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AGENDA ITEM

For Meeting of: 10-18-06

MEMORANDUM

TO: The Commission
FROM: Vice Chairman Robert D. Lenhard
DATE: October 16, 2006
RE: Embezzlement Enforcement Policy

SUBMITTED LATE

Attached please find a proposed enforcement policy regarding reporting errors that result from misappropriation. At the Commission's Open Session on October 18, 2006, I plan to propose that this policy be put out for public comment.

Minimum Safeguards to Prevent Misappropriation

The Commission has encountered a dramatic increase in the number of cases where political committee staff, often a treasurer or assistant treasurer, misappropriate committee funds. Misappropriations are often accompanied by the filing of inaccurate committee reports to the FEC, leaving committees vulnerable to a FEC enforcement action and potential liability for those reporting errors. In response to the rise in this activity, the Commission has concluded that the following internal controls are the minimum safeguards a committee should implement to prevent misappropriations.

If the following internal controls are in place at the time of a misappropriation, and the post-discovery steps described below are followed by the committee, the FEC will not seek to impose liability on the political committee for filing incorrect reports due to the misappropriation of committee funds.¹ The Commission will also consider the presence of some, but not all, of these practices, or of comparable safeguards, as a mitigating factor in considering any liability resulting from a misappropriation.²

A. Internal Controls

- All bank accounts are opened in the name of the committee, never an individual.
- Checks in excess of \$1,000 and all wire transfers are authorized in writing by two individuals, who are identified in writing in the committee's internal policies.
- An individual who does not handle the committee's accounting or have banking authority receives incoming checks and monitors all other incoming receipts. This individual makes a list of all committee receipts and places a restrictive endorsement, such as "For Deposit Only" and the account number, on all checks.
- Bank statements are reconciled to the accounting records and list of receipts each month by someone other than a check signer or an individual handling the committee's accounting.
- If the committee has a petty cash fund, an imprest system³ is used, with no more than \$200 outstanding at any given time.

B. Post-Discovery of Misappropriation Activity

As soon as a misappropriation is discovered, the political committee:

- Notifies relevant law enforcement of the misappropriation.

¹ The internal controls set forth here represent the minimum efforts a committee should take to prevent the misappropriation of funds. The FEC provides further guidance on internal controls best practices at [\(link\)](#).

² This policy does not absolve or mitigate FEC liability for the individuals responsible or complicit in the misappropriation.

³ The imprest system involves replenishing petty cash only when properly approved vouchers and/or petty cash log entries are presented justifying all expenditures. Only one person should be in charge of the fund.

- Notifies the FEC of the misappropriation.
- Voluntarily files amended reports to correct any reporting errors due to the misappropriation, as required by the FEC.