



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

APR 28 2009

**BY FACSIMILE AND U.S. MAIL**

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RE: MUR 6186  
Mark Leggio

Dear Messrs. Davidian and Churchwell:

On August 15, 2008, you notified the Federal Election Commission ("the Commission") of the possibility of violations by your client, Mark Leggio, of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

After reviewing the information contained in your submission, and based on the supplemental information you provided, on April 21, 2009, the Commission found reason to believe that Mr. Leggio violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f, provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's findings.

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Ben Davidian, Esq.  
Steve Churchwell, Esq.  
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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

On behalf of the Commission,



Steven T. Walther  
Chairman

Enclosures  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: Mark Leggio**

**MUR: 6186**

**I. FACTUAL BACKGROUND**

Mark Leggio, the president and/or co-owner of Mark Christopher Chevrolet, Inc. has been a major contributor to, and fundraiser for, a number of political committees over the years, mostly on the state and local level. Sometime in 2007, Mr. Leggio approached legal counsel to review his political contribution history after learning that a local district attorney's office was looking into contributions made by him, his employees and relatives to local and state candidates and committees. Counsel and a political compliance specialist conducted a comprehensive review of state and local political contributions made by Leggio, his companies and employees. In September 2007, Mr. Leggio, through counsel, self-reported to the California Fair Political Practices Commission ("the FPPC") contributions to state and local candidates that he and his companies made in the names of others.

On December 11, 2008, the FPPC approved a civil settlement agreement with Mr. Leggio and his three companies involving 23 counts of money laundering (contributions made in the names of others) totaling \$66,400, 6 counts of making excessive contributions and 5 counts of filing inaccurate reports. The reporting and excessive contribution violations stemmed from the money laundering scheme. The agreement covers reimbursements Mr. Leggio made to employees, former employees and their relatives, for contributions made to eleven state and local candidate and party

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committees. Two of the employees were Mr. Leggio's cousins, Nick Cacucciolo Jr. and Nicola Cacucciolo, Sr. The \$150,000 administrative fine provided for in the agreement has been paid.

On June 11, 2008, the California Attorney General's office, working with the local district attorney, indicted Mr. Leggio on 11 felony counts of perjury, filing false statements, and conspiracy and 26 misdemeanor counts of violating state campaign finance laws, all stemming from the reimbursed state contributions. The Cacucciolos and a former employee were each indicted on one felony count of conspiracy and between 4 to 8 misdemeanor counts for their roles in the reimbursements. On April 9, 2009, Mr. Leggio pled guilty to one felony count of conspiracy and to the 26 misdemeanors with which he was charged. Sentencing is scheduled for July 17, 2009. The co-defendants each pled guilty to one misdemeanor for serving as an intermediary without disclosing to the recipient the true source of the contributions attributed to each of them.

In the course of reviewing Mr. Leggio's state-level contributions, counsel found that Leggio reimbursed the Cacucciolos and their spouses and a former employee and his relative, for eleven contributions made to three federal candidates in the 2000 and 2006 election cycles, totaling \$16,000. Mr. Leggio's counsel initially contacted the Office of General Counsel ("OGC") the week of August 4, 2008 to discuss a *sua sponte* submission, and on August 15, 2008 counsel met with OGC and simultaneously filed Mr. Leggio's *sua sponte* submission. The submission was filed more than six weeks after a newspaper account revealed that unnamed investigators had contacted Mary Bono Mack's congressional staff inquiring about contributions made to her campaign by Leggio and those named in the state indictment. *See Keith Mateny, Bono Mack Received*

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1 *Some of Questionable Donations*, The Desert Sun, June 19, 2008 at 3B; *see also* Richard  
2 K. Atley and Ben Goad, *Donor Deposits Draw Attention*, The Press Enterprise, July 3,  
3 2008 at A01.

4 Following his submission, Mr. Leggio provided us with CD-ROMs containing  
5 documents that state investigators obtained from Mr. Leggio's businesses, banks and  
6 other entities pursuant to executed search warrants. Mr. Leggio also made himself  
7 available to us for a phone interview and, through counsel, has provided additional  
8 information.<sup>1</sup>

9 A. 2006 Contributions to Mary Bono Mack

10 Mr. Leggio admitted that he requested Nick Cacucciolo, Jr. and Nicola  
11 Cacucciolo, Sr. to each make a contribution of \$2,000 to the Bono Mack Committee in  
12 early August 2006, which he personally reimbursed. Leggio Submission at 3-4. The  
13 Cacucciolos have been employed by Mr. Leggio's companies for more than 16 and 22  
14 years, respectively. At the time of the 2006 contributions, Nick Jr. was General Manager  
15 for Mark Christopher and another Leggio Company, Mountain View Chevrolet. Nick,  
16 Sr. was fleet manager for Mountain View.

17 Mr. Leggio told us in an interview that he agreed to host a fundraiser for Rep.  
18 Mary Bono Mack at his residence at the request of a friend, California state senator Bob  
19 Dutton. According to Mr. Leggio, his role in the fundraiser consisted of providing the  
20 use of his home and supplying food and beverages. Leggio stated that since Bono Mack  
21 was expected to attend more than one fundraiser that evening, the fundraiser was a "low-

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<sup>1</sup> OGC also obtained a CD-ROM containing the state grand jury transcript and exhibits that were made public.

1 key" event held in the early evening consisting of light fare such as appetizers, soft  
2 drinks, and liquor from Mr. Leggio's personal stock. The Bono Mack Committee  
3 handled the rest of the arrangements, including sending invitations, staffing a sign-in  
4 table at the event, and collecting contributions. According to Leggio, about 20-30 people  
5 attended.

6 Mr. Leggio stated that he was not personally interested in raising money for Rep.  
7 Bono Mack, but because she was viewed as a celebrity of sorts, he personally invited  
8 about five local politicians and his cousins, the Cacucciolos, to the event. He told the  
9 Cacucciolos that he would reimburse them for the contributions they needed to make to  
10 attend the event. Documents contained on the CDs provided by Leggio indicate the  
11 fundraiser was held on August 3, 2006 and cost \$2,000 per couple to attend. The  
12 Cacucciolos each wrote a \$2,000 contribution check to attend the fundraiser and Mr.  
13 Leggio personally reimbursed them. Mr. Leggio maintained that he reimbursed the  
14 Cacucciolos in cash using personal funds. \_\_\_\_\_  
15 \_\_\_\_\_

16 Neither Mr. Leggio nor his wife made monetary contributions to the Bono Mack  
17 Committee. Rather, Mr. and Mrs. Leggio made in-kind contributions for the amount  
18 spent in excess of \$2,000 for the food and drinks they provided in hosting the fundraiser  
19 at their residence. See 2 U.S.C. § 431(8)(B)(iii)(the use of real property and the cost of  
20 invitations, food, and beverages provided by an individual to a political committee in  
21 rendering voluntary personal services for a candidate-related activity is not a contribution  
22 to the extent their aggregate value does not exceed \$1,000). Documents show, and  
23 Leggio has recently confirmed, that the event featured more extensive fare than Leggio

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1 recalled in his interview and cost the Leggios \$5,700. Thus, it appears that Mr. and Mrs.  
2 Leggio each made an in-kind contribution of about \$1,850 ( $\$5,700 - \$2,000 = \$3,700$ ;  
3  $\$3,700 \div 2 = \$1,850$ ) to the Bono Mack Committee in the form of food and drinks  
4 provided for the fundraiser. According to counsel, the Leggios did not advise the Bono  
5 Mack Committee of these in-kind contributions.

6 **B. 2006 Contributions to J.D. Hayworth**

7 Mr. Leggio also admitted that he asked Nick Jr. and Nick Sr. to each make a  
8 contribution of \$2,000 to the Hayworth Committee on or around September 19, 2006,  
9 which he personally reimbursed.

10 According to Mr. Leggio, these contributions were made in connection with a  
11 fundraiser held in his home for then-Arizona Representative J.D. Hayworth sometime in  
12 August 2006. Leggio again personally invited a few local politicians and the  
13 Cacucciolos. According to Leggio, the set-up was similar to the Bono Mack event: it was  
14 held in Leggio's home in the early evening with Hayworth's campaign staff in  
15 attendance, the Leggios provided appetizers and beverages, including liquor from their  
16 personal stock, and about 20-30 people attended.

17 This time, Mr. and Mrs. Leggio had both contributed up to the maximum limit of  
18 \$2,100 per election to the Hayworth committee before the fundraiser. In his interview,  
19 Leggio estimated that the food and beverages they provided cost no more than \$300. No  
20 documents concerning this fundraiser were found on the CDs provided, and Leggio has  
21 represented to us that he has none.

22 As with the Bono Mack fundraiser, Mr. Leggio told the Cacucciolos he would

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1 reimburse them for their contributions so they could attend the fundraiser. Nick Jr. and  
2 Nick Sr. each wrote a check for \$2,000 that Leggio reimbursed, again apparently in cash  
3 using his personal funds.

4 **II. LEGAL ANALYSIS**

5 Mr. Leggio admitted that he reimbursed Nick Cacucciolo, Jr. and Nicola  
6 Cacucciolo, Sr. for \$2,000 in contributions each made to the Bono Mack and Hayworth  
7 Committees in 2006. In all cases, the recipient committees disclosed the contributions as  
8 general election contributions in their FEC reports. The Act provides that no person shall  
9 make a contribution in the name of another person. 2 U.S.C. § 441f. Further, during the  
10 2006 election cycle, the Act limited the amount a person could contribute to any  
11 candidate for Federal office and his or her authorized political committees to \$2,100 per  
12 election. 2 U.S.C. § 441a(a)(1)(A).

13 Mark Leggio violated 2 U.S.C. § 441f by making contributions in the names of  
14 Nick and Nicola Cacucciolo. Because Mr. Leggio appears to have made an in-kind  
15 contribution of about \$1,850 to the Bono Mack Committee, his reimbursement of the  
16 Cacucciolos' contributions to the committee resulted in an excessive contribution in the  
17 amount of \$3,750 ( $\$4,000 + \$1,850 = \$5,850$ ;  $\$5,850 - \$2,100 = \$3,750$ ) in violation of 2  
18 U.S.C. § 441a(a)(1)(A). Similarly, because Mr. Leggio had already contributed the  
19 maximum statutory amount to the Hayworth Committee for both the primary and general  
20 elections, his reimbursement of the Cacucciolos' contributions to that committee resulted  
21 in an excessive contribution of \$4,000. This amount excludes Mr. Leggio's share of the  
22 cost of food and beverages provided at the Hayworth fundraiser since it appears that

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- 1    amount was less than the \$1,000 exemption permitted by 2 U.S.C. § 431(8)(B)(iii).
- 2    Therefore, the Commission finds reason to believe that Mark Leggio violated 2 U.S.C.
- 3    §§ 441f and 441a(a)(1)(A).

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