



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

SECRET

2006 OCT 26 P 4 28

SENSITIVE

Michael Proctor, Esq
Caldwell, Leslie, Newcombe & Pettit
1000 Wilshire Blvd, Suite 600
Los Angeles, CA 90017-2463

OCT 26 2006

RE MUR 5758
Dolores Valdez

Dear Mr Proctor

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on March 24, 2005, the Federal Election Commission found reason to believe that your client, Dolores Valdez, violated 2 U S C § 441f, and instituted an investigation in this matter

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred

The Commission may or may not approve the General Counsel's recommendation Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days

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Michael Proctor, Esq
MUR 5758
Page 2

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement

Should you have any questions, please contact Audra Wassom, the attorney assigned to this matter, at (202) 694-1650

Sincerely,



Lawrence H Norton
General Counsel

Enclosure
Brief

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1 recruiting individuals to serve as conduits and by directly reimbursing two individuals for their
2 contributions. Therefore, the Office of General Counsel intends to recommend that the
3 Commission find probable cause to believe that Dolores Valdez violated 2 U S C § 441f

4 **II. SUMMARY OF THE RECORD**

5 **A. Valdez's Role in O'Donnell's Fundraising for Senator Edwards**

6 In early 2003, Pierce O'Donnell agreed to be a fundraiser for the Edwards Committee, and
7 he sponsored a "meet and greet" breakfast event with Senator Edwards. This event, which
8 occurred on March 1, 2003 at a hotel in Beverly Hills, was organized largely by Valdez
9 (Latinovic Tr at 59-60). Valdez, at the request of O'Donnell, made logistical arrangements for
10 the event and invited potential guests (Latinovic Tr at 59-60). The invitations for this event
11 were sent by letter on Firm stationery and were signed by O'Donnell. Approximately 50 of
12 O'Donnell's friends and colleagues attended the event, including individuals from the Firm.

13 The campaign staffer for the Edwards Committee assigned to the southern California
14 region, Molly Morris, stated in an interview with Commission staff that the event was planned
15 entirely by O'Donnell. Morris also stated that she sent O'Donnell the campaign's standard packet
16 for fundraisers, which provided instructions on how to permissibly raise funds and specifically
17 noted the prohibition on contributions made in the names of others. According to Morris,
18 O'Donnell appeared to be an experienced fundraiser and did not ask many questions.

19 During the breakfast event, Senator Edwards indicated his campaign's need for funding,
20 and a few attendees contributed at that time, while others contributed during the weeks that
21 followed. After the event, both O'Donnell and his assistant, Dolores Valdez, solicited individuals
22 to contribute to the Edwards Committee, and they periodically communicated with Morris at the
23 Edwards Committee regarding these additional contributions. Overall, O'Donnell's efforts as a

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1 fundraiser led to 34 individuals contributing approximately \$50,000 to the Edwards Committee,
2 though for unknown reasons the Edwards Committee apparently did not receive two of these
3 contributions. The contributors signed the Edwards Committee's standard donor card, which
4 states in part, "all contributions must be made from personal funds and cannot be reimbursed." In
5 many cases, these donor cards were distributed by Valdez who instructed the donors to fill them
6 out, and in some cases it appears that Valdez completed the information on the card for a donor.

7 Several employees at O'Donnell's firm contributed to the Edwards Committee. Some of
8 those employees, primarily paralegals, stated that Valdez told them that O'Donnell would
9 reimburse them for their contributions. Other Firm employees, primarily attorneys, stated in
10 sworn affidavits that they were not offered and did not receive a reimbursement for their
11 contributions. As detailed below, our investigation has shown that O'Donnell wrote checks
12 totaling \$32,000 to reimburse sixteen individuals who contributed to the Edwards Committee.
13 With one exception, these reimbursements all occurred within four days of the dates the
14 contributions to the Edwards Committee were made. See Attachment 1 (flow chart of
15 reimbursements). These funds all originated from O'Donnell's personal bank account, though the
16 money was sometimes funneled through various individuals employed by the Firm—including
17 Valdez—before reaching the intended recipients. See *id.*

18 *1 Direct Reimbursements*

19 Valdez directly reimbursed two individuals for contributions made to the Edwards
20 Committee using funds provided to her by O'Donnell. On March 31, 2003, Valdez received a
21 personal check from O'Donnell for \$4,000. On the same day, Valdez wrote a \$2,000 check from
22 her personal banking account to Bert Rodriguez, an administrative employee at the Firm, to
23 reimburse him for his contribution to the Edwards Committee. Rodriguez had contributed \$2,000

13044323146

1 to the Edwards Committee on March 27, 2003, and he had been promised reimbursement at the
2 time he agreed to make the contribution (Rodriguez Tr at 83-84) In addition, Valdez gave
3 \$2,000 to her sister, Maria Saucedo, who likewise contributed \$2,000 to the Edwards Committee
4 after she was promised reimbursement² (Saucedo Tr at 15-16)

5 2 *Facilitated Reimbursements*

6 Valdez facilitated the contributions and reimbursements of at least ten others For
7 example, in addition to reimbursing Rodriguez for his contribution, she asked him if he knew of
8 anyone else that would contribute if reimbursed (Rodriguez Tr at 83) Rodriguez said he would
9 ask his son, Johnny Rodriguez Johnny Rodriguez agreed to contribute and be reimbursed, and he
10 also asked his girlfriend, Christina Andujo to contribute Valdez subsequently gave Bert
11 Rodriguez a check from Pierce O'Donnell for \$4,000 to reimburse Johnny Rodriguez's and
12 Cristina Andujo's contributions (Rodriguez Tr at 83-84)

13 Valdez also solicited Else Latinovic, the administrator of the Firm, to contribute to the
14 Edwards Committee, telling her that she would be reimbursed by O'Donnell (Latinovic Tr at
15 66-67, 77) Latinovic initially balked at contributing because she personally did not support
16 Edwards (Latinovic Tr at 68) Latinovic conveyed that she thought it was inappropriate to ask
17 employees to contribute, and she asked Valdez to speak with O'Donnell about her concerns
18 (Latinovic Tr at 68) Valdez agreed to speak with O'Donnell, and Valdez also reportedly
19 expressed unhappiness that O'Donnell asked her to solicit employees (Latinovic Tr at 67-68)
20 O'Donnell, however, reportedly told Valdez that she needed to do what he asked, and Valdez
21 transmitted this information to Latinovic (Latinovic Tr at 69) Latinovic then agreed to

² Although Saucedo filled out a donor card and provided her debit card number to make a contribution, the Edwards Committee has no record of receiving a contribution from her

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1 contribute, fearing that if she did not, O'Donnell would be angry and, through his position at the
2 Firm, possibly take adverse action against her (Latinovic Tr at 110)

3 Because Latinovic believed it was inappropriate to solicit employees for contributions, she
4 told Valdez she would solicit her family to contribute so that other employees in the Firm would
5 not be placed in an uncomfortable position (Latinovic Tr at 70) Valdez agreed with this
6 proposal, and Latinovic subsequently secured three \$2,000 contributions to the Edwards
7 Committee from her mother, Anita Latinovic, and two from family friends, Russell and
8 Jacqueline Folsom (Latinovic Tr at 70-75) Per her conversation with Valdez, Latinovic
9 promised all of them that O'Donnell would reimburse them for their contributions (Latinovic Tr
10 at 70-75) Latinovic transmitted their contribution checks to Valdez, who gave her an \$8,000
11 check dated March 31, 2003, signed by Pierce O'Donnell That same day, Latinovic wrote three
12 checks aggregating \$8,000 one for \$2,000 to the Edwards Committee, one for \$2,000 to her
13 mother, and one for \$4,000 to Russell and Jacqueline Folsom

14 In addition to soliciting contributions through Latinovic, Valdez also approached paralegal
15 Hilda Escobar and asked her to contribute, similarly telling her she would be reimbursed
16 (Escobar Tr at 48) Escobar agreed to contribute and wrote a \$2,000 check to the Edwards
17 Committee (Escobar Tr at 48) A few days later, Valdez again approached Escobar and asked
18 her if she knew anyone else who would contribute, promising that O'Donnell would reimburse
19 them as well (Escobar Tr at 51) Escobar then approached her father, Rafael Velasco, who
20 agreed to contribute as a favor to O'Donnell (Escobar Tr at 52) Escobar transmitted her
21 father's \$2,000 contribution check to Valdez and asked Valdez if more contributions were
22 needed (Escobar Tr at 51) Valdez said no and later gave Escobar a \$4,000 check from
23 O'Donnell to reimburse her for her and her father's contributions /s/ Valdez also gave Escobar

13044323148

1 donor cards from the Edwards Committee, telling her that they needed to be completed (Escobar
2 Tr. at 50, 53)

3 Valdez also approached Harry Silberman, a paralegal at the Firm, and asked him to
4 contribute to the Edwards campaign. In an interview with Commission staff, Silberman stated
5 that Valdez told him that O'Donnell would appreciate it if he would contribute, and Valdez also
6 said that O'Donnell would reimburse him if he contributed. Silberman agreed to contribute, and
7 he gave Valdez his credit card to make a \$2,000 contribution.³ One or two days later, Silberman
8 received a personal check from O'Donnell for \$2,000. Similarly, paralegal Elizabeth Owen also
9 received a \$2,000 reimbursement check from O'Donnell on March 31, 2003, the same day she
10 contributed to the Edwards Committee after apparently being solicited by Valdez.⁴

11 B. Valdez's Role in the Prior Reimbursement of Nonfederal Contributions

12 The Edwards event was not the first time that Valdez was involved in a reimbursement
13 scheme orchestrated by O'Donnell. In 2000, Los Angeles mayoral candidate James Hahn
14 attended a reception at the Firm's offices, which was organized in part by Valdez (Latinovic Tr
15 at 37-38). Like the event for Edwards, the Hahn event led to O'Donnell reimbursing
16 contributions. In a reimbursement scheme that mirrors the activity in this matter, O'Donnell used
17 \$25,500 of his personal funds to reimburse Firm employees, their friends, their relatives, and
18 others for campaign contributions to James Hahn's mayoral campaign. As in this matter, Valdez
19 solicited contributions from Firm employees and arranged for their reimbursements from

³ The Edwards Committee has no record of receiving a contribution from Silberman, and Silberman reports that his credit card was never charged.

⁴ In addition to the checks O'Donnell wrote to the non-lawyer employees of the Firm, he also wrote personal checks to reimburse four other individuals who contributed to the Edwards Committee. The four are all related to O'Donnell: his daughter, Meghan O'Donnell, his sisters, Mary Eileen O'Donnell and Helen Wahl, and his brother-in-law, Gerald Wahl. Because these individuals have indicated that they would assert their Fifth Amendment privilege if compelled to testify, it is unknown what role, if any, Valdez played in facilitating these contributions and reimbursements.

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O'Donnell⁵ Likewise, only administrative employees—not attorneys—were reimbursed Those administrative employees have stated that the circumstances of the Edwards contribution reimbursements were nearly identical to that of the Hahn contribution reimbursements

III. ANALYSIS

The evidence has shown that Dolores Valdez violated 2 U S C § 441f by facilitating O'Donnell's scheme to reimburse contributions to the Edwards Committee Section 441f prohibits (1) making a contribution in the name of another, (2) knowingly permitting one's name to be used to effect such a contribution, and (3) knowingly accepting such a contribution In addition, no person may knowingly help or assist any person in making a contribution in the name of another 2 U S C § 441f, 11 C F R § 110 4(b)(1)(iii) This prohibition also applies to any person who provides money to others to effect contributions in their names 11 C F R § 110 4(b)(2) As detailed in the previous section, Valdez actively furthered O'Donnell's scheme in which 16 individuals were reimbursed for \$32,000 in contributions to the Edwards Committee

By providing money to effect contributions in the names of others and by assisting with the making of contributions in the names of others, Valdez violated 2 U S C § 441f See also 11 C F R § 110 4(b) Valdez has not disputed these violations, she has instead asserted her Fifth Amendment privilege in response to questions about her involvement Considering the substantial evidence of violations that otherwise exists, the Commission may draw an adverse inference from her refusal to testify See *Baxter v Palmigiano*, 425 U S 308, 318 (1976), *SEC v Gemstar-TV Guide Int'l, Inc*, 401 F 3d 1031, 1046 (9th Cir 2005) ("[p]arties are free to invoke the Fifth Amendment in civil cases, but the court is equally free to draw adverse inferences from their failure of proof") quoting *SEC v Colello*, 139 F 3d 674, 677 (9th Cir 1998) Therefore,

⁵ In July 2006, the Los Angeles Ethics Commission fined Dolores Valdez \$41,000 for aiding and abetting O'Donnell in reimbursing contributions

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1 based on the extensive direct evidence developed in this investigation, and in the absence of
2 testimony from Valdez, the Commission should conclude that she violated the Act in this matter

3 Therefore, based on all of the above, this Office is prepared to recommend that the
4 Commission find probable cause to believe that Dolores Valdez violated 2 U S C § 441f by
5 making and facilitating contributions in the names of others

IV. GENERAL COUNSEL'S RECOMMENDATION

1 Find probable cause to believe that Dolores Valdez violated 2 U S C § 441f

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10/26/04
Date

Lawrence H. Norton
Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel for Enforcement

Mark D. Shonkwiler
Mark D. Shonkwiler
Assistant General Counsel

Brant S. Levine
Brant S. Levine
Attorney

Audra L. Wassom
Audra L. Wassom
Attorney

Attachment

1 Flow Chart of Reimbursed Contributions

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