

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

- 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 Governors Association
- Republican National Committee and
- Bob Kjellander, in his official
- capacity as treasurer

MUR 5390

2006 APR 10 A 11:20

FEDERAL ELECTION COMMISSION
SECRET

GENERAL COUNSEL'S REPORT #4

26044134457

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

26044134458

1 **I. ACTIONS RECOMMENDED**

2 (1) Accept the attached proposed conciliation agreement with the Federal Home Loan
3 Mortgage Corporation (“Freddie Mac”), (2) take no further action other than admonishment as to
4 Leland Brendsel, Clarke Camper, Robert Mitchell Delk, and Epiphany Productions, Inc., and
5 take no further action as to Ser Inc. (d/b/a Galileo Restaurant), the Republican National
6 Committee and Bob Kjellander, in his official capacity as treasurer, and the Republican
7 Governors Association, (3) dismiss the allegation in the complaint filed in MUR 5390 that either
8 Amanda Delk or Mitch Delk violated 2 U.S.C. § 441a(a), and (4) close the file.

9 **II. BACKGROUND**

10 This matter concerns multiple violations of the Federal Election Campaign Act of 1971,
11 as amended (“the Act”), by the Federal Home Loan Mortgage Corporation (“Freddie Mac”). As
12 described *infra*, between 2000 and 2004 Freddie Mac facilitated the making of campaign
13 contributions to federal candidates by using corporate resources to produce campaign fundraising
14 events held by Freddie Mac executives. These events, most of which were held at SER Inc. d/b/a
15 Galileo Restaurant (“Galileo”) and produced with the assistance of Freddie Mac political
16 consultants, raised approximately \$1.7 million in campaign contributions. Freddie Mac used
17 additional corporate resources to solicit, gather, and transmit approximately \$170,000 in
18 contributions from Freddie Mac executives and family members to campaign committees of
19 federal candidates. Finally, Freddie Mac violated the Act by making an impermissible corporate
20 contribution to the Republican National Committee (“RNC”) by making a contribution directly
21 to the Republican Governors Association’s (“RGA”) general operating account.

22 This matter originated with a complaint filed by Public Citizen alleging that Robert
23 Mitchell Delk (also known as Mitch Delk), Senior Vice President of Government Relations for
24 Freddie Mac, and his wife, Amanda Delk, made excessive contributions in violation of Act, in

1 connection with campaign fundraising events held at Galileo. The complaint further alleged that
2 Galileo and Epiphany Productions, Inc. ("Epiphany"), a political consulting and event planning
3 firm, made corporate contributions in violation of the Act with respect to services rendered in
4 connection with the campaign fundraising events. In the wake of the complaint and multiple
5 newspaper articles about the Galileo events, Freddie Mac submitted to the Commission a packet
6 of materials gathered and created in the course of a review of campaign finance activities by
7 Freddie Mac's outside legal counsel demonstrating its role in these campaign fundraising events.
8 This submission characterized the campaign fundraising events, the food and beverage costs
9 of which were paid for by Freddie Mac executives, as the personal activity of its executives and
10 described Freddie Mac's role as limited to the mistaken payment of some isolated expenses.

11 Based on this information, as well as the complaint, responses, and other publicly
12 available information, the Commission found reason to believe that Freddie Mac and now former
13 executives Mitch Delk, Clarke Camper, and Leland Brendsel violated 2 U.S.C. § 441b by
14 reimbursing employees and Epiphany for expenses related to campaign fundraising events,
15 transmitting contributions to candidates for federal office, and making an improper corporate
16 contribution to the RGA. The Commission also found reason to believe that Epiphany violated 2
17 U.S.C. § 441b by failing to timely charge campaign committees for which it produced the
18 campaign fundraising events at issue in the complaint.¹

19 During the investigation, it became apparent that Freddie Mac's role in these events
20 extended beyond the payment of isolated expenses described in Freddie Mac's submission to the

¹ The Commission also found reason to believe that Galileo violated 2 U.S.C. § 441b by providing food and beverages to political committees at an impermissible discount and that the RNC violated 2 U.S.C. § 441b by knowingly receiving a prohibited corporate contribution. During the investigation, this Office determined that the RGA, which prior to October 2002 was a subsidiary of the RNC, may have been a separate legal entity at the time it received the corporate contribution from Freddie Mac. Therefore, on August 10, 2005, the Commission found reason to believe that the RGA violated 2 U.S.C. § 441b by knowingly receiving a prohibited corporate contribution.

1 Commission. Specifically, Freddie Mac also paid some of the production costs of the
2 fundraising events through monthly retainer payments to its political consultants. The
3 consultants would schedule campaign fundraising events, create invitation lists and send
4 invitations, solicit contributions, set up nametags, remain at the events to make sure they went
5 smoothly, collect contribution checks brought by attendees, if necessary, and create a chart of all
6 of the attendees and the amounts they contributed. Through this system, Freddie Mac hosted
7 approximately 100 campaign fundraising events between 2000 and 2004 and raised
8 approximately \$1.7 million for candidates for federal office.

9 Although Freddie Mac contends that these activities were the personal political activities
10 of its employees and the volunteer activity of its consultants, the evidence indicated that Mr.
11 Delk and Mr. Camper, Freddie Mac's Vice President of Congressional Relations, undertook their
12 campaign fundraising efforts on behalf of Freddie Mac and that the CEO and the Board of
13 Directors were aware of these activities. For example, corporate documents obtained during the
14 investigation link campaign fundraising activities on behalf of candidates for federal office (and,
15 in particular, Members of the House Committee on Financial Services) to Freddie Mac's strategy
16 for achieving legislative objectives. In a presentation to the CEO and Board of Directors titled
17 "Political Risk Management," Freddie Mac's Government Relations Department detailed its
18 approach to managing its relationship with Congress as including, among other things,
19 supporting "bi-partisan party building efforts" and hosting "bi-partisan Member fundraising
20 events." Sept. 8, 2000 Presentation to Board of Directors, at 8.

21 Yearly self-performance evaluations drafted by Mr. Delk, Mr. Camper, and other
22 Government Relations employees and approved by senior executives, including, in some
23 instances, the CEO, further demonstrate that these events were corporate activity. For example,

26044134460

1 Mr. Delk wrote in his 2001 yearly performance self-appraisal ("Employee Performance
2 Management" or "EPM Form") that "Freddie Mac held more than 40 fundraisers for Chairman
3 Oxley" and that "Freddie Mac now enjoys an unparalleled relationship as a result of Government
4 Relations' efforts." In his 2002 yearly performance review Mr. Delk explained that

5 We offered to use our fundraising model to marry his interests as
6 Chairman with our interest in assisting committee members supportive of the
7 continued strength of America's housing finance system...

8 During the past 20 months, we have hosted with Chairman Oxley over 75
9 events for Members on the Financial Services Committee, raising almost \$3
10 million.

11
12 *Government Relations Highlights of 2002 Performance*, at 12.²
13

14 Similarly, Clarke Camper, Freddie Mac's Vice President of Congressional Affairs,
15 highlighted his campaign fundraising efforts in his 2001 EPM Form, citing his work to increase
16 "corporate exposure through significant fundraising activities" and stating that he
17 "Sponsored/Participated in fundraising events for virtually every key Member of Congress."
18 2001 EPM Form of Clarke Camper. In addition to the Government Relations executives, Robert
19 Zimmer, a Freddie Mac in-house lobbyist, wrote in his 2001 EPM Form that he "[a]ssisted [Mr.
20 Delk] in hosting dinners for Chairman Oxley and Financial Services members" in an effort to
21 "[e]nhance the reputation of Freddie Mac through Political Activities." 2001 EPM of Robert
22 Zimmer, at 5.

23 In addition to facilitating contributions from individuals through campaign fundraising
24 events at Galileo, the investigation also confirmed that Freddie Mac facilitated the making of
25 campaign contributions by transmitting contributions made by its own executives to federal

² In October 2003, Mr. Delk submitted a different version of this document to Greg Parseghian, who replaced Leland Brendsel as CEO, with the section regarding fundraising activities removed. Mr. Delk testified that he altered the document "because there had been publicity in the press about the fund-raising and I thought that was a little incendiary. In addition, I thought it was just totally factually inaccurate." Transcript of the Deposition of R. Mitchell Delk, at 241.

26044134461

1 candidates. One of Government Relations' responsibilities was to apprise Freddie Mac
2 executives of congressional candidates to whom they should consider making campaign
3 contributions. *See* Transcript of the Deposition of Leland Brendsel, at 87. After identifying
4 specific candidates, someone from Government Relations contacted Freddie Mac executives and
5 solicited contributions. After making the solicitation, Government Relations employees called
6 and inquired about the status of the contribution. *See* Report of Investigation of Ella Lee ("Lee
7 ROI"), at 3; Email from E. Lee to D. Brendsel dated 5/15/2001. After a contribution check was
8 written, someone from Government Relations either personally picked up the contribution or
9 instructed the executive's secretary to send the contribution to the Government Relations office.
10 *See* Lee ROI, at 3-4; Transcript of the Deposition of Clarke Camper, at 165-66. Disclosure
11 reports indicate that Freddie Mac executives and board members contributed approximately
12 \$170,000 to Members of Congress for whom Mr. Delk, Mr. Camper, or Mr. Brendsel hosted
13 campaign fundraising events between 2000 and 2004.

14 Finally, Freddie Mac also made an improper contribution to the Republican Governors
15 Association. On October 24, 2002, the RGA sent Freddie Mac a statement requesting \$150,000,
16 which was the balance of Freddie Mac's February 2002 pledge to donate \$250,000. At the time,
17 Freddie Mac was able to make this donation through the Act's "building fund exemption," which
18 excluded from the definition of contribution donations to national or state committees of a
19 political party specifically for costs associated with the construction or purchase of any office
20 facility not acquired for the purpose of influencing the election of any candidate in any particular
21 election for Federal office. *See* 2 U.S.C. § 431(8)(B)(viii).³ The October 24, 2002, RGA
22 statement, did not specify that Freddie Mac make its contribution to a "building fund," but

³ BCRA amended 2 U.S.C. § 431(8)(B) to strike subsection viii. This change was made effective as of November 6, 2002.

26044134462

1 simply requested a check made payable to the "Republican Governors Association." *See* RGA
2 Statement dated 10/24/2002. Upon receiving the RGA statement, Mr. Delk instructed his
3 secretary to complete a Freddie Mac requisition form for a \$150,000 check made payable to the
4 RGA. *See* Affidavit of Sonya Chichester dated 11/17/2004. Mr. Delk claims that he then
5 presented the check, along with a letter stating that the contribution could only be used for
6 building fund purposes, to Mr. Berman.⁴ Mr. Berman took the check, which the RGA attributed
7 to Mr. Delk, and deposited it into its operating account. On October 31, 2002, John Rowland,
8 the chairman of the RGA, sent Mr. Delk a letter thanking him for his generosity, which would
9 enable the RGA to "invest in crucial last-minute TV and radio ads, polling, get-out-the-vote, and
10 direct candidate support in many of our key races and provide our candidates with the support
11 they need to win." *See* Letter from J. Rowland to M. Delk dated 10/31/2002.

12 **III. CONCILIATION**

13
14
15
16
17
18
19
20
21

26044134463

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29

26044134464

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17

260413465

1
2
3 **IV. REMAINING RESPONDENTS AND ALLEGATIONS**

4 **A. Galileo**

5 In addition to the respondents discussed above, we also investigated whether Galileo
6 violated 2 U.S.C. § 441b(a) by providing food and beverages to campaign committees at an
7 impermissible discount. *See* 11 C.F.R. § 114.1(a)(2)(v). Galileo charged Mr. Delk a flat fee of
8 \$25 per person for a three-course meal with wine, including tax and tip. *See* Transcript of the
9 Deposition of R. Mitchell Delk, at 89. According to Galileo's then General Manager, Michael
10 Nayeri, the food and beverages served at the campaign fundraising events were very similar to
11 the three-course "Restaurant Week" promotional menu offered by Galileo to the general public,
12 which cost \$20 not including beverages, tax and tip. *See* Report of Investigation of Michael
13 Nayeri, at 3.⁸ Mr. Nayeri claimed that Galileo's per person cost for the meal served at the
14 campaign fundraising events was \$16 to \$17, resulting in a net profit of \$6 to \$8 per person.
15 Based on this information, and considering the lack of documentary evidence regarding the cost
16 of these meals, this Office recommends the Commission take no further action as to Galileo.

17 **B. Mitch and Amanda Delk**

18 The complaint also alleged that Mr. and Ms. Delk violated 2 U.S.C. § 441a(a) by
19 exceeding the overall calendar year contribution limits for individuals by making in-kind
20 contributions to campaign committees in the amount of the cost of food and beverages at
21 campaign fundraising events. Initially, the Commission took no action with respect to this
22 allegation because there was no information regarding who paid the food and beverage cost of

⁸ We confirmed Mr. Nayeri's recollection of the food and beverages served at the campaign fundraising events by conducting telephone interviews with individuals who attended multiple campaign fundraising events at Galileo. *See, e.g.*, Record of Telephone Interview of Robert Royer, at 1.

2604413466

1 approximately twenty-three of the approximately eighty-five campaign fundraising events at
2 Galileo. During the investigation, we determined for which of these events Mr. Delk paid the
3 costs, for which events Ms. Delk paid the costs, and the cost of the food and beverage for each of
4 these events. *See* Chart of A. Delk In-Kind Contributions dated Nov. 19, 2002 (Attachment 2).
5 When added to the previously identified contributions made by Mr. and Ms. Delk, neither
6 respondents' contributions exceeded the then-existing overall calendar year contribution limit for
7 individuals. 2 U.S.C. § 441a(a). Because neither Amanda nor Mitch Delk exceeded the overall
8 calendar year contribution limits for individuals, this Office recommends that the Commission
9 dismiss the allegation that they violated 2 U.S.C. § 441a(a) and close the file with respect to this
10 issue.

11 **C. RGAs and RNC**

12 With respect to the RNC and the RGA, the Commission found reason to believe that
13 these entities violated 2 U.S.C. § 441b(a) by knowingly receiving a \$150,000 contribution from
14 Freddie Mac. As discussed previously, the RGA, which may or may not have been a separate
15 legal entity from the RNC in October 2002, deposited Freddie Mac's \$150,000 check into its
16 general account. *See, supra*, pp. 5-6. Although the RGA or the RNC should have known that
17 the \$150,000 was a contribution from Freddie Mac because it was drawn on a corporate account,
18 the RGA initially accepted the money and refunded the contribution approximately eight months
19 later. *See* Ltr. from E. Tobin to M. Delk dated June 11, 2003. According to the RGA, there may
20 have been some confusion regarding the propriety of the contribution given structural changes
21 made to comply with BCRA at the time Freddie Mac made the contribution. *See* Report of
22 Investigation of Ed Tobin, at 2-3; Report of Investigation of Wayne Berman, at 2. Given this
23 uncertainty, as well as the error in reporting Mr. Delk as the source of the contribution rather

26044134467

1 than Freddie Mac, we recommend taking no further action as to the RNC and Bob Kjellander, in
2 his official capacity as treasurer, or the RGA.

3 **D. Recipient Committees**

4 This Office is not recommending any action as to the committees for whom Mr. Delk,
5 Mr. Camper, and Mr. Brendsel hosted campaign fundraising events or to whom Freddie Mac
6 transmitted monetary contributions. The complaint made no allegation regarding the recipient
7 committees; therefore they were not notified of the complaint, nor did we investigate whether the
8 committees knew that the contributions they received were facilitated by Freddie Mac and thus
9 prohibited. *See* 2 U.S.C. § 441b; 11 C.F.R. §§ 114.2(f) and 103.3(b). Moreover, with the
10 exception of Leadership PAC 2002, during the course of our investigation we did not come
11 across any evidence that the recipient committees knowingly received prohibited contributions or
12 that any of the recipient committees, including Leadership PAC 2002, knew that Freddie Mac
13 paid consultants to assist with the campaign fundraisers.⁹ In addition, the recipient committees
14 received in-kind contribution notices stating that Mr. Delk, Mr. Camper, and Mr. Brendsel
15 personally paid the food and beverage costs of the campaign fundraising events. Further, our
16 investigation uncovered no evidence that corporate logos or paraphernalia were present at the
17 events hosted by Mr. Delk, Mr. Camper, or Mr. Brendsel, and the campaign committees had only
18 limited communications with Freddie Mac employees.

⁹ In the case of Leadership PAC 2002, James Conzelman, the chief of staff to Rep. Michael Oxley, stated that a Freddie Mac consultant contacted him in 2001 and said that Freddie Mac would like to host a campaign fundraising event on behalf of Rep. Oxley. *See* Report of Investigation of James Conzelman, at 1. This event, held on January 17, 2001, at Galileo, raised \$101,500 for Leadership PAC 2002. Mr. Conzelman later stated that his understanding was that subsequent campaign fundraising events were Mitch Delk's personal political activity. *See id.*, at 2-3. Because the Commission did not make a reason to believe finding as to this committee, this Office did not investigate whether the committee knowingly received corporate facilitated contributions with respect to the January 17, 2001, event. *See* MUR 5268 (Kentucky State District Council of Carpenters) (Commission did not extend investigation to encompass whether campaign committees knew union employees compensated for campaign work).

26044134468

1

2

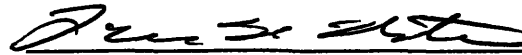
3 **V. RECOMMENDATIONS**

1. Accept the attached conciliation agreement with the Federal Home Loan Mortgage Corporation;
2. Take no further action other than admonishment as to Leland Brendsel, Clarke Camper, Robert Mitchell Delk, and Epiphany Productions, Inc., and take no further action as to Ser Inc. (d/b/a Galileo Restaurant), the Republican National Committee and Bob Kjellander, in his official capacity as treasurer, and the Republican Governors Association regarding allegations that they violated 2 U.S.C. § 441b(a);
3. Dismiss the allegation in the complaint filed in MUR 5390 that either Amanda Delk or Mitch Delk violated 2 U.S.C. § 441a(a);
4. Approve the appropriate letters; and
5. Close the file.

26044134469

4/7/06

Date



Lawrence H. Norton
General Counsel



Rhonda J. Vosdigh
Associate General Counsel



Ann Marie Terzaken
Assistant General Counsel



Adam J. Schwartz
Attorney

4
5
6

1 **Attachments**

2 1. **Conciliation Agreement with the Federal Home Loan Mortgage Corporation**

3

26044134470