant violated 2 U.S.C. § 441b(a). For reasons previously stated, this Office further recommends that the Commission find no reason to believe Robert Mitchell Delk or Amanda Delk violated 2 U.S.C. § 434b in connection with their payments to Galileo for the fundraising dinners, and take no action at this time with respect to the allegation that Mr. and Mrs. Delk exceeded the contribution limitations located at 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).¹⁰

**2. Freddie Mac Payments for Expenses
Related to the Delk Fundraising Dinners**

a. Corporate Reimbursements

According to Freddie Mac, the scope of its internal investigation included an examination of whether Freddie Mac paid any of the expenses associated with Mr. Delk's fundraising dinners at Galileo, either directly or through reimbursement to Mr. Delk. See Attachment 1 at 9. Freddie Mac reportedly reviewed expense records between 1999 through 2003, the period during which Mr. Delk hosted various events at Galileo. See *id.* These events included the campaign fundraising dinners discussed *supra*, which Freddie Mac described as "individual volunteer

¹⁰ This Office considered potential violations of the Act by the campaign committees that benefited from the fundraising dinners (*i.e.*, failure of certain committees to report in-kind contributions associated with the fundraising dinners, and receipt of corporate contributions stemming from the discount Galileo may have granted on the dinners). However, the relatively high number of committees (23) that apparently failed to report in-kind contributions stemming from the fundraising dinners suggests that Mr. Delk may not have notified the committees of the amount of the contributions. Moreover, this Office has no information regarding whether the committees had the requisite knowledge of the alleged discounts. This Office would like to obtain more information from Mr. Delk regarding the circumstances surrounding the committees' receipt of the contributions before determining what, if any, recommendations to make with respect to them. Should the Commission approve an investigation in this matter, this Office will attempt to ascertain pertinent information concerning the recipient committees and will make the appropriate recommendations at a later date.

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1 activity,” as well as separate, company-sponsored events, which Freddie Mac explained were
2 unrelated to campaign fundraising. *See id.* According to Freddie Mac, this examination revealed
3 two instances in which “it is possible” the company reimbursed Mr. Delk for “individual
4 volunteer fundraising events” at Galileo. *See id.* at 10-11.

5 Specifically, it appears that Galileo reimbursed Mr. Delk for the cost of fundraising
6 dinners held on March 16 and March 23, 1999. *See id.* at 10-11. Freddie Mac issued
7 reimbursements for these events in December 1999 in the total amount of \$5,974.34 (\$3,161.38
8 + \$2,812.96). *See id.* According to Freddie Mac, Mr. Delk did not provide invoices from
9 Galileo for these two fundraising events, and Mr. Delk indicated that he does not recall who paid
10 for the events. *See id.* Some of the individuals listed on the expense report as attending the
11 March 23, 1999 dinner are reflected in disclosure reports as having made a contribution to the
12 PAC for which the fundraiser was held near the date of the fundraising dinner, suggesting that
13 these events were campaign fundraisers.

14 In addition, it appears that Freddie Mac paid a total of \$360 in taxi cab expenses for Mr.
15 Delk’s travel to and from campaign fundraising dinners between April 2000 and February 2003.
16 *See id.* at 11, n. 11. Specifically, in its Submission, Freddie Mac identified 18 occasions where
17 Mr. Delk submitted expense reports and received reimbursements in the amount of \$20 for a
18 taxicab to and from Galileo on the evening of a campaign fundraising dinner. *See id.*

19 **b. Payments to Epiphany Productions, Inc.**

20 Freddie Mac’s internal investigation also revealed payments made by Freddie Mac to
21 Epiphany Productions (“Epiphany”) for organizational services related to Mr. Delk’s fundraising
22 dinners at Galileo. *See Attachment 1 at 11-13.* The organizational services provided by
23 Epiphany in connection with the fundraising dinners included developing invitation lists with

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1 Mr. Delk's input, distributing the invitations, contacting Galileo to schedule the event, keeping
2 track of RSVPs, and collecting the contribution checks and delivering them to the campaign
3 committees. *See id.* at 12.

4 According to Freddie Mac, the company retained Epiphany for political "consulting
5 services" in June 1999, one month after Mr. Delk began working with Epiphany in connection
6 with the fundraising dinners at Galileo. *See id.* at 11. Freddie Mac stated that Epiphany also
7 provided organizational services related to corporate events. *See id.* Both Freddie Mac and
8 Epiphany maintain that Epiphany's activities relating to the fundraising dinners were separate
9 from Freddie Mac's retention of Epiphany. *See id.* at 12.

10 Nevertheless, in August of 2002, Mr. Delk and Freddie Mac's outside election law
11 counsel discovered that Epiphany had improperly billed Freddie Mac for expenses related to the
12 fundraising dinners held at Galileo in March 1999, principally for "broadcast fax" services
13 associated with the distribution of invitations to the fundraisers. Attachment 1 at 12. These
14 invoices were apparently reviewed and approved by Mr. Delk. *See id.* On August 8, 2002,
15 Epiphany sent a check in the amount of \$22,512 to Freddie Mac to refund the expenses
16 erroneously billed to Freddie Mac. *See id.* Subsequently, on February 5, 2004, following a
17 request from Freddie Mac's outside counsel that Epiphany refund additional line item charges
18 that could not be confirmed as related to Freddie Mac's corporate activities, Epiphany sent
19 another check refunding a total of \$2,221.06.¹¹ *See id.* at 13.¹²

¹¹ A copy of the front of the refund checks is attached to the Summary. However, the Submission does not include a copy of the back of the checks or other evidence that the checks were negotiated.

¹² The Submission notes that there are two Epiphany invoices with charges in the amount of \$442.54 for which counsel is in the process of requesting either an explanation or refund from Epiphany.

1 **c. Recommendations**

2 Based on the foregoing payments by Freddie Mac for fundraising in connection with
3 federal elections, we recommend that the Commission find reason to believe the Federal Home
4 Loan Mortgage Corporation violated 2 U.S.C. § 441b. In addition, we recommend that the
5 Commission find reason to believe that Robert Mitchell Delk, as a corporate officer, violated
6 2 U.S.C. § 441b by consenting to Freddie Mac's payments to Epiphany
7 Productions, Inc., as well as its reimbursements to Mr. Delk, for expenses related to fundraising
8 activity in connection with federal elections.

9 **C. Other Fundraising Activity of Freddie Mac**
10 **Employees and Vendors**

11
12 **1. Epiphany Productions, Inc.**

13 As discussed *supra*, Epiphany Productions, Inc., provided organizational services in
14 connection with the fundraising dinners hosted by Mitch Delk. These services included sending
15 fax invitations for fundraising dinners, making solicitation phone calls, providing a staff person
16 at the events, and preparing in-kind contribution notifications to the recipient campaign
17 committees. See Epiphany Productions' Response to the Complaint at 1. While Mr. Delk
18 coordinated these services, Epiphany's fees were apparently to be paid by the campaign
19 committees that benefited from the fundraisers. See *id.* at 2.

20 The complaint alleges that Epiphany's provision of services to the campaign committees
21 constituted corporate contributions made in violation of 2 U.S.C. § 441b because Epiphany
22 provided services in connection with nineteen (19) fundraising dinners and was not paid by the
23 benefiting campaign committees, and provided services in connection with nineteen (19)
24 additional fundraising dinners and was paid up to 20 months late. See Complaint at 6.

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1 The Act prohibits corporations from making contributions or expenditures in connection
2 with any Federal election. *See* 2 U.S.C. § 441b(a). The term “contribution” includes any direct
3 or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or
4 anything of value. 2 U.S.C. § 441b(b)(2). The term “anything of value” includes the provision
5 of any goods or services without charge or at a charge which is less than the usual or normal
6 charge for such goods or services. *See* 11 C.F.R. § 100.7(a)(1)(iii). Thus, a prohibited corporate
7 contribution would result if Epiphany provided organizational services in connection with the
8 fundraising dinners without charging the campaign committees. In addition, a prohibited
9 corporate contribution results if a corporate vendor extends credit to a political committee and
10 fails to make a “commercially reasonable attempt” to collect the debt. *See id.*; *see also* 11 C.F.R.
11 § 100.7(a)(4).¹³ Thus, the critical question in this matter is whether Epiphany timely charged the
12 campaign committees for the services it provided and made commercially reasonable attempts to
13 collect the amounts owed.

14 Epiphany claims that it sent written invoices to each campaign charging them the usual
15 and normal rate for the services provided and that, although “a handful” of campaigns have not
16 paid, it continues to make attempts to collect fees owed by them. *See* Epiphany Productions’
17 Response to the Complaint at 1. Epiphany asserts that the outstanding debts do not constitute
18 contributions because it has made a commercially reasonable attempt to collect the debt. *See id.*
19 at 2. Specifically, Epiphany states that in addition to written invoices that were sent to each
20 campaign committee, at least two follow-up phone calls were made and additional past-due
21 notices will continue to be sent until the debts are paid. *See id.*

¹³ An extension of credit occurs, *inter alia*, when a political committee fails to make full payment to the creditor by a previously agreed to due date. *See* 11 C.F.R. § 116.1(e).

1 According to a news article attached to the complaint, some campaigns stated that they
2 were never billed or were billed late by Epiphany. *See* Kathleen Day, "Influence by volume;
3 Freddie Mac lobbyist got a big discount on GOP fundraising dinners at Galileo," Washington
4 Post (Aug. 4, 2003); Attachment 3 to this Report. The article reported:

5 Rep. Katherine Harris's (R-Fla.) campaign manager, Jessica Furst,
6 for example, said "we never received an invoice" from Epiphany
7 for a Galileo dinner on June 4, 2002. A spokesman for Rep.
8 Michael Ferguson (R-N.J.) said he received no invoice from
9 Epiphany for either of two Galileo dinners. Rep. Gary G. Miller,
10 (R-Calif.) never received a bill for a Galileo dinner on July 9,
11 2002, a spokesman said.

12
13 Rep. Doug Ose (R-Calif.), paid \$606 to Epiphany on Oct. 9, 2002,
14 for a Galileo dinner on June 27, 2001. "We were billed late, but
15 we paid promptly," a spokesman for Ose said. *Id.*

16
17 Similar to Epiphany's response to the complaint, the article contains the following
18 statement of Epiphany's co-founder, Julie Wadler: "Epiphany Productions has invoiced every
19 campaign for whom we have done a fundraiser. We have received or expect to receive payments
20 on all invoices."¹⁴ *See id.* Significantly, Epiphany fails to address in its response to the
21 complaint *when* the corporation charged the campaign committees for its services. Epiphany
22 submitted copies of invoices to Friends of Katherine Harris and Gary Miller for Congress in
23 support of its claim that it invoiced the committees. *See* Attachments to Epiphany Productions'
24 Response to the Complaint. However, the date on the invoice to Friends of Katherine Harris is
25 August 21, 2002, over two months after the fundraising dinner, which was held on June 4, 2002;
26 the date on the Gary Miller for Congress invoice is November 13, 2002, four months after the
27 fundraising dinner, which was held on July 9, 2002. *See id.*

¹⁴ Julie Wadler, co-founder of Epiphany Productions, Inc., previously served as Deputy Finance Director of the National Republican Congressional Committee, and currently serves as Secretary-Treasurer of the Leadership Forum.

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1 Notably, the dates reflected on the invoices submitted by Epiphany are inconsistent with
2 reported statements of campaign representatives that, as of August 4, 2003, the date of the news
3 article, the respective committees had not received an invoice from Epiphany. *See* Attachment 3.
4 At the same time, there is information suggesting that some committees may have been billed far
5 later than one would reasonably expect for a vendor. For example, nothing in Epiphany's
6 response addresses the report in the article that Rep. Doug Ose's campaign was sent an invoice
7 in or around October 2002 for a dinner that took place over a year earlier on June 27, 2001. *See*
8 *id.* In addition, given that some committees reportedly paid up to 20 months late without any
9 action by Epiphany other than a couple of purported follow-up phone calls suggests that
10 Epiphany may not have made reasonable attempts to collect the amounts owed.¹⁵ Based on the
11 foregoing, we recommend that the Commission find reason to believe Epiphany Productions,
12 Inc. violated 2 U.S.C. § 441b.

13 **2. Clarke Camper and The Leger Co., Inc.**

14 In addition to the fundraisers at Galileo, the internal investigation conducted by Freddie
15 Mac examined what the company describes as "other volunteer fundraising events" hosted by
16 Freddie Mac personnel. *See* Attachment 1 at 13-16. According to Freddie Mac, this
17 examination uncovered five fundraising events in 2003 hosted by Clarke Camper, then Vice
18 President of Government Relations, with the assistance of the Leger Co., Inc., a vendor with
19 whom Freddie Mac apparently had a "consulting agreement."¹⁶ *See id.* at 13.

¹⁵ The complaint asserts that nearly all of the late payments were received only after a news story on the Delk fundraisers was published by the *Wall Street Journal* on July 30, 2002. *See* John McKinnon, "Freddie Mac's Friend in Need: Bills Languish as Top Lobbyist Raises Funds for Key House Members," *Wall Street Journal* (July 30, 2002); Complaint's Attachment H.

¹⁶ Freddie Mac did not provide a copy of its "consulting agreement" with the Leger Co., Inc. or indicate when the agreement was entered.

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1 According to Freddie Mac, Mr. Camper and Liz Leger of the Leger Co., Inc. hosted five
2 fundraising meals between January and May 2003, holding three of these events in a Freddie
3 Mac conference room and two in restaurants. *See id.* at 14. According to Freddie Mac, Mr.
4 Camper and Ms. Leger stated that they compiled invitation lists together, based mainly on
5 contact information provided to Ms. Leger by Mr. Camper, that Mr. Camper “generally” sent out
6 invitations to the events from his personal e-mail account, that, on at least one occasion, a
7 Freddie Mac employee who “work[ed] with” Mr. Camper in Government Relations circulated an
8 invitation to one of the fundraising events via his personal e-mail account and apparently kept
9 track of some RSVPs for the event, and that “certain Freddie Mac” personnel made the
10 arrangements for the use of a conference room in connection with the fundraising activity. *See*
11 *id.* at 14-15. According to Freddie Mac, Mr. Camper stated that in each instance either he or the
12 benefiting campaign committee paid for the food, and both Mr. Camper and Ms. Leger stated
13 that the services rendered by Ms. Leger in connection with Mr. Camper’s fundraisers were not
14 part of the Freddie Mac “consulting agreement” with the Leger Co., Inc. *See id.* at 14.
15 According to Freddie Mac, Mr. Camper and Ms. Leger stated that after each event, Ms. Leger
16 would issue an invoice to the benefiting campaign for \$250 to cover the cost of Ms. Leger’s
17 services in planning and executing the event. *See id.* at 15.

18 Nevertheless, in its Submission, Freddie Mac revealed that in an invoice dated March 26,
19 2003, covering the period February-March 2003, The Leger Co., Inc. charged Freddie Mac
20 \$2,902.42 for dishes and related items described as “Catering Acquisition Expenses” to enable
21 the Government Relations group to hold meals in its conference room. *See id.* at 14. According
22 to Freddie Mac, at that time, Freddie Mac was considering forming a PAC that would host events
23 in the conference room. *See id.* at 15. Significantly, however, Freddie Mac did not deny that it

1 purchased the dishes for use in connection with the Camper/Leger fundraising events and the
2 Leger Co.'s acquisition of the dishes occurred during the time period that Ms. Leger was
3 assisting Mr. Camper in hosting fundraisers, suggesting that the dishes may have been purchased
4 for use in connection with the fundraising meals.

5 This information provides an additional basis for the Commission to find reason to
6 believe that Freddie Mac violated 2 U.S.C. § 441b. In addition, expense reports provided by
7 Freddie Mac reflect that Mitch Delk approved the payments by Freddie Mac to the Leger Co.
8 Accordingly, this Office recommends that the Commission find reason to believe that Robert
9 Mitchell Delk, as a corporate officer, violated 2 U.S.C. § 441b by consenting to
10 the corporate contribution.

11 The use of a Freddie Mac conference room for the fundraising meals would seem
12 occasional, isolated or incidental and, therefore, not problematic under the Commission's
13 regulations. The Act provides for specific exemptions from the definition of contribution or
14 expenditure, thereby setting forth permissible bounds of corporate activity in connection with
15 Federal elections. 2 U.S.C. § 441b(b)(2). For example, stockholders and employees of a
16 corporation may, subject to the rules and practices of the corporation, make occasional, isolated,
17 or incidental use of a corporation's facilities for individual volunteer activity in connection with
18 a Federal election and will be required to reimburse the corporation only to the extent that the
19 overhead or operating costs of the corporation are increased. 11 C.F.R. § 114.9(a). "Occasional,
20 isolated, or incidental use" generally means, when used by employees during working hours, an
21 amount of activity during any particular work period which does not prevent the employee from
22 completing the normal amount of work which that employee usually carries out during such
23 work period. 11 C.F.R. § 114.9(a). But any such activity which does not exceed one hour per

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1 week or four hours per month, regardless of whether the activity is undertaken during or after
2 work hours, shall be considered as occasional, isolated, or incidental use of the corporate
3 facilities. *Id.* The use of a Freddie Mac conference room on three isolated occasions would
4 appear to fall within this exemption.

5 Finally, Freddie Mac further revealed in its Submission that in one instance, Freddie
6 Mac's production facilities were used to prepare two signs for an "individual volunteer
7 fundraising event" hosted by Mr. Camper. *See id.* at 15. According to Freddie Mac, the only
8 incremental cost to the corporation for preparing these signs appears to have been the cost of the
9 paper and ink, which Freddie Mac states would have been minimal. *Id.*

10 Any person who uses the facilities of a corporation to produce materials in connection
11 with a Federal election is required to reimburse the corporation within a commercially
12 reasonable time for the normal and usual charge for producing such materials in the commercial
13 market. 11 C.F.R. § 114.9 (c). While Freddie Mac acknowledged the use of its production
14 facilities to prepare two signs for campaign fundraising activity, Freddie Mac did not indicate
15 that it was reimbursed the normal and usual charge for producing such materials in the
16 commercial market, however minimal, in accordance with 11 C.F.R. § 114.9(c). Thus, the use of
17 Freddie Mac's production facilities without reimbursement appears to be an additional basis for
18 finding reason to believe that Freddie Mac violated 2 U.S.C. § 441b.

19 **3. Clarke Camper and Progressive Strategies, Inc.**

20 In its Submission, Freddie Mac revealed that Clarke Camper engaged in fundraising
21 activity with another Freddie Mac vendor, Progressive Strategies, Inc., with which Freddie Mac
22 had a "consulting agreement." *See* Attachment 1 at 15-16. Specifically, Freddie Mac submitted
23 documentary evidence that indicates that Scott Freda, a Progressive Strategies employee,

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1 solicited contributions to a candidate in conjunction with Mr. Camper in or around March 2002.

2 *See* Attachment 1 at 15. This documentary evidence, which Freddie Mac attached to its

3 Submission, is an email response from Mr. Freda to an earlier email message from Mr. Camper,

4 in which Mr. Camper stated:

5 hi scott, i'm finally getting a chance to see where we are on reed.
6 can you remind me who your participants were and the \$ amounts?
7 thanks! cdc
8

9 *See* Attachment 7. Mr. Freda's email response provides what appear to be contributor names, the

10 names of their employers, and the amounts they contributed to the campaign of Senator Jack

11 Reed.¹⁷ *See id.*

12 Solicitations for contributions to clearly identified candidates are express advocacy and

13 would, therefore, constitute impermissible corporate contributions/expenditures if the

14 solicitations are attributable to a corporation. *See Federal Election Commission v. Christian*

15 *Coalition*, 52 F.Supp.2d 45, 62 (1999). While the Commission's regulations exempt from the

16 definition of "contribution" and "expenditure" communications by a corporation to its restricted

17 class, which includes its stockholders and executive or administrative personnel and their

18 families, *see* 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(a)(2)(i) and 114.3, Freddie Mac has

19 not asserted that Mr. Freda's solicitations were directed to members of its restricted class, and a

20 review of disclosure reports reveals that the individuals identified in Mr. Freda's email were not

21 Freddie Mac employees.¹⁸ Thus, if Mr. Freda's apparent solicitations beyond Freddie Mac's

¹⁷ Senator Jack Reed serves on a Senate banking subcommittee that oversees Freddie Mac. While it appears that the individuals identified in Mr. Freda's email were solicited for contributions to the Reed Committee, the committee's disclosure reports do not reflect the receipt of contributions from these individuals. Should the Commission approve an investigation in this matter, this Office will seek to confirm whether these individuals actually made contributions to the Reed Committee.

¹⁸ Under the Act, "executive or administrative personnel" means individuals employed by the corporation who are paid on a salary basis, and who have policymaking, managerial, professional or supervisory responsibilities.

1 restricted class can be attributable to Freddie Mac, any payments by Freddie Mac related to the
2 solicitations would be another basis for finding reason to believe that Freddie Mac made
3 corporate contributions in violation of 2 U.S.C. § 441b.

4 According to Freddie Mac, Mr. Camper maintains that Mr. Freda solicited the contributions
5 in his individual capacity and not as part of Freddie Mac's retention of Progressive Strategies.
6 See Attachment 1 at 15-16. However, Freddie Mac submitted no information to support this
7 contention and there has been no information presented to suggest that Mr. Camper and Mr.
8 Freda had a relationship outside of Mr. Freda's work with Progressive Strategies. Further, along
9 with its Submission, Freddie Mac provided a copy of its "consulting" agreement with
10 Progressive Strategies, Inc. See Attachment 8. The agreement states, *inter alia*, that Progressive
11 Strategies "working with the staff of Freddie Mac will provide general support, advice and
12 guidance on fundraising and program work" See *id.* Thus, there is reason to believe that in
13 soliciting contributions with Mr. Camper, Mr. Freda was acting within the scope of the Freddie
14 Mac/Progressive Strategies agreement. The foregoing appears to be an additional basis upon
15 with to find reason to believe that Freddie Mac violated 2 U.S.C. § 441b. In addition, we
16 recommend that the Commission find reason to believe that Clarke Camper, as a corporate
17 officer and agent, violated 2 U.S.C. § 441b by consenting to payments by Freddie
18 Mac to Progressive Strategies for fundraising activity in connection with federal elections.

19 **4. Corporate Facilitation of Contributions**

20 In its Submission, Freddie Mac described a practice by Mr. Delk and Mr. Camper of
21 soliciting individual earmarked contributions from Freddie Mac executives, which were

2 U.S.C. § 441b(b)(7). See 11 C.F.R. § 114.1(c). The Commission's regulations define stockholder as "a person who has a vested interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends." 11 C.F.R. § 114.1(h).

1 collected and transmitted by Freddie Mac personnel to recipient campaign committees. *See*
2 Attachment 1 at 16. According to Freddie Mac, both Mr. Delk and Mr. Camper discussed
3 individual contributions to federal candidates with senior Freddie Mac executives, including the
4 Chief Executive Officer ("CEO") and General Counsel, and forwarded the contributions to the
5 recipient committees, sometimes with the assistance of Freddie Mac personnel. *See id.* Freddie
6 Mac describes these activities as "personal activity" and maintains that all of the executives
7 solicited for contributions, which were solicited between September 1998 and July 2002 and
8 totaled \$41,500, were part of Freddie Mac's restricted class. *See id.*

9 A corporation may make partisan communications to its restricted class, which includes
10 its stockholders and executive or administrative personnel and their families. *See* 2 U.S.C.
11 § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(a)(2)(i) and 114.3; *see also* footnote 15. As such, a
12 corporation may solicit or suggest in a communication sent to its restricted class that they
13 contribute to a particular candidate or committee; however, a corporation (including officers,
14 directors or other representatives acting as agents of corporations) may not facilitate the making
15 of the individual's contribution to the candidate or act as a conduit for individual contributions.
16 *See* 11 C.F.R. §§ 114.2(f) and 110.6(b)(2)(ii). Examples of facilitating the making of
17 contributions include: (1) officials or employees of the corporation ordering subordinates or
18 support staff (who therefore are not acting as volunteers) to plan, organize or carry out the
19 fundraising project as a part of their work responsibilities using corporate resources; and (2)
20 providing materials for the purpose of transmitting or delivering contributions, such as stamps,
21 envelopes addressed to a candidate or political committee other than the corporation's or labor
22 organization's separate segregated fund, or other similar items which would assist in transmitting

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1 or delivering contributions, but not including providing the address of the candidate or political
2 committee. *See* 11 C.F.R. § 114.2(f)(2)(ii).

3 According to Freddie Mac, Ella Lee, the assistant to Leland Brendsel, the CEO of
4 Freddie Mac, "relayed messages" between Mr. Delk, Mr. Camper and Mr. Brendsel, as well as
5 other executives concerning individual contributions to federal candidates. *See* Attachment 1 at
6 16. Freddie Mac further revealed that Ms. Lee collected contributions from the executives and
7 transmitted them to the candidate's campaign or to Mr. Delk or Mr. Camper, who then
8 transmitted the contributions to the campaigns. *See id.* At times, Ms. Lee arranged for a courier
9 service paid by Freddie Mac to deliver the checks to the campaigns. *See id.* Freddie Mac did not
10 assert that Ms. Lee was acting as a volunteer in carrying out these activities. Documents
11 provided by Freddie Mac indicate that \$5,000 in individual contributions was transmitted to
12 campaign committees by courier paid for by Freddie Mac between September and November
13 2001.

14 Based on the foregoing, we recommend that the Commission find reason to believe
15 Freddie Mac violated 2 U.S.C. § 441b by facilitating campaign contributions. In addition, we
16 recommend that the Commission find reason to believe that Leland Brendsel, Mitchell Delk, and
17 Clarke Camper, as officers and agents of the corporation, violated 2 U.S.C. § 441b by facilitating
18 campaign contributions and/or consenting to such facilitation.

19 **D. Freddie Mac's \$150,000 Contribution to the**
20 **Republican Governors Association**
21

22 In its Submission, Freddie Mac disclosed that in October 2002, Freddie Mac contributed
23 \$150,000 to the Republican Governor's Association ("RGA"). *See* Attachment 1 at 18. At that
24 time, the RGA was a part of the Republican National Committee. *See id.* According to Freddie
25 Mac, the RGA misreported the contribution as a personal contribution from Mr. Delk, and Mr.

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1 Delk and Freddie Mac's outside counsel became aware of the misreporting "a number of months
2 later." *See id.* at 18. Freddie Mac's counsel reportedly contacted the RGA and learned that, in
3 addition to the misreporting of the source of the contribution, the RGA had erroneously
4 deposited the contribution into a non-building fund account. *See id.* According to Freddie Mac,
5 in June 2003, the RGA refunded the contribution to Freddie Mac. *See id.*

6 The Act prohibits "any corporation organized by authority of any law of Congress" from
7 making "a contribution or expenditure in connection with any election to any political office."
8 2 U.S.C. § 441b(a). The Act also prohibits "any candidate, political committee, or other person"
9 from knowingly accepting or receiving "any contribution prohibited by this section." *Id.* For
10 purposes of Section 441b, the terms "contribution" and "expenditure" include "any direct or
11 indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or
12 anything of value . . . to any candidate, campaign committee, or political party or organization, in
13 connection with any election to any of the offices referred to in" Section 441b.

14 Importantly, the Act excludes from the definition of contribution:

15 any gift, subscription, loan, advance, or deposit of money or anything of
16 value to a national or a State committee of a political party ***specifically***
17 ***designated*** to defray any cost for construction or purchase of any office
18 facility not acquired for the purpose of influencing the election of any
19 candidate in any particular election for Federal office.
20

21 2 U.S.C. § 431(8)(B)(viii) (emphasis added). This is the so-called "building fund exemption."
22 *See, e.g.,* Advisory Opinions 2001-12, 2001-1, 1998-8, 1998-7, 1997-14, and 1983-8. Funds
23 falling under the building fund exemption are exempt from the prohibitions of 2 U.S.C. § 441b.
24 *See* 11 C.F.R. § 114.1(a)(2)(ix); *see also* Advisory Opinions 2001-12, 2001-1, 1998-8, 1998-7,
25 1997-14, 1983-8, and 1979-17. Therefore, national and state committees of political parties may

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1 accept donations covered by the building fund exemption from corporations, including those like
2 Freddie Mac, which are organized by authority of any law of Congress.¹⁹ *See id.*

3 In its Submission, Freddie Mac asserts that its intention was to make a permissible
4 building fund contribution. *See* Attachment 1 at 18. According to Freddie Mac, Mr. Delk stated
5 that the \$150,000 contribution was part of a single \$250,000 commitment of support that he
6 made to the RGA on behalf of Freddie Mac; the other \$100,000 had been contributed by Freddie
7 Mac in March 2002 and was properly deposited by the RGA into the building fund account. *See*
8 *id.* According to Freddie Mac, Mr. Delk further stated that he communicated to the RGA,
9 through Wayne Berman, the Honorary Finance Chairman of the RGA, his intention that the
10 contributions were to be deposited into the building fund account. *See id.*

11 Significantly, Freddie Mac had an internal procedure, which addressed building fund
12 contributions and was established in 1994 to ensure compliance with the Act. *See* Attachment 9.
13 The procedure provided for “a cover letter that notifies the recipient that the funds are to be used
14 only for building fund purposes in accordance with” the Act. *See id.* Further, the procedure
15 established a “designated compliance officer responsible for reviewing requests under” the
16 corporate procedure to ensure compliance with the Act.²⁰ *Id.*

17 Attached to its Submission, Freddie Mac provided copies of documentation related to the
18 two Freddie Mac contributions. For the first contribution of \$100,000, which was made payable

¹⁹ The Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155, 116 Stat. 81 (2002), which took effect November 6, 2000, just days after Freddie Mac's \$150,000 contribution, removed the building fund exemption for national party committees.

²⁰ Freddie Mac's corporate procedure does not name a “designated compliance officer,” but instead states that “the Senior Deputy General Counsel, Corporate Affairs, or his/her designee, shall review the request [for building fund expenditures] to determine whether it complies with the Act.” *See* Attachment 9. However, documents submitted by Freddie Mac suggest that Bruce S. Oliver, Freddie Mac's Associate General Counsel for Mortgage Law, served in this capacity with respect to Freddie Mac's earlier \$100,000 contribution to the RGA. Specifically, Freddie Mac submitted a copy of the required cover letter with respect to its earlier \$100,000 contribution, which contained a statement that the corporation's procedure was followed. *See* Attachment 10. The statement was signed by Mr. Oliver. *See id.*

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1 to the "Republican Governors Association Eisenhower Building Fund," this documentation
2 included a copy of the required cover letter that accompanied the contribution notifying the
3 recipient that the funds only for building fund purposes. *See* Attachment 10. In contrast, the
4 documentation for the \$150,000 contribution, which was made payable only to the "Republican
5 Governors Assn," did not include a copy of the required cover letter. *See* Attachment 11.

6 While Freddie Mac attached to its Submission a copy of its corporate procedure
7 regarding contributions, Freddie Mac does not address the existence of its corporate procedure in
8 its Submission or address whether that procedure was followed in this instance. *See* Attachment
9 1 at 18. Rather, Freddie Mac maintains that "the information makes clear that Freddie Mac's
10 intention was to make a permissible building fund contribution," noting that Mr. Delk explained
11 that he communicated to the RGA, through Wayne Berman, his intention that the contributions
12 were to be deposited in the building fund. *Id.*

13 On June 11, 2004, this Office received from Mr. Delk's counsel an affidavit sworn to by
14 Wayne L. Berman. *See* Attachment 12. Mr. Berman states that during a telephone conversation
15 in which Mr. Delk agreed to seek a contribution of \$250,000 from Freddie Mac to support the
16 RGA, Mr. Delk reminded him that a Freddie Mac contribution was required to be used to support
17 the RNC building fund. *See id.* Mr. Berman further avers that he received the first installment
18 of the Freddie Mac contribution from Mr. Delk with a letter instructing the RGA to apply the
19 contribution to the appropriate accounts, and that he forwarded the check and the letter to Susan
20 Nelson, the RGA Finance Director, consistent with his normal practice. *Id.* Mr. Berman further
21 states that in October 2002, Mr. Delk gave him a Freddie Mac check for the remainder of the
22 contribution; that the check was accompanied by a letter with instructions exactly like the letter
23 that accompanied the first portion of the contribution; and that he forwarded the check and the

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1 letter to Ms. Nelson. *Id.* Notably, however, neither Mr. Berman nor Freddie Mac produced a
2 copy of the letter that purportedly accompanied the \$150,000 contribution. Finally, Mr. Berman
3 states that after handing him the contribution, Mr. Delk reiterated that the contribution was to
4 support the RNC building fund only. *Id.*

5 Thus, available information is conflicting on whether the \$150,000 payment from Freddie
6 Mac was specifically designated for building fund purposes. *See* 11 C.F.R. § 114.1(a)(2)(ix).
7 While Mr. Berman states that the \$150,000 was specifically designated in writing to be for
8 building fund purposes, a copy of the cover letter has not been produced. Given that -- (1) the
9 \$150,000 contribution check was not specifically designated, on its face, for building fund
10 purposes, in contrast to the first installment; (2) a copy of the cover letter required pursuant to
11 corporate procedure has not been provided; and (3) Freddie Mac conspicuously failed to explain
12 in its Submission whether it followed corporate procedure with respect to the payment -- we
13 believe, on balance, that the available information supports a finding that the \$150,000 may have
14 been outside of the building fund exemption.

15 Accordingly, this Office recommends that the Commission find reason to believe Freddie
16 Mac violated 2 U.S.C. § 441b by making a contribution to the Republican National Committee
17 and that Robert Mitchell Delk, as a corporate officer and agent, violated 2 U.S.C. § 441b by
18 consenting to such contribution. This Office also recommends that the
19 Commission find reason to believe the Republican National Committee and Michael L. Retzer,
20 as treasurer, violated 2 U.S.C. § 441b by knowingly receiving the prohibited contribution.²¹

²¹ This is not the first time Freddie Mac and the RNC have run afoul of the building fund exemption. In a recent matter, the Commission found, *inter alia*, that the Republican National Committee improperly deposited \$250,000 received from Freddie Mac on December 20, 2001, in its general nonfederal account, even though the donation had been properly designated for the building fund. *See* MUR 5197. In a conciliation agreement dated February 18, 2004, the RNC agreed to cease and desist from violating Section 441b and pay a \$98,000 civil penalty. In the same matter, the Commission sent an admonishment letter in February 2004 to Freddie Mac regarding a

III. PROPOSED DISCOVERY

\$3,000 contribution made by Freddie Mac to the National Republican Congressional Committee ("NRCC"), which did not contain a designation to a building fund. The \$3,000 was properly deposited by the NRCC.

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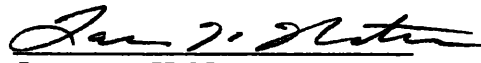
IV. RECOMMENDATIONS

1. Find reason to believe Ser Inc. (d/b/a Galileo Restaurant) violated 2 U.S.C. § 441b;
2. Find reason to believe Epiphany Productions, Inc. violated 2 U.S.C. § 441b;
3. Find reason to believe Federal Home Loan Mortgage Corporation violated 2 U.S.C. § 441b;
4. Find reason to believe Robert Mitchell Delk, as a corporate officer and agent, violated 2 U.S.C. § 441b;
5. Find reason to believe that Leland Brendsel, as a corporate officer and agent, violated 2 U.S.C. § 441b;
6. Find reason to believe that Clarke Camper, as a corporate officer and agent, violated 2 U.S.C. § 441b;
7. Find reason to believe that the Republican National Committee and Michael L. Retzer, as treasurer, violated 2 U.S.C. § 441b;
8. Find no reason to believe Amanda Delk violated 2 U.S.C. § 434b.
9. Find no reason to believe Robert Mitchell Delk violated 2 U.S.C. § 434b.
10. Take no action at this time with respect to the allegation that Robert Mitchell Delk violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).
11. Take no action at this time with respect to the allegation that Amanda Delk violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).
12. Approve the attached Factual and Legal Analyses.
- 13.
14. Approve the appropriate letters.

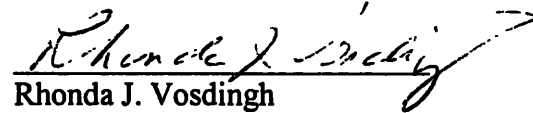
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Date

8/9/04




Lawrence H. Norton
General Counsel



Rhonda J. Vosdinger
Associate General Counsel



Ann Marie Terzaken
Assistant General Counsel



Tracey L. Ligon
Attorney

Attachments:

- 1.
2. Chart of Fundraising Dinners at Galileo
3. News Article: Kathleen Day, "Influence by volume; Freddie Mac lobbyist got a big discount on GOP fundraising dinners at Galileo," *Washington Post* (Aug. 4, 2003)
- 4.
5. News Article: *Washingtonian*, Trickle-Down Ingenuity at Galileo's Bar (April 2004)
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ATTACHMENT 2

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Fundraising Dinners at Galileo

	Date	Contribution Recipient	Amount Reported Mich Delk Mandy Delk	Freddie Mac Connection
1	March 16, 1999	KOMPAC (Hastert)	\$ -	
2	March 23, 1999	ARMPAC (Delay)	\$ -	
3	May 18, 1999	Rep. Tom Davis	\$1,000	
4	July 29, 1999	Rely on Your Beliefs PAC (Blunt)	\$ -	
5	Oct. 21, 1999	Rep. Edward Royce	\$ -	House Financial Services Committee
6	April 6, 2000	Rep. John Sweeney	\$ -	House Financial Services Committee
7	April 12, 2000	Rep. Bill Tauzin	\$ -	
8	May 3, 2000	Rep. Peter King	\$ -	House Financial Services Committee
9	May 22, 2000	Rep. Marge Roukema	\$ -	House Financial Services Committee
10	May 23, 2000	Senator John Ashcroft	\$ -	
11	June 27, 2000	Rep. Spencer Bachus	\$ -	House Financial Services Committee
12	July 13, 2000	Rep. Edward Royce	\$ -	House Financial Services Committee
13	Oct. 3, 2000	Rep. John Sweeney	\$ 500	House Financial Services Committee
14	Oct. 5, 2000	Rely on Your Beliefs PAC (Blunt)	\$ -	
15	Dec. 19, 2000	Senator George Allen	\$ -	
16	Jan. 17, 2001	Leadership PAC 2002 (Oxley)	\$1,000	PAC of Rep. Oxley, Chairman of House Fin. Svcs. Comm.
17	Feb. 13, 2001	Rep. Henry Bonilla	\$1,000	
18	Feb. 28, 2001	ARMPAC (Delay)	\$ -	
19	March 6, 2001	Rely on Your Benefits PAC (Blunt)	\$ 500	
20	March 13, 2001	Rep. Edward Royce	\$ 500	House Financial Services Committee
21	March 15, 2001	Rep. Spencer Bachus	\$ 750	House Financial Services Committee
22	March 19, 2001	Rep. Sue Kelly	\$ 500	House Financial Services Committee
23	March 20, 2001	KOMPAC (Hastert)	\$ -	
24	March 21, 2001	Rep. Bob Ney	\$ -	House Financial Services Committee
25	April 2, 2001	Rep. Mike Castle	\$ 500	House Financial Services Committee
26	May 2, 2001	Rep. John Shadegg	\$ 500	House Financial Services Committee
27	May 8, 2001	Senator Phil Gramm	\$ -	Senate Banking Housing and Urban Affairs Committee
28	May 9, 2001	Rep. Bob Ryley	\$ -	House Financial Services Committee
29	May 16, 2001	Rep. Judy Biggert	\$ 500	House Financial Services Committee
30	May 22, 2001	Rep. Vito Fossella	\$ 500	House Financial Services Committee

Fundraising Dinners at Galileo -- continued

Date	Contribution Recipient	Amount Reported Mitch Delk	Amount Reported Aminda Delk	Freddie Mac Connection
31 May 24, 2001	Rep. Mike Ferguson	\$ 500	-	House Financial Services Committee
32 June 6, 2001	Rep. Paul Gilmor	\$ 500	-	House Financial Services Committee
33 June 7, 2001	Rep. Melissa Hart	-	-	House Financial Services Committee
34 June 13, 2001	Rep. Doug Ose	\$ 500	-	House Financial Services Committee
35 June 20, 2001	Senator Richard Selby	\$ 500	-	Senate Banking, Housing and Urban Affairs Committee
36 June 26, 2001	Rep. Bob Ney	\$ 500	-	House Financial Services Committee
37 July 12, 2001	Majority Leader's Fund (Armed)	-	-	
38 July 17, 2001	Rep. Jim Walsh	\$ 500	-	
39 July 31, 2001	Rep. Tom Davis	\$ 500	-	
40 October 2, 2001	Rep. John Sweeney	\$ 500	-	House Financial Services Committee
41 Oct. 11, 2001	Rep. Mike Rogers	\$ 500	-	House Financial Services Committee
42 Oct. 23, 2001	The Freedom Project (Boehner)	\$ 500	-	
43 Dec. 18, 2001	The PRYCE Project	\$ 350	-	House Financial Services Committee
Dec. 18, 2001	Rep. Patrick Tiberi	\$ 350	-	House Financial Services Committee
44 Jan. 16, 2002	Leadership PAC 2002 (Oxley)	\$ 750	-	PAC of Rep. Oxley, Chairman of House Fin. Svcs. Comm.
45 Jan. 22, 2002	Rep. Connie Morella	\$ 500	-	
46 Feb. 7, 2002	Rep. Saxby Chambliss	\$ 500	-	
47 Feb. 26, 2002	KOMPAC (Hastert)	\$ 750	-	
48 March 14, 2002	Tom Young	\$1,000	-	
49 March 19, 2002	Rely on Your Beliefs PAC (Blunt)	\$ 750	-	
50 March 20, 2002	ARMPAC (Delay)	\$ 750	-	
51 April 23, 2002	Rep. Anne Northup	\$ 500	-	
52 May 15, 2002	Rep. John Thune	\$ 500	-	
53 May 23, 2002	Rep. Pat Toomey	\$ 500	-	House Financial Services Committee
54 June 4, 2002	Rep. Katherine Harris	\$ 500	-	
55 June 20, 2002	Tom Young	\$ 500	-	
56 June 25, 2002	Rep. Shelley Moore Capito	\$ 500	-	House Financial Services Committee
57 July 9, 2002	Rep. Gary Miller	\$ 500	-	House Financial Services Committee
58 July 16, 2002	Rep. Ed Royce	\$ -	\$ 500	House Financial Services Committee

Fundraising Dinners at Galileo – continued

Date	Contribution Recipient	Amount Reported Mitch Delk	Amount Reported Mandy Delk	Freddie Mac Connection
59 July 23, 2002	Rep. Nancy Johnson	\$ -	\$ 500	
60 July 24, 2002	Rep. Jim Walsh	\$ -	-	
61 Sept. 10, 2002	Pioneer PAC (Hobson)	\$ -	\$ 500	
62 Sept. 12, 2002	Rep. Vito Fossella	\$ -	\$ 500	House Financial Services Committee
63 Sept. 19, 2002	Leadership PAC 2002 (Oxley)	\$ -	\$ 250	PAC of Rep. Oxley, Chairman of House Fin. Svcs. Comm.
Sept. 19, 2002	Rep. Mike Ferguson	\$ -	\$ 250	House Financial Services Committee
64 Sept. 24, 2002	Candidate Ann Wornor Benjamin	\$ -	\$ 375	
Sept. 24, 2002	Candidate Michael Turner	-	\$ 375	
65 Oct. 2, 2002	Candidate Rahm Emanuel	\$ -	-	Freddie Mac Board, According to Complaint
66 Oct. 10, 2002	Rep. Butch Otter	\$ -	\$ 500	
67 Oct. 23, 2002	Rep. Eric Cantor	\$ -	\$ 500	House Financial Services Committee
68 Dec. 5, 2002	Senator Richard Shelby	\$ -	\$ 750	Senate Banking, Housing and Urban Affairs Committee
69 Dec. 10, 2002	Senator-Elect Saxby Chambliss	\$ -	\$ 500	
70 Jan. 21, 2003	Leadership PAC 2004 (Oxley)	\$ 750	-	PAC of Rep. Oxley, Chairman of House Fin. Svcs. Comm.
71 Feb. 10, 2003	Senator John Sununu	\$ 500	-	Senate Banking, Housing and Urban Affairs Committee
72 March 4, 2003	KOMPAC (Hastert)	\$ -	-	
73 March 6, 2003	Senator Jim Bunning	\$ 500	-	Senate Banking, Housing and Urban Affairs Committee
74 March 12, 2003	Rely on Your Beliefs PAC (Blunt)	\$ 750	-	
75 March 27, 2003	American Liberty PAC (Ney)	\$1,000	-	
76 April 8, 2003	Rep. Johnny Isakson	\$ 500	-	
77 April 29, 2003	Rep. Jeb Hensarling	\$ 500	-	House Financial Services Committee
78 May 14, 2003	Rep. Ed Royce	\$ 500	-	House Financial Services Committee
79 May 20, 2003	Volunteer PAC (Frist)	\$1,000	-	

Total Contributions (including, but not limited to, in-kind contributions in connection with fundraising dinners):

	1999	2000	2001	2002	2003
Mitch Delk	\$10,500	\$0	\$14,850	\$10,250	\$6,750
Amanda Delk	\$0	\$0	\$ 1,000	\$ 6,500	\$0

ATTACHMENT 3

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Monday, August 4, 2003

Financial

Influence by Volume; Freddie Mac Lobbyist Got a Big Discount On GOP Fundraising
Dinners at Galileo

Kathleen Day
Washington Post Staff Writer

Every other week or so for the past few years, customers at the expensive downtown Italian restaurant Galileo might have bumped into Freddie Mac's chief lobbyist, R. Mitchell Delk, having dinner with powerful Republican House members and other lobbyists. Face time with politicians over dinner at fancy restaurants has long been a staple of lobbying in Washington, and expanding the dinners into fundraising events has become common, too. Some restaurants near Capitol Hill, such as LaColline or the Capital Grille on Pennsylvania Avenue, say it's a significant part of their business.

But Delk plays the game on a larger scale, both in his focus on Rep. Michael G. Oxley (R-Ohio), chairman of the House Financial Services committee, which oversees Freddie Mac, and in his unusual discount arrangement with Galileo, which charges him just \$500 -- \$25 a plate for a three-course dinner, wine, drink, tax and tip for up to 20 dinners.

He held at least 50 fundraising dinners over the past 2 1/2 years, mostly for Republican members of Oxley's committee or the House leadership. At least 20 advertised an appearance by Oxley.

Delk reported his payment for each dinner as an "in-kind" donation to the House member he hosted. Under campaign law for most of the period, an individual could donate as much as \$1,000 per election to a candidate. Usually, contributions are in the form of checks, but they also can be a donation something of value, such as stamps, or flowers, or in Delk's case, dinners.

"Wow. Was liquor included in that \$25 price? And tax and tip? I would like to find a dinner with all of that included at any Washington restaurant at that price," said Trevor Potter, former chairman of the Federal Election Commission, who was appointed by President George H.W. Bush.

Galileo participated last week in a Restaurant Week promotion, during which many Washington restaurants offered fixed-price dinners for \$30.03, not counting tax, tip or drinks.

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LaColline and the Capital Grille, in contrast, said they do not give volume discounts, but work off the regular restaurant menu.

According to the special events' office at Galileo, the least expensive rate available to the public for a set three-course meal for a party of 10 or more is \$55 per person, not including drinks, tax or tip, which, planners said, can double the tab. A dinner for 10 to 15 people can run from \$1,000 to \$2,000, they said.

Lawrence M. Noble, former general counsel of the Federal Election Commission, said campaign law says candidates cannot accept discounts that are not generally available to the public.

~~"Were those fair market values for those dinners?" Noble said. "It sounds like a very personal deal Delk had, but it's hard to tell."~~

Delk declined requests for an interview. His lawyer, Jan W. Baran, said in an e-mail, "I have reviewed the process used by Mr. Delk for his fundraising activities and in-kind contributions.

"Mr. Delk is fully compliant with all legal and reporting requirements," Baran wrote.

Galileo general manager Michael Nayeri said the arrangement with Delk has been good business for the restaurant. He said in a telephone interview that Delk's discount, under which the lobbyist paid a flat \$500 price for up to 20 people, \$750 for up to 30 and \$1,000 for up to 40 people, is only for special customers and only he can offer it.

"I cannot just give this to everyone who comes to the restaurant; special events cannot do this," Nayeri said. "You have to become a friend of the house." Only 15 to 20 of the restaurant's other customers would be eligible for such a price, he said. He would not say whether anyone else has been given the discount.

In a later e-mail, Nayeri said the discount would be available to any member of the public who could "guarantee at least 25 such dinners a year."

He said the restaurant could offer Delk a \$25, all-inclusive price for several reasons. The lobbyist guaranteed to pay for at least 20 people, even if not that many showed up. There is also a limited menu and the portions "are sampler sizes, not the full meal," Nayeri said.

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Several lobbyists who attended dinners said they didn't notice any difference between the Delk fundraising dinner and what they get when they eat from Galileo's regular menu.

Overall, Nayeri said, "the price is also a good one for Galileo because we believe that the clientele that attends Mr. Delk's dinners are likely to return."

Freddie Mac spokesman David R. Palombi said Delk hosted the political dinners as a private citizen, not for the company. Delk stopped them in June, Palombi said, because of the distraction of an accounting scandal at Freddie Mac. The company, which buys mortgages from lenders and then repackages them into securities for sale to investors, ousted three top executives in response to accounting mistakes that will force it to restate earnings for the last three years by as much as \$4.5 billion.

Delk is regarded as one of the most connected lobbyists in town, especially with Oxley, since he joined Freddie Mac in 1991, after being a Senate aide, and congressional liaison for the Securities and Exchange Commission.

Delk started the Galileo dinners in 2001, working with a Republican fundraiser planner, Epiphany Productions Inc. Baran said Delk found the dinners so popular that he decided to make a practice of them, instead of simply writing checks to candidates.

From May 2001 through September 2002, for example, Delk held Galileo dinners for 13 Republicans who sit on the House Financial Services Committee's subcommittee that oversees Freddie Mac. In one particularly busy period, Oxley was advertised as the featured draw at four of the six dinners Delk held at Galileo in June 2001: June 6, 7, 12, 13, 20 and 26.

Other dinners during that period were held for then-House Majority Leader Richard A. Armey (R-Tex.), then-House Majority Whip Rep. Tom DeLay (R-Tex.), and Speaker of the House J. Dennis Hastert (R-Ill.), and for key members of the House appropriations committee, which determines how much money Congress budgets to Freddie Mac's regulator.

Other financial service industry lobbyists often attended the dinners, many of them from Fannie Mae, Freddie Mac's Washington-based mortgage-lending competitor, participants said. Around the time of a Galileo dinner for Rep. Robert W. Ney (R-Ohio) in June 2001, for example, 15 people who worked for Fannie Mae were among his contributors.

Eleven Fannie Mae employees and one New York Stock Exchange executive donated to

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Rep. Shelley Moore Capito (R-W.Va.) about the time of a Delk dinner for her in June 2002.

Last fall Delk's wife, Amanda, began paying for many of the dinners, campaign records show. FEC records show that Delk's donations for the year still exceeded \$20,000, closing in on the \$25,000 annual limit at the time.

Capito reported both a \$750 in-kind contribution from Delk for the Galileo meal, and a \$375 expense paid to Epiphany for organizing the dinner.

Some campaigns said they were never billed or were billed late by the consulting group. Rep. Katherine Harris's (R-Fla.) campaign manager, Jessica Furst, for example, said "we never received an invoice" from Epiphany for a Galileo dinner on June 4, 2002. A spokesman for Rep. Michael Ferguson (R-N.J.) said he received no invoice from Epiphany for either of two Galileo dinners. Rep. Gary G. Miller, (R-Calif.) never received a bill for a Galileo dinner on July 9, 2002, a spokesman said.

Rep. Doug Ose (R-Calif.), paid \$606 to Epiphany on Oct. 9, 2002, for a Galileo dinner on June 27, 2001. "We were billed late, but we paid promptly," a spokesman for Ose said.

Epiphany co-founder Julie Wadler would not answer questions about the company's arrangement with Delk and Galileo except to say, by e-mail: "Epiphany Productions has invoiced every campaign for whom we have done a fundraiser. We have received or expect to receive payments on all invoices."

Database editor Sarah Cohen contributed to this report.

----- INDEX REFERENCES -----

COMPANY: Freddie Mac (FREDDY)

NEWS SUBJECT: (Domestic Politics (GPOL); Upper House (GVUPH); Corporate/Industrial News (CCAT); Political/General News (GCAT); Government Bodies (GVBOD); Legislative Branch (GVCNG))

INDUSTRY: (Non-bank Credit (I81501); Mortgages/Real Estate Credit (I8150103); Banking/Credit (IBNK))

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price of every dish seem to be poured according to the whim of the bartender. When they are good, which is more often than not—and as was the case with a Palio Chianti—they taste like the \$8 that they cost when they are not part of the lunchtime package deal.

Teatro Goldoni (1909 K St., NW, 202-955-9494) Bar menu offered Monday through Friday at lunch, Monday through Saturday at dinner.

Trickle-Down Ingenuity at Galileo's Bar

The lunch crowds that caused Galileo's doors to bulge during Restaurant Week are gone, but chef/owner Roberto Donna still offers a frequently changing three-course lunch menu for \$20.04 Monday through Friday. Even less expensive are the plates of pastas and main courses—all priced well under \$10—on Galileo's bar menu.

It is an offer that's hard to resist. For the same price you would pay for a cheeseburger and a bottle of Amstel at an upscale saloon, you can have of a dish of pasta or a main course and a glass of wine at Galileo's bar, at one of its few tables, or, during good weather, on the outdoor dining terrace by the restaurant's entrance. With most dishes priced from \$6 to \$8, you might suspect this to be second-string Italian cuisine.

Not so. That dish of light fettuccine tossed with rosemary-scented veal ragout is identical to the pasta that costs \$14 in the main dining room, as is the case with beef stewed in Barolo spooned over creamy polenta. They are prepared, more likely than not, by one of the young cooks who assist Donna in cooking the \$125-a-person culinary extravaganza served Fridays and Saturdays in his Laboratorio at the back of the restaurant.

At Galileo al Bar, the designation for the front section of the restaurant, a dish of lasagne alla Bolognese—a layering of pasta, Bolognese sauce, and bechamel spangly topped with cheese and served in an earthenware *padellina*—is so light that a diner could make it the first of a multi-course meal. Equally extraordinary is its price: \$6.

Other pastas on the bar menu, which changes slightly from week to week, include a pennie *all'arrabbiata* and the signature fettuccine with veal ragout.

The lightest ways to start at Galileo's bar are with the bread-crumb-stuffed eggplant rolls glazed with a tomato sauce; a wonderful plate of soft-fried eggs served over *pizzaiola* sauce and veneered with mozzarella; and Roberto Donna's updated interpretation of a classic Tuscan *ribollita*—a plate of yesterday's minestrone, "reboiled" and thickened with chunks torn from yesterday's rustic loaf, then transformed into a

glorious vegetable mush by a tableside showering of grated Parmesan and a generous drizzling of extra-virgin olive oil.

Unfortunately, Donna's spa-light vegetable soup is neither a minestrone—it lacks the density of the traditional version—nor a classic *ribollita*. With its limp broth garnished with a couple of tablespoons of beans and vegetables and thin slices of toasted bread as a floating garnish, only a high-fashion model would mistake it for a *ribollita*.

The main courses at Galileo al Bar exemplify the grandmotherly style of Italian cooking called *la cucina povera*—a pure style whose defining virtue is simplicity.

How can a restaurant of Galileo's stature offer main courses on its bar menu for \$7 or \$8? Trickle-down economics. Galileo houses three separate—and differently priced—restaurants under one roof. The custom-raised veal and suckling pigs that provide choice cuts for diners at the Laboratorio provide lesser bits of pristine meat to Galileo's main dining room, and finally, to its bar.

Donna and his cooks elevate less desirable cuts of meat into delicacies. A breast of veal—at the outset a tough cut—is braised at very low temperature and smothered with woodland mushrooms and so transformed into a delicacy served over creamy polenta. A crisp-crusted coil of house-made *luganega* sausage is moistened with veal glaze and garnished with a dice of roasted potatoes.

Good as these dishes are, the current star of Galileo's bar menu is a cut of pork belly from the custom-raised suckling pigs that Donna bones, rolls, and roasts as one of the signature dishes in his 32-seat Laboratorio. The cut is vacuum-packed and braised in its own juices, then cooked to a golden-brown crisp in a sauté pan and served over cannellini beans stewed in tomato sauce.

You won't wreck your budget by enjoying a glass or two of wine with your bargain lunch. A pair of whites and a pair of reds are offered for \$4 to \$5 a glass. The Pinot Grigio and the Dolcetto, both the sort of delicious little wines you'd enjoy at a good trattoria in Italy, taste as good as the wines sold at other local Italian restaurants for \$8 a glass.

The \$20.04 three-course menu offered on weekdays provides a more formal lunch that is as great a bargain. The frequently changing menu offers a choice between two dishes for each course. A comforting winter lunch began with an elegant custard of duck liver, was followed by a main course of pork braised in tomato sauce and garnished with a house-made sausage poached in red wine, and ended with a dainty *bonet*—an unmolded chocolate custard traditional to Roberto Donna's native Piemonte—for dessert.

An advantage of ordering this menu in

the bar instead of the main dining room is that one also can take advantage of the bar menu's bargain-priced wines by the glass.

Galileo (1110 21st St., NW, 202-293-7191). A la carte bar menu and \$20.04 three-course menu offered Monday through Friday at lunch.

Gerard Pangaud's Two-Star Insider's Secret

Gerard Pangaud brought the two stars he earned in France from the Michelin Guide to Washington. He also brought along his very Parisian sense of insularity, which means he does little to promote himself or his restaurant. So patrons who celebrate a special occasion by enjoying the \$85-a-person tasting menu at dinner are often surprised to learn that similarly excellent cuisine can be had in a three-course lunch for \$29.50 Monday through Friday. It is the best fine-dining value in the metro area.

The dishes on Pangaud's fixed-price lunch reflect the work of a great chef at the top of his form. It offers a choice between two dishes at each course and is composed anew every two weeks.

Memorable dishes on the fixed-price lunch menu have included a duck terrine with a walnut-size circle of foie gras at its center; a curried eggplant soup textured with slivers of caramelized eggplant;

stewed lamb with bulb fennel and baby figs; and a veal chop braised with assorted dried fruits. A chef of Pangaud's stature can make such bargain cuts as veal cheeks and oxtail sing, but it is all the more impressive when he finds a way to make such luxuries as foie gras and veal chops affordable on a \$29.50 menu.

A recent fixed-price lunch at Gerard's Place began with an aspic-bound terrine of odd cuts from a suckling pig whose chops and legs had been used for one of the featured courses on the à la carte menu. The combination of the cool terrine and its accompanying salad of warm young leeks was sensational. The main course was an impeccably cooked portion of cod that separated into glistening flakes at the touch of the fork. The natural sweetness of the fish was contrasted by the pleasant bitterness of sautéed endives and matched by the subtle sweetness of a head of miniature romaine lettuce—no larger than a woman's thumb—braised with a dice of aromatic vegetables. For dessert, a classic that dates back to Escoffier's *Le Guide Culinaire*—a poached pear with house-made vanilla ice cream and warm chocolate sauce.

In conception and execution, each dish was of a quality one would expect to find at a Michelin-starred restaurant in France.

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