



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

ADVANCE COPY BY FASCIMILE

FEB 23 2005

David O. Stewart, Esq.
Ropes & Gray
One Metro Center
700 12th Street, NW, Suite 900
Washington, DC 20005-3948

RE: MUR 5020
Atlantic City Showboat, Inc.
Harrah's Entertainment, Inc.
Marina Associates

Dear Mr. Stewart:

On February 9, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Atlantic City Showboat, Inc. and Marina Associates, in settlement of a violation of 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). On February 9, 2005, the Commission also determined to take no further action against Harrah's Entertainment, Inc. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Delbert K. Rigsby
Delbert K. Rigsby
Attorney

Enclosure
Conciliation Agreement

25 FEB 23 2005

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Atlantic City Showboat, Inc.)

Marina Associates)

David Jonas)

Herbert Wolfe)

MUR 5020

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FEDERAL ELECTION
COMMISSION
OFFICE OF THE
CLERK

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CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Audrey Michael. The Federal Election Commission ("Commission") found reason to believe that Harrah's Entertainment, Inc., Atlantic City Showboat, Inc., Marina Associates, David Jonas and Herbert Wolfe violated 2 U.S.C. § 441b.

NOW, THEREFORE, the Commission and Atlantic City Showboat, Inc., Marina Associates, David Jonas and Herbert Wolfe ("Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(5)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission

IV. The pertinent facts in this matter are as follows:

1. Atlantic City Showboat, Inc. ("Showboat") is a corporation within the meaning of 2 U.S.C. § 441b(a). Marina Associates ("Marina") is a partnership of two

corporations within the meaning of 2 U.S.C. § 441b(a), Harrah's Atlantic City, Inc. and Harrah's New Jersey, Inc. Showboat and Marina are subsidiaries of Harrah's Entertainment.

2. Herbert Wolfe, from 1994 until 2001, was General Manager of Showboat. General Manager is the top executive position at Showboat.

3. David Jonas is General Manager of Marina. General Manager is the top executive position at Marina.

4. Gormley for Senate Primary Election Fund (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was William L. Gormley's authorized political committee for the Republican nomination for the United States Senate in New Jersey in 2000.

5. The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits a corporation from making contributions in connection with any election for federal office. 2 U.S.C. § 441b(a). The Act also prohibits an officer or director of a corporation from consenting to a contribution by the corporation. *Id.* The term "contribution" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value" to any candidate or campaign committee, in connection with a federal election. 2 U.S.C. § 441b(b)(2).

6. The Commission's regulations further provide that corporations (including officers, directors or other representatives acting as agents for the corporation) are "prohibited from facilitating the making of contributions to candidates or political committees, other than to the separate segregated funds of the corporations . . ." 11 C.F.R. § 114.2(f).

7. Generally, communications by a corporation to its executives or administrative personnel are not considered contributions. 2 U.S.C. § 441b(b)(2)(A). However,

if the activity goes beyond communications to “facilitating the making of a contribution,” it becomes a prohibited contribution by the corporation or its officers or directors because the corporation has provided something of value to that candidate or campaign committee. *See* 11 C.F.R. § 114.2(f)(1) (defining facilitation).

8. Facilitation means “using corporate . . . resources or facilities to engage in fundraising activities in connection with any Federal election.” *Id.*; *see also* 11 C.F.R. § 114.2(f)(2); Advisory Opinions 1987-29 and 1986-4.

9. Exceptions to the general prohibition against corporate facilitation of contributions include soliciting contributions to be sent directly to candidates if the solicitation is directed to the corporation’s restricted class or soliciting contributions which are to be collected and forwarded by the corporation’s separate segregated fund in accordance with 11 C.F.R. § 110.6. 11 C.F.R. §§ 114.2(f)(3)(ii) and 114.2(f)(4)(ii). *see* 11 C.F.R. § 114.1(a)(2)(i)

10. In or about February 2000, Mr. Gormley contacted Mr. Wolfe and asked him to fundraise for the Committee. Mr. Wolfe agreed to Mr. Gormley’s request. During a weekly “executive meeting” at Showboat that Mr. Wolfe directed as General Manager of the casino, he invited employees to contribute to the Committee. Mr. Wolfe told employees that they could leave contributions to the Committee in Mr. Wolfe’s office suite with his secretary at Showboat and that they would be forwarded to the Committee. Consequently, most employees who contributed delivered their contributions to Mr. Wolfe’s secretary at Showboat where she kept them in her desk after Mr. Wolfe told her to hold onto them.

11. Mr. Wolfe approached Mr. Jonas and asked him to fundraise for the Committee at Marina. Mr. Jonas agreed to Mr. Wolfe’s request. After advising his supervisor of Mr. Wolfe’s request, Mr. Jonas and his supervisor sent a memorandum on Harrah’s letterhead to

“Management Team Members.” The subject line of the memorandum says that it is for

“Gormley for Senate Campaign,” and the first paragraph states:

As you know, State Senator Bill Gormley has been the leading advocate for the gaming industry at the state level for over the past ten years. He is currently running for the Republican candidacy for the U.S. Senate and has asked the gaming industry to contribute to his campaign. We both feel it is extremely important that we support Senator Gormley and would like each of you to consider making a donation to his campaign.

After reciting the Act’s monetary limits on contributions, the memorandum ends:

Checks should be made payable to “Gormley for Senate ” We would like to hand deliver all the checks to Senator Gormley and are requesting that all checks be dropped off at Dave’s office by Wednesday, March 29, 2000. Any help would be greatly appreciated.

At the bottom of the memorandum there is the notation “DJ:jm,” indicating that Mr. Jonas’ secretary typed the memorandum for him. After receiving the memorandum, employees who contributed to the Committee delivered their contributions to Mr. Jonas’ office suite at Marina and left them with his secretary.

12. Thereafter, in March 2000, a Committee representative went to Mr. Jonas’ and Mr. Wolfe’s casino offices and picked up contribution checks that had been collected. Mr. Jonas also provided the representative with a list of those who had delivered such checks to him, in response to a request by the Committee. The Committee reported that it deposited \$13,000 in contributions from 26 employees at Showboat and spouses of employees at Showboat on March 23, 2000, and 55 contributions totaling \$24,275 from employees and spouses of Marina on March 30, 2000.

Violations

V. For the sole purpose of settling this matter, Respondents Atlantic City Showboat, Inc. and Marina Associates will not contest they violated 2 U.S.C. § 441b(a) by facilitating the

making of corporate contributions and for the sole purpose of settling this matter, Respondents David Jonas and Herbert Wolfe will not contest they violated 2 U.S.C. § 441b(a) by consenting to such facilitation. Respondents will cease and desist from violating 2 U.S.C. § 441b(a).

Civil Penalty

VI. Respondents jointly and severally will pay a civil penalty to the Federal Election Commission in the amount of Fifty-Three Thousand dollars (\$53,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

Other Provisions

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda J. Vosdigh
Rhonda J. Vosdigh
Associate General Counsel
for Enforcement

1/22/05
Date

FOR RESPONDENTS ATLANTIC CITY SHOWBOAT INC
AND MARINA ASSOCIATES:

David O. Stewart
David O. Stewart, Esq.
Counsel to Atlantic City Showboat, Inc.
and Marina Associates

1/13/05
Date

FOR RESPONDENT DAVID JONAS:

John S. Miles
John S. Miles, Esq.
Counsel to David Jonas

1/13/05
Date

FOR RESPONDENT HERBERT WOLFE:

Jack Gorny
Jack Gorny, Esq.
Counsel to Herbert Wolfe

1/11/05
Date