

Memorandum

425 Market Street, 26th Floor, San Francisco, CA 94105
Tele: (415) 777-3200, Facsimile: (415) 541-9366

**HANSON
BRIDGETT**
**MARCUS
VLAHOS
RUDY-LLP**

TO: San Jose Elections Commission
FROM: Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP

DATE: June 7, 2007

RE: Citizen Complaint

Complainant: **Garrick Hileman**

Respondents: **Cindy Chavez for Mayor Campaign, Pacific Park Management, Inc.**

Alleged Violations: **Contributions in Excess of Municipal Code Limits and Accepting Excess Contributions**

Complaint Filed: **December 22, 2006**

I. INTRODUCTION

Pursuant to a citizen Complaint filed on December 22, 2006, we conducted an investigation to determine whether Pacific Park Management, Inc., or any of its individual officers violated Title 12 of the San Jose City Municipal Code ("Municipal Code") by making contributions through its employees in excess of the applicable campaign contribution limitation. A copy of the Complaint is attached as Exhibit A. The Respondents named in the Complaint were notified of the allegations and presented with a complete copy of the Complaint on January 11, 2007. (Exhibit B)

II. EXECUTIVE SUMMARY

Pacific Park Management, Inc. (PPM) provides parking services in San Francisco. It was founded by Sam Tadesse and Behailu Mekbib, who serve as the company's Chief Executive Officer and Chief Operating Officer, respectively. As a business, PPM made a \$500 contribution in the mayoral primary to the Cindy Chavez for Mayor campaign on December 28, 2005. In addition, many of its employees made individual contributions to the Chavez for Mayor campaign during both the primary and run-off election cycle.

The Complaint alleges that prior to a May 5, 2006 fundraising event for Ms. Chavez, Mr. Mekbib instructed Complainant Garrick Hileman, an employee of PPM, to attend the fundraiser and contribute to the Chavez for Mayor campaign. The Complainant alleges that Mr. Mekbib,

through his assistant, then reimbursed him in cash for his \$100 contribution. The Complainant further suggests that such reimbursement may not have been an isolated event, but may have also been made to other PPM employees as well, and at other times in addition to the May 5 event. Mr. Mekbib and his assistant both deny this allegation. PPM's officers all consider Complainant a disgruntled ex-employee who filed the complaint as a means to get back at a former employer.

We conclude as explained below that Hileman was directed to attend the event, that his contribution was made at the instigation of his employer, and that he was subsequently reimbursed by PPM for a \$100 contribution that he made. This conclusion is not based upon any direct evidence that Complainant was improperly reimbursed for his \$100 contribution. Rather, evaluation of the facts ultimately turns on consideration of circumstantial evidence, as well as an assessment of the witnesses' credibility. We find Mr. Hileman's account of events to be believable and that the other circumstantial evidence regarding his reimbursement is consistent with his account. On balance, we find that a preponderance of the evidence indicates that this aspect of the Complaint has merit and we conclude that a violation occurred.¹

As to the suggestion that the reimbursement to the Complainant was not an isolated event, but was rather part of a pattern of reimbursement involving numerous PPM employees, we find that there is insufficient evidence to sustain this allegation. The Complainant has no direct evidence that such reimbursement occurred. Likewise, although it appears to us that PPM directed, and may even have coerced its employees to attend the May 5 fundraiser, the circumstantial evidence fails to lead to the conclusion either that contributions were coerced, or that any reimbursement of contributions occurred.

III. COMPLAINT/ALLEGATIONS

While the original Complaint requested anonymity for the Complainant, this request was later withdrawn, as evidenced by the email attached to Exhibit A. The Complaint alleged violations of the contribution provisions of the Municipal Code, in particular section 12.06.240 which establishes that contributions made through other persons shall be aggregated and subject to the applicable contribution limitations, and section 12.06.540 which prohibits contributions to a mayoral candidate participating in the voluntary campaign expenditure limits program in excess of \$500 in the aggregate.

IV. JURISDICTION OVER THE COMPLAINT AND DETERMINATION AS TO CAUSE FOR INVESTIGATION

Pursuant to a review of the Complaint and the relevant statutory provisions, we determined that the Complaint alleged violations of the Municipal Code. Specifically, to the extent that PPM coerced its employees to contribute money to the Chavez for Mayor campaign, or to the extent that PPM instigated an employee's contribution and then provided reimbursement, any such contribution constitutes a potential violation of §§12.06.240 and

¹ As discussed below, we find that PPM exceeded the contribution limit not only through Mr. Hileman's contribution, but also through a contribution by Mr. Tadesse.

12.06.540 of the Municipal Code. To the extent that the Chavez Campaign accepted contributions in excess of the contribution limit, it could be in violation of §§12.06.280 of the Municipal Code.

V. LEGAL AUTHORITY

A. Municipal Code

The Municipal Code contains the following provisions relevant to this investigation:

12.04.130 Excess contributions - Candidate.

No person shall be found in violation of Sections 12.06.270 or 12.06.280 of this chapter for having made, solicited or accepted any contribution in excess of the limits prescribed by said sections, provided that such excess contribution was made, solicited or accepted at a time when the person was a candidate for the elective city office subject to the limitation, and as soon as reasonably possible and in no event more than thirty days after his or her discovery of the excess contribution either:

- A. The amount of contribution in excess of the prescribed limitation was refunded to the donor; or
- B. The amount of contribution in excess of the prescribed limitation was donated to the general fund of the city, earmarked to defray the costs of municipal elections.

12.06.010 Definitions.

The following definitions used in this chapter shall have the meanings set forth below. Except as otherwise provided here, the terms and provisions of this chapter shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (Government Code Section 81000 et seq.) and the regulations of the California Fair Political Practices Commission, as amended.

12.06.240 Contributions through other persons prohibited.

In applying the limitations set forth in this chapter to the contributions of a person, each contribution made under any of the following circumstances shall be deemed to have been made by the person and shall be included in determining whether the applicable limitation for such person has been exceeded:

- A. A contribution by an employee over whom the person exercises control as a supervisor or as an owner of the business entity for which the employee works, where the contribution was coerced by the person or made at his or her instigation from monies given or promised to the employee as a gift, bonus or other form of reimbursement for the contribution.

B. A contribution of a spouse or child of the person where the contribution is coerced by the person or made from monies given or promised by the person in instigation of the contribution.

12.06.280 Contribution limitations to mayoral candidates.

No person, other than the candidate in aid of himself or herself, shall make nor shall any person solicit or accept any contribution in aid of and/or in opposition to the nomination or election of a candidate for mayor which will cause the total amount contributed by such person to the candidate or any controlled committee of such candidate to exceed two hundred fifty dollars per election, except as provided in Part 5 of this chapter.

12.06.540 Campaign contribution limits.

Candidates who participate in the voluntary campaign expenditure limits program shall be entitled to collect contributions in the following amounts:

A. The total contributions per election made by any person to any council candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate shall not exceed a total of more than two hundred fifty dollars in the aggregate.

B. The total contributions per election made by any person to any mayoral candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate shall not exceed a total of more than five hundred dollars in the aggregate.

B. The Political Reform Act

The Political Reform Act contains the following provisions relevant to this investigation:

Government Code Section 84302

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

Government Code Section 85311

(a) For purposes of the contribution limits of this chapter, the following terms have the following meanings:

(1) "Entity" means any person, other than an individual.

(2) "Majority owned" means an ownership of more than 50 percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

C. FPPC Regulations.

The FPPC Regulations (Title 2, California Code of Regulations) contain the following provisions relevant to this investigation:

18215.1. Contributions; When Aggregated.

(a) Definitions. For purposes of determining when contributions are aggregated under the provisions of this title:

(1) "Entity" means any person, other than an individual;

(2) "Majority owned" means an ownership of more than fifty percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual;

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated;

(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decision to make contributions.

18432.5. Intermediary

(a) For purposes of Government Code Section 84302, a person, as defined in Government Code Section 82047, is an intermediary for a contribution if . . . [t]he recipient of the contribution would consider the person to be the contributor without the disclosure of the identity of the true source of the contribution.

(b) Any person who qualifies as an intermediary for the making of a contribution shall disclose to the recipient of the contribution both his or her own full name and street address, occupation, and the name of his or her employer, if any, or his or her principal place of business if he or she is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the contributor.

(c) The recipient of the contribution shall include in his or her campaign statement the name of the intermediary and other information disclosed pursuant to Government Code Section 84302 and subdivision (b) of this section, if the recipient knows or has reason to know that a contribution is made by an intermediary.

VI. CONDUCT OF THE INVESTIGATION

The Complaint suggests that the Complainant was not the only person to be improperly reimbursed for a contribution to the Chavez mayoral campaign. Based upon the Complaint, we reviewed the California Form 460 disclosure statements, which candidates must use to disclose all monetary contributions received, as well as copies of contribution checks and forms provided us by the Chavez for Mayor Campaign. We discovered numerous individuals associated with PPM had contributed to the Chavez campaign, many of them on May 5, 2006.

During the period before the June 6 election the PPM employees who contributed are Garrick Hileman, Soloman Abayneh, Haddis Alemayehu, Yee Ng, John Bacus, and Girma Zeleke, each of whom contributed \$100 on May 5. In addition, Francisco Lira contributed \$500 on May 21. PPM itself contributed \$500 on December 28, and Sam Tadesse, PPM's founder and Chief Executive Officer, contributed \$500 on March 17. These last two contributions are significant because, as discussed below in section VII, Mr. Tadesse's contribution is properly aggregated with that of PPM's.

During the period leading up to the November runoff election, Solomon Abayneh contributed an additional \$500 on September 21,² and Robert Stang contributed \$500 on October 16. Additionally, family members of PPM officers and employees also made contributions to the Chavez campaign. Behailu Mekbib does not appear to have contributed at all to the Chavez campaign. The Complaint also lists some additional employees, Mulunah Taye

² This report focuses on contributions during the period leading up to the June 6 election. However, the analysis and conclusions as to Mr. Abayneh's May 5 contribution apply with equal force to his contribution on September 21.

and Christopher McGougan, as being either potential contributors, or employees with knowledge of the allegations. It does not appear that either made contributions.

We interviewed all of the above named persons. The witnesses were located throughout a large geographic area and many witnesses' availability was extremely limited, caused both by work obligations and by scheduled vacations.

A. Witness Interviews

We, as well as the Commission's investigator, collected information and conducted interviews with the following individuals:

- Garrick Hileman
- Fred Naranjo
- Soloman Abeyneh
- Haddis Alemayehu
- Girma Zeleke
- Yee Ng
- Francisco Lira
- John Bacus
- Muluneh Taye
- Christopher McGougan
- Robert Stang
- Sam Tadesse
- Behailu Mekbib
- Emily Cambell
- Cindy Chavez

Mr. Hileman told us that he had also filed a copy of his Complaint with the Fair Political Practices Commission (FPPC), which is empowered to enforce the Political Reform Act, as well as with the Santa Clara District Attorney's Office. We have been unable to determine the status of the FPPC's investigation, if any is even being conducted.

The Santa Clara District Attorney's office has investigated this matter, interviewing many of the same people we have. We spoke with Deputy District Attorney Stephen Lowney, who led the investigation into this matter. Mr. Lowney told us that the District Attorney's office had closed its investigation without taking any further action. He represented to us that his investigation failed to corroborate Mr. Hileman's Complaint although, like us, he was unsatisfied with the explanations offered by some the witnesses interviewed by his office. The District Attorney did not take any sworn testimony from any witnesses.

The District Attorney's office investigated only violations of State law and was not concerned with the alleged violations of the Municipal Code that define the scope of our

investigation. In addition, while the Commission must base its findings upon a preponderance of the evidence, the District Attorney must satisfy a much more stringent standard of proof, namely that the evidence proves a violation beyond a reasonable doubt.

B. **Summary of the Interviews**

Interview with Garrick Hileman

Garrick Hileman is the Complainant in this matter. Until July 21, 2006, Mr. Hileman was PPM's Vice President of Operations. He now describes his work as being a business strategy consultant for several fortune 500 companies in the Bay Area. At PPM, his job description appears to have had two components. First, he was directly responsible for managing the San Francisco owned garage at St. Mary's Square. In addition, for a time at least, Mr. Hileman was active in the upper hierarchy at PPM, attending weekly business development and strategy sessions with Robert Stang, PPM's President, as well as with PPM's two founders and Managing Directors, Sam Tadesse and Behailu Mekbib. At some point in time, the scope of Mr. Hileman's employment changed and he was excluded from these meetings. Instead, his work was limited to the management of the St. Mary's Garage and in that capacity he reported to Mr. Stang.

Mr. Hileman told us that PPM often tried to improve its chances of gaining public parking contracts through political involvement. He cited past experiences in both Oakland and San Francisco in which it appeared to him that PPM tried to capitalize on political connections to gain business for the firm. He does not allege any impropriety in such behavior.³ In fact, he acknowledges that it is only reasonable that a company involved in the business of competing for public parking contracts would be politically active. So Mr. Hileman was not surprised that PPM took an interest in the San Jose Mayoral race, especially since there was apparently a particular parking contract soon to be awarded at the San Jose Airport.

Mr. Hileman alleges that he discussed with Mr. Mekbib that PPM wanted to position itself for the Airport parking contract and that therefore maximum involvement in the Chavez campaign would be important. On May 4, Mr. Hileman sent out an email requesting that all PPM managers attend this meeting. Mr. Hileman states that Mr. Mekbib directed him to send out the message. A copy of the email is attached as Exhibit C.⁴

Mr. Hileman asserts that on the afternoon of May 5, he had a further conversation with Mr. Mekbib at which Mr. Mekbib requested him again to arrange for other employees to attend the event. Mr. Hileman states that Mr. Mekbib was concerned that "they would come up short

³ As is discussed below, Mr. Mekbib has confirmed this strategy and told us that PPM was also involved in, and contributed as a firm to, last November's mayoral campaign of Ignacio De La Fuente in Oakland.

⁴ Mr. Mekbib denies that he instructed Mr. Hileman to send out the email and denies that PPM had any involvement in the planning of the May 5 party.

Memorandum To:
San Jose Elections Commission
June 7, 2007
Page 9

with contributions for Cindy.” Mr. Hileman says that Mr. Mekbib instructed him to make a \$100 contribution to the Chavez campaign and that he would be reimbursed for such a contribution.⁵

Mr. Hileman states that he attended the event at Mr. Naranjo’s office and that he made the \$100 contribution that Mr. Mekbib had requested. Mr. Hileman remembers that he helped set up for the party and that other PPM employees worked during the event in a variety of capacities. Mr. Hileman assumed that PPM sponsored the event.

Mr. Hileman asserts that at some point shortly after the event, Yee Ng, PPM’s office manager, came to his office and gave him \$100 in cash in reimbursement for his contribution.⁶ Mr. Hileman did not specify exactly when he received reimbursement. But he does indicate that on May 8, which was the first work day following the Friday May 5 event, he spoke with Mr. Stang and expressed concern that the reimbursed campaign contribution represented a potential violation of election law. Mr. Hileman says that Mr. Stang told him he would take the matter “under advisement” but that he never heard back.⁷

Mr. Hileman left his employment, involuntarily, on July 21, 2006. Mr. Hileman thinks that PPM made life difficult for him after he raised the issue of the allegedly improper campaign contributions, making his departure inevitable.

Interview with Fred Naranjo

Fred Naranjo is a Partner in the Scarborough insurance agency in San Francisco and sits on PPM’s Board. Mr. Naranjo is a self described prominent fundraiser in the Latino community and states that he frequently throws “A-List” parties at his offices for Latino candidates throughout the State. On May 5, 2006, he held such a party for Cindy Chavez. Mr. Naranjo described this event as a combination “Cinco de Mayo party and fundraiser” and told us that the attendees came from a broad spectrum of the population including those who attended as his friends, as well as those whom he had targeted as potential donors to the Chavez campaign. Cindy Chavez attended the event. We have located an online press account of the party which is attached to this report as Exhibit D:

Mr. Naranjo is familiar with PPM and with the Ethiopian community in the Bay Area and he thought this community would be worth pursuing as an untapped fundraising resource for Cindy Chavez. Knowing of the prevalence of employees of Ethiopian descent within PPM, he therefore attempted to solicit attendance at the party from PPM and its officers and employees.

⁵ Mr. Mekbib denies that this conversation took place.

⁶ Ms. Ng denies that such an event occurred.

⁷ Mr. Stang denies this conversation took place.

Mr. Naranjo states that he alone paid for the party⁸ and states that he has no knowledge as to any of the issues concerning this investigation.

Interview with Solomon Abayneh

Solomon Abayneh is an Area Manager for PPM. He told us he earns approximately \$50,000 per year and lives in Hercules. In May, 2006 his immediate supervisor was Garrick Hileman. Mr. Abayneh stated that even though he lives in Hercules, he contributed to the Chavez campaign because he thought it would help his fellow Ethiopians who live in San Jose. He doesn't know why Cindy Chavez' election would have helped the San Jose Ethiopian community, but he states that someone whom he doesn't remember so informed him. He remembers going to the May 5 event and remembers giving \$100 at the time. He denies that anyone told him to contribute to the campaign or reimbursed him for his contribution. He also contributed another \$500 to the Chavez campaign at an additional fundraiser in September. He again denies any coercion or reimbursement was made for that contribution. He stated that the amount of his contribution was not unusual and that in many, but not all years, he donates \$300-500 to political campaigns and an additional \$300-\$500 to charitable causes. He was unable to remember any specific examples of past contributions to political campaigns.

Interview with Haddis Alemayehu

Haddis Alemayehu is a Manager at one of PPM's garages in San Francisco. He is a full time union employee earning \$21.93 per hour. He lives in San Francisco. He also remembers going to the May 5 event and acknowledges contributing \$100 to the Chavez campaign. He did so because he felt that Chavez, as a fellow immigrant, would be helpful to the Ethiopian Community in San Jose. He describes himself as being very interested in the San Jose mayor's race because it was very much in the news. He denies that anyone told him to contribute to the campaign or reimbursed him for his contribution. In fact he states that no one knew how much he contributed. Mr. Alemayehu states that he frequently contributes money to charities—mostly his church, but that it was not unusual for him to make a contribution to a political campaign.

Interview with Girma Zeleke

Girma Zeleke is a Manager at one of PPM's garages in San Francisco. He was an unwilling participant in our interview, although his unwillingness may represent a general lack of trust in lawyers rather than any particular intent to hide any information. He did not want to disclose his salary. He states that a friend whom he refused to name told him that Cindy Chavez would help the Ethiopian community and so he went to the May 5 party and contributed \$100.

⁸ Mr. Naranjo told us that he himself cooked the food for the party. The photographs of the event contained in Exhibit D show quite a large party with a large buffet and what appears to be an elaborate cake in the shape of a Mexican flag. Our research of the Chavez campaign disclosure forms does not reveal any report of a contribution, monetary or non-monetary, from Mr. Naranjo. Mr. Naranjo is not a Respondent in this matter and we did not investigate whether Mr. Naranjo's hosting this party, which he characterized as partly a social gathering of his friends but which clearly appears to have been an organized fundraising event, represented a non-monetary contribution to the Chavez campaign that required reporting and disclosure.

He insists that no one instructed him to go to the party or give money. Like Mr. Alemayehu, Mr. Zeleke does not think anyone could have known how much he contributed. He doesn't remember if he has ever given money to a political campaign before, but he does contribute to charitable causes, mostly related to his church. He denies being reimbursed for his contribution.

Interview with Yee Ng

Yee Ng is a part-time office manager for PPM. She told us her annual salary is approximately \$30,000. She is also a student at San Francisco City College, originally in the Nursing program, but is now studying to be a Pharmacy Technician. She lives in San Francisco. She told us that she cares deeply about her community and attends lots of fundraising events. She was not able to explain why she was interested in the Chavez Campaign. But she says she went to the May 5 event because she had time that day and wanted to hear what Chavez had to say. She was very impressed with Chavez' positions on the issues and wanted to contribute. She felt that anything less than \$100 would be embarrassing and so she wrote a check for that amount. She denies that anyone told her to contribute to the campaign or reimbursed her for her contribution.

Part of Ms. Ng's job at PPM involves disbursing petty cash upon submission of appropriate requisition slips approved by Sam Tadesse. In her conversation with us, Ms. Ng acknowledged that she often made cash reimbursements to Mr. Hileman, but flatly denied that she was instructed to, or that she in fact did reimburse Mr. Hileman or anyone else for their contributions to the Chavez campaign.

Interview with Francisco Lira

Francisco Lira is now the General Manager of Operations for the St. Mary's Garage, Mr. Hileman's former job. In May, 2006, Mr. Lira worked in a lesser capacity and reported to Mr. Hileman. He told us his current salary is \$70,000 per year, but it is not clear what his salary was in May, 2006—presumably less. He lives in Alameda. He learned about the May 5 event through co workers and went because he was already familiar with Cindy Chavez and hoped to meet her in person. He used to work for a company that had an office in San Jose and so he was familiar with San Jose politics. He also expressed a connection to Cindy Chavez as a fellow Latino-American. He states that no one instructed him to attend the party or to contribute money. In fact, Mr. Lira did not contribute money at the event. Rather, he wrote a check for \$500 on May 20. He denies that anyone reimbursed him for his contribution. Mr. Lira stated that he frequently contributes over \$1000 per year to causes he believes in. It is unusual, but not unheard of, that such a cause would be a political campaign and that more often his contributions are to charities.

Interview with John Bacus

John Bacus is PPM's Vice President of Marketing. Although he used to be a full time employee of PPM, for all the relevant times of this investigation he has been a part-time employee. Because he has other full time employment, his work at PPM is mostly conducted

Memorandum To:
San Jose Elections Commission
June 7, 2007
Page 12

nights and weekends. Depending on the amount of work he does, he is paid between \$300 and \$1000 per month.

He lives in San Francisco, although his full time employment is in San Jose. He therefore is familiar with San Jose Politics and in particular knew about the Chavez campaign. He remembers that someone at PPM asked that he attend the May 5 fundraiser although he is not sure whom. He stated that he did not feel pressured to go, but because he wanted to learn more about Chavez, he decided to attend. He contributed \$100 at the fundraiser. He does not think anyone at PPM would have known whether or not he contributed and he denies that he was reimbursed for his contribution. He has no knowledge as to whether anyone else was reimbursed.

Mr. Bacus was a college friend of Mr. Hileman. In fact, he introduced Mr. Hileman to PPM's directors and recommended that he be given a job. For reasons unrelated to work, their friendship ended around the same time that Mr. Hileman left the company. Mr. Bacus does not think Mr. Hileman is a trustworthy person.

Interview with Muluneh Taye

At the time of the May 5 event, Muluneh Taye was a supervisor at various PPM garages. He left the firm in February of this year and now works for another parking company in Berkeley. He thinks that people at PPM are honest people and he was either unable or unwilling to corroborate Mr. Hileman's Complaint. He acknowledges going to the May 5 party but did not contribute to the Chavez campaign. He does not remember why he did not contribute. Nor does he know why PPM or the Ethiopian community would have wanted to support Cindy Chavez. Mr. Hileman was hopeful that Mr. Taye would support his allegations, and was disappointed when informed that this was not the case.

Interview with Christopher McGougan

Christopher McGougan is a manager of one of PPM's garages where he has worked for approximately one and one half years. Mr. Hileman was his direct supervisor. He did not contribute to the Chavez campaign but he knew about the event and remembers being both asked by Robert Stang to attend and being emailed a request to attend.

Mr. McGougan was initially unwilling to speak with us and eventually did so only cautiously. He was not able, or willing, to explicitly support Mr. Hileman's allegation, but he told us that he thinks Mr. Hileman is a truthful person. He was unwilling to name any specific names, or recall any specific events, but when pressed, he states he remembers someone after the May 5 party discussing the issue of reimbursement and that someone may have said something to the effect that they had to contribute to the Chavez campaign and were going to be reimbursed. Mr. McGougan's memory is hazy in this area and he describes the conversation he recalls as being "talk around the water cooler."

It should be noted that Mr. McGougan requested anonymity and was uncomfortable speaking with us when we informed him that we could not grant his request. Mr. McGougan did not contribute to the Chavez campaign and so he could not have any direct knowledge of being reimbursed himself. While there is no evidence that Mr. McGougan has withheld information from us, it seems to us likely that Mr. McGougan would have been more forthcoming had he thought his comments were anonymous and "off the record."

Interview with Robert Stang

Robert Stang is the President of PPM. Contrary to Mr. Naranjo's statement that he had thrown the party on his own initiative, Mr. Stang recalls that the May 5 event was sponsored by "Ethiopians for Chavez," an entity whose status he does not know and which he acknowledges may be an informal collection of people sharing a common heritage. Mr. Stang went to the May 5 party, but did not contribute to the Chavez campaign at that time. In fact, shortly after the May 5 party, he and his wife each contributed \$500 to the Cortese campaign. After the June election, he and his wife each contributed \$500 to the Chavez campaign on October 16. He told us he did so because he supports pro-business candidates throughout the Bay Area and especially appreciated Chavez' collaborative style. He lives in San Francisco, but stated that he often contributes to candidates throughout the Bay Area.

Mr. Stang does not possess the authority to write checks at PPM and is not involved in the day-to-day financial operation of the business. He therefore was careful to state that he does not know whether or not PPM reimbursed any employees for contributions to the Chavez campaign. Mr. Stang has consistently repeated in interviews with us that he was unaware of any PPM employees who were encouraged or coerced to contribute and similarly unaware of any reimbursement having been made. Mr. Stang was similarly precise in stating that he was unaware of whether PPM had paid for or had been actively involved in the planning of the May 5 event.

Mr. Stang is not so cautious, however, when it comes to characterizing Mr. Hileman. He believes that Mr. Hileman is a disgruntled ex-employee lying deliberately to cause harm to PPM.

While Mr. Stang does not profess any knowledge one way or the other as to whether Mr. Mekbib instructed Mr. Hileman to send the May 4 email attached as Exhibit C, it is perhaps significant to note that PPM was involved in a second fundraiser for Cindy Chavez on September 21, 2006. Mr. Stang sent out an email to PPM managers, including Messrs. McGougan, Zeleke, Lira, Taye, Alemayehu, and Abayneh on that date under the heading "important event tonight." The email, included as Exhibit C, indicates that PPM was an organizer of the event.⁹

⁹ It is not clear exactly what being an "organizer" entailed. As with Mr. Naranjo's role in hosting the May 5 fundraiser, we did not investigate whether PPM's involvement in the September 21 event required reporting and disclosure; the Chavez Campaign disclosure statements do not include any mention of PPM with regard to the September 21 event.

Interview with Sam Tadesse

Sam Tadesse is the Co-Founder, Chief Executive Officer, and Managing Director of PPM. He lives in Oakland. He contributed \$500 to the Chavez campaign on March 17, well before the May 5 party. He told us that he was a listed host of the May 5 event, although neither he nor PPM paid for the party. The party was promoted as being sponsored by the San Jose Ethiopian community.

As Chief Executive Officer, Mr. Tadesse handles all financial matters for PPM. He stated that he sees all requests for expense reimbursement and signs all checks. All such expenses are recorded. He denies that he instructed Mr. Hileman to attend the May 5 fundraiser, that he told anyone to contribute to the Chavez campaign, and that he authorized any reimbursement or that such reimbursement was made. Like Mr. Stang, he thinks Mr. Hileman is a disgruntled ex-employee who is retaliating against his former employer.

Interview with Behailu Mekbib

Behailu Mekbib is the Co-Founder, Chief Operating Officer, and Managing Director of PPM. While he has the authority to sign checks on behalf of the firm, he says that he is not involved in the day-to-day financial obligations of the firm.

Mr. Mekbib candidly explained that he was interested in Cindy Chavez both as a member of the Ethiopian community and as a business man. He had met Ms. Chavez and thought that she understood the importance of ensuring that small businesses like his were fairly treated in competing for government contracts. In addition, he liked her community-based positions and thought she would be good for the Ethiopian community in San Jose, to which he is closely connected.

Mr. Mekbib says he often contributes to campaigns and is actively involved in politics. He had no explanation as to why, given his enthusiastic support for Chavez, he did not contribute to her campaign.

Mr. Mekbib thinks he would have known had PPM been involved in planning or paying for the May 5 party and he is not aware of any such involvement. He denies instructing Mr. Hileman to attend the party and contribute \$100 for which he would be reimbursed. He also denies ever telling Mr. Hileman to encourage employees to attend the party. He denies emphatically that he authorized reimbursement for Mr. Hileman or anyone else, or that he instructed Ms. Ng to make any such reimbursements.

Like Mssrs. Stang and Tadesse, Mr. Mekbib characterizes Mr. Hileman as an unstable person lying to get back at his former employer

Interview with Mary Hughes and Emily Cambell

With the passage of time, the Chavez for Mayor Campaign has disbanded and no longer exists. To the best of our knowledge, the Chavez for Mayor Committee's funds have been

liquidated and dispersed. Mary Hughes, of Staton and Hughes, a political consulting firm in San Francisco, responded to our January 11 letter (Exhibit B) to the Chavez Campaign's legal counsel. Ms. Hughes advised us that she would try and assist us with the investigation. We passed along Ms. Hughes' message to our investigator, and he eventually was able to speak with Emily Cambell, the former Financial Director for the Chavez for Mayor Campaign. She was aware of the efforts of PPM, Behailu Mekbib, and Sam Tadesse to support the Chavez Committee, including the May 5, 2006 event held at the offices of Fred Naranjo. She does not remember Mr. Naranjo ever making any mention of PPM's business interests in San Jose but knows that Mr. Naranjo had a personal connection with Ms. Chavez.

She and Ms. Chavez had attended other events on that day and she remembers that she and Chavez attended the event at Mr. Naranjo's office only briefly. She states that during this brief period, Ms. Chavez made a short statement, posed for some photographs with those in attendance, socialized briefly, and then left. Ms. Cambell thinks the campaign raised between \$2,000 and \$5,000 at the event. Assuming this to be true (and it is difficult to verify this from the Disclosure Forms), numerous contributions were made at the party by people not associated with PPM. PPM employees only account for \$600 in contributions on May 5.

Ms. Cambell claimed no knowledge of the interests of PPM, Mr. Mekbib, and/or Mr. Tadesse in securing business dealings within San Jose. She states neither of them ever expressed those interests in her presence. Ms. Cambell states she was never aware of any wrongdoing or inappropriate activity on behalf of the Chavez Committee, or anyone at PPM.

Interview with Cindy Chavez

Ms. Chavez remembers that PPM was involved in the May 5 fundraiser, and specifically that Msrs. Mekbib and Tadesse were supportive of her candidacy and present at the May 5 event. Ms. Chavez told us that she learned that the Ethiopian community in San Jose, and indeed in the whole Bay Area, was larger than she had expected and was more politically active than she had imagined before this campaign. She describes learning of the importance of the Ethiopian community as an "aha moment." Ms. Chavez was interested in targeting the Ethiopian Community and in expanding her base beyond the City of San Jose. She saw the May 5 fundraiser as an opportunity to accomplish both of these goals.

Ms. Chavez was aware that PPM was interested in doing business in San Jose. Because the City has numerous public parking facilities, she did not find this interest surprising. But she had never asked PPM to endorse her campaign and did not know about, or participate in, any decisions regarding contributions to her campaign by PPM officers or employees. She denies any knowledge of any of the allegations contained in the Complaint.

Despite her lack of knowledge concerning any of PPM's contributions, Ms. Chavez represented to us that she intended to donate \$600 to San Jose's general fund in order to ensure that the Commission not find her campaign to have violated the Municipal Code. The City's Clerk has confirmed receipt of the refunded moneys on June 6, 2007.

C. Standard of Proof and Factual Findings

Under Municipal Code section 12.04.100, the Commission's formal findings must be based upon a preponderance of the evidence. This standard of proof does not require the level of certainty necessary to satisfy the standard of "beyond a reasonable doubt" required in criminal proceedings. Rather, the standard of a preponderance of the evidence is met if a proposition is more likely to be true than not true. In other words, if the evidence in favor of a proposition is balanced against the evidence against the proposition, the standard is met if the scales tip, however slightly, in favor of the proposition. Stated in numerical language, the standard is satisfied if there is greater than 50% chance that the proposition is true.

The Municipal Code states that a contribution should be considered made by an employer if an employer either (1) coerces an employee to make a contribution, or (2) instigates an employee's contribution and then reimburses it. (Municipal Code 12.06.240) The facts as alleged in the complaint are more suggestive of the second of these two alternates.

There is no dispute that Mr. Hileman attended the May 5 fundraiser and contributed \$100 to the Chavez campaign at the event. Nor is there any dispute that five other PPM employees also attended and made \$100 contributions. There may be some disagreement as to the extent to which PPM employees were instructed to attend the May 5 fundraiser. There is considerable dispute whether any employee's contribution was directed or instigated by PPM, and whether any employee was reimbursed for his or her contribution.

Q. Were Mr. Hileman and other PPM employees instructed to attend the May 5 fundraiser?

A. Yes

The evidence that is consistent with the allegation that Mr. Hileman and other PPM employees were instructed to attend is as follows:

- First, Mr. Hileman states that he had no reason to support, or even be interested in, the Chavez campaign. He worked and lived in San Francisco and had no connection with San Jose politics. Accordingly, this evidence is consistent with the allegation that he was pressured to attend the event.
- Second, Mr. Hileman has told us, both in his complaint and in our interviews, that Mr. Mekbib instructed him both to send out the May 4 email and to attend the May 5 fundraiser. Evaluation of this evidence requires an assessment of Mr. Hileman's credibility. Mr. Hileman strikes us as an extremely credible, thoughtful, and articulate man. His demeanor during our interviews is inconsistent with the characterization of him as embittered or unstable. We find credible his repeated statements that he filed his Complaint only out of a desire to shed light on behavior he believed to be questionable. We do not find credence in the theory that he fabricated the Complaint to damage the

reputation of a former employer. In fact, it is also his reputation that may potentially be harmed by the publicity associated with this investigation and our report.

In assessing his credibility, we sought to determine why Mr. Hileman waited for so long to file his Complaint. After all, the allegedly improper contribution was in May, Mr. Hileman left PPM in July, yet he did not file his Complaint until the end of December. Mr. Hileman's explanation for this delay is that he was initially only concerned with his own possible culpability and only learned later that PPM may have been involved in a violation. Moreover, he claims that the delay was caused partly by his reluctance to bring up an unpleasant episode he would prefer to keep in his past, namely his separation from PPM, and that he finally filed his Complaint only because his desire to "do the right thing" outbalanced his desire not to relive the unpleasant past. We find this explanation credible. In fact, were Mr. Hileman in fact seeking revenge against his former employer it seems just as likely that he would have filed the complaint immediately.¹⁰

- Third, there is no dispute that Mr. Hileman sent out the May 4 email attached as Exhibit C. This email clearly instructs other employees to attend the May 5 fundraiser. The language of the May 4 email is framed as a "request," but suggests some implicit coercion: the subject heading identifies Fred Naranjo as a PPM Board Member; the language "your presence is requested" has intimidating overtones; and the instruction to "let me know if you will be unable to attend" implies the potential for consequences should someone not attend. There is no reason why Mr. Hileman would have sent out such an email on his own initiative. Far more likely is that he was instructed to do so by a superior officer. The sending of this email is consistent with Mr. Hileman's assertion that he also was instructed to attend the fundraiser. It is reasonable to assume that he felt the same pressure as those to whom he sent the email.
- Fourth, Mr. Stang's September 21 email, attached as Exhibit C, is evidence that PPM was interested in its employees attending fundraisers for Cindy Chavez. Although not dispositive, this piece of evidence is consistent with Hileman's allegation regarding the May fundraiser and suggests PPM was in the habit of instructing its employees to attend such events.
- Fifth, Mssrs. Stang, Mekbib, and Tadesse all acknowledge that PPM had an organizational interest in Chavez.

The evidence that is inconsistent with the allegation that Mr. Hileman and other PPM employees were instructed to attend is as follows:

- Both Mr. Mekbib and Mr. Tadesse deny instructing Hileman to send the May 4 email or to attend the fundraiser. Evaluation of this evidence requires an assessment of Mssrs. Mekbib and Tadesse's credibility. We found both Mr. Mekbib and Mr. Tadesse to be

¹⁰ Likewise, the timing of the complaint undercuts, in our view, the characterization of Hileman being motivated by the termination of his employment - an early filing would have been more consistent with PPM's portrayal of Hileman as an unstable and vengeful ex-employee.

credible witnesses, forthright, cooperative, and helpful. However, certain aspects of their version of the story seem inconsistent with the other facts.

There would have been no reason for Mr. Hileman to send out the May 4 email on his own authority. Also, both Tadesse and Mekbib were copied on the May 4 email and there is no evidence to suggest that they objected to, or even commented upon, Hileman's instructions to PPM managers to attend the May 5 fundraiser. Finally, the May 4 email is consistent both with the similar September 21 email from Mr. Stang, and with PPM's stated support of Chavez' campaign.

Conclusion: We find no reason to disbelieve Mr. Hileman and find the evidence that he and other employees were instructed to attend the fundraiser credible. The evidence to the contrary is comparatively weak. By a preponderance of the evidence, we conclude that Mr. Hileman and other employees were instructed to attend the May 5 fundraiser.

Q. Did PPM instigate Mr. Hileman's contribution?

A. Yes

The evidence that is consistent with the allegation that PPM instigated Mr. Hileman's contribution is as follows:

- Mr. Hileman states that Mr. Mekbib directed him to contribute \$100 to the Chavez campaign.
- Mr. Hileman made a \$100 contribution. Mr. Hileman states that he had no reason on his own to contribute to the Chavez campaign; he lived in San Francisco and was uninterested in San Jose politics. A more likely explanation for his contribution is that it was made at the direction of his employer.
- As discussed above, the evidence indicates that Mr. Hileman was pressured to attend the fundraiser. This pressure is consistent with a direction from Mr. Mekbib to contribute to the Chavez campaign. In fact, arguably, the pressure to attend the fundraiser is sufficient on its own to support a finding that the contribution was instigated by PPM. In other words, the pressure to attend constituted the instigation to contribute.¹¹

The evidence that is inconsistent with Mr. Hileman's allegation is as follows:

- Mr. Mekbib denies that he instructed Mr. Hileman to make a contribution.

¹¹ Webster's unabridged dictionary defines "instigate" as "To goad or urge forward; to set on; to provoke; to incite[.]" Under this definition, because it is logical to assume that the purpose of attending a fundraising event is to contribute money, when Mr. Mekbib ordered Mr. Hileman to attend the May 5 event, he "provoked," or instigated a contribution as well.

Conclusion: We find no reason to disbelieve Mr. Hileman and find the evidence that his contribution was instigated by PPM credible. The evidence to the contrary is comparatively weak. By a preponderance of the evidence, we conclude that PPM instigated Mr. Hileman's contribution.

Q, Was Mr. Hileman reimbursed for his contribution?

A. Probably.

The evidence consistent with the allegation that Mr. Hileman was reimbursed is as follows:

- Mr. Hileman told us, both in our interviews and in the Complaint, that he was reimbursed. Evaluation of this evidence involves an assessment of Mr. Hileman's credibility. As discussed above, we find Mr. Hileman completely credible.
- Mr. Hileman was instructed to attend the fundraiser and contribute \$100. Such an instruction does not necessarily lead to the conclusion that he was reimbursed. But it is consistent with such reimbursement.
- The evidence discussed above indicates that Mr. Hileman had no reason to attend the fundraiser other than at the direction of his employer. Neither did he have any reason to contribute \$100 to the Chavez campaign. Unless he knew he was going to be reimbursed for his contribution, there is no explanation for his interest in financially supporting the Chavez campaign.
- Mr. McGougan stated that he may have heard general talk at PPM concerning reimbursement of contributions, and that Mr. Hileman was a truthful person. He claims not to remember more specifics, but he initially requested anonymity and only revealed his cautiously framed memory after his request was not granted. We believe it probable that Mr. McGougan did not share his full knowledge with us.

The evidence inconsistent with the allegation that Mr. Hileman was reimbursed is as follows:

- Mssrs. Mekbib and Tadesse deny authorizing reimbursement.
- Ms. Ng denies that she was instructed to, or that she actually did, reimburse Mr. Hileman. Evaluation of this evidence requires an assessment of Ms. Ng's credibility. First we note that Ms Ng stated that she often was called upon to reimburse Mr. Hileman for petty cash. Given such a common practice, it is perhaps unusual that she remembers so definitively that she did not reimburse him on this particular occasion.

More important, we question Ms. Ng's explanation as to why she contributed to the Chavez campaign. Why would a woman living in San Francisco, earning \$30,000 a year,

and working to put herself through college, be interested in contributing \$100 to the Chavez campaign? Ms. Ng appeared to us to be ambiguous and evasive when discussing this issue. She asserted that she cares deeply about her community, but when pressed she was not able to explain to us any connection between her community and the Chavez campaign. Nor was she able to explain why she gave \$100 dollars--her statement that she would have been embarrassed to give anything less was made without conviction, in our view. Our disbelief over her story regarding her contribution casts a shadow over her denial that she reimbursed Hileman the Monday after the fundraiser.

Reasonable people might not place the weight we do on the oddity of Ms. Ng's explanations. In addition, although Ms. Ng's demeanor did not inspire our confidence, it should be noted that we spoke to her by telephone and not in person.

Conclusion: By a preponderance of the evidence, we conclude that Mr. Hileman was reimbursed for his \$100 contribution to the Chavez campaign. We make this conclusion mindful that the Commission could reasonably view the same evidence with a different result.

Q. Were other PPM employees reimbursed for their contributions?

A. There is insufficient evidence to answer this question with any certainty.

The evidence consistent with the suggestion that other PPM employees were reimbursed is as follows:

- Our finding that Mr. Hileman was reimbursed, combined with his May 4 email to fellow employees, is consistent with the conclusion that he was not the only employee to be reimbursed.
- As discussed above, we find that Ms. Ng's explanation as to why she attended the fundraiser and why she contributed \$100 is not entirely credible. A more likely explanation for her contribution is that she made it at the instruction of, and with the knowledge that she would be reimbursed by, her employer.
- Mr. McGougan states that he remembers some discussion among PPM employees concerning reimbursement. As discussed above, Mr. McGougan may well have knowledge that he did not share with us.
- Mssrs. Abayneh, Alemayehu, and Zeleke were not able to convince us that they had reasons, absent reimbursement from their employer, for contributing to the Chavez campaign. All three displayed ignorance as to Cindy Chavez and could not provide any reasons why they might favor her election, beyond the statement that they were told that she would be good for the Ethiopian community. As discussed below, this evidence cuts both ways--the connection with the Ethiopian community is also consistent with a lack of reimbursement.

- All PPM employees at the May 5 fundraiser gave the same amount, \$100. While this evidence is certainly not dispositive, it is consistent with an organized plan to reimburse employees.

The evidence inconsistent with the suggestion that other PPM employees were reimbursed is as follows:

- All the employees deny that they were reimbursed. The Complaint suggests that others may have been reimbursed. But Mr. Hileman does not have any personal knowledge of any such reimbursements besides his own. While we continue to be skeptical that employees who neither live nor work in San Jose, who make between \$30,000 and \$70,000, and who live as far away as Hercules, would want to contribute to Cindy Chavez, about whom they knew next to nothing, there is no independent evidence that directly contradicts the employees' denials.
- Mr. Mekbib and Mr. Tadesse deny authorizing or making any reimbursement. Similarly, Ms. Ng denies being instructed to reimburse any employee.
- In the case of Mssrs Abayneh, Alemayehu, and Zeleke, their statements that their contributions were based upon their involvement in and commitment to the Ethiopian community must be given some weight. While we were unable to determine from the employees why the Ethiopian community was interested in Ms. Chavez, it is true that the Chavez campaign was actively targeting this community. Indeed, the political activity of the Ethiopian community is confirmed by Cindy Chavez, who describes her awareness of this community's importance to the Bay Area's political life as an "aha moment."
- The facts surrounding John Bacus' and Francisco Lira's contributions are different from the other employees. Mr. Bacus worked in San Jose in May, 2006 and therefore had good reason to be interested in Cindy Chavez. Although Mr. Lira attended the May 5 fundraiser, he made his contribution on May 20. He presents numerous well articulated reasons for contributing: he used to work for a San Jose business and remains interested in San Jose politics, he is familiar with Cindy Chavez and pays attention to her politics, and he shares an ethnic background with Ms. Chavez. In addition, unlike the other employees, he contributed \$500.

Conclusion: Unlike Mr. Hileman, all of the other contributing employees deny that they were reimbursed and provide alternate reasons for their contributions. We are particularly unsatisfied with Ms. Ng's explanation of why she contributed to the Chavez campaign. But absent any evidence to the contrary (for instance, in the case of Mr. Hileman's contribution, Ms. Ng's statements were weighted against Mr. Hileman's), our skepticism is not dispositive. As regarding Mssrs. Abayneh, Alemayehu, and Zeleke, we acknowledge that their connection to the Ethiopian community may well provide an explanation for their contributions, although we are only slightly less suspicious of this explanation than we are of Ms. Ng's. We have much less doubt about Mr. Bacus' and Mr. Lira's explanation and conclude that the evidence does not support a finding that either was reimbursed.

In sum, while we find that the balance of the evidence leans towards a finding that Mr. Hileman was reimbursed, we do not find the evidentiary scales to be similarly weighted with regard to the other PPM employees. Rather we find the evidence to be more evenly balanced, with just as much reason to believe they were reimbursed as that they were not.

We therefore find that a preponderance of the evidence does not support a finding that PPM reimbursed other employees besides Mr. Hileman. In making this finding, we acknowledge that we remain unsatisfied by some of the witnesses' reasons for contributing to the Chavez campaign, and we understand that reasonable people might well view the same evidence we did and reach a different conclusion.

Q. Was the Chavez campaign aware of any reimbursements?

A. No.

There is absolutely no evidence to suggest that the Chavez campaign had any knowledge of any of the allegations made in the complaint. We do not find that the Chavez campaign was aware of PPM's probable reimbursement or that it knowingly accepted contributions that may have been in violation of any law.

VII. LEGAL ANALYSIS AND RECOMMENDATION

As the above factual findings indicate, we find that PPM directed Mr. Hileman to contribute \$100 on May 5, and then reimbursed him for his contribution.¹² Under section 12.06.240, a contribution by an employee made at the instigation of an employer, and reimbursed by the employer, is deemed to have been made by the employer. Section 12.06.540 sets the applicable contribution limit of \$500; the question then becomes whether PPM made contributions in excess of this limit.

Under the Political Reform Act, contributions from a business entity are aggregated with the contributions of an individual if the individual making the contribution is the majority owner of the business entity or if the individual has authority to direct/control the contributions of the business entity (notwithstanding his/her ownership interest). Mr. Tadesse is CEO of PPM and he acknowledges control over PPM's financial affairs. His contribution of \$500 on March 17 is therefore properly aggregated with PPM's December 28, 2005 contribution. There is no evidence of any deliberate attempt to circumvent the contribution limit by Mr. Tadesse's contribution. Rather, we conclude that any violation due to the aggregation of Mr. Tadesse's and PPM's contributions was likely inadvertent. The \$100 contribution made by and reimbursed to Mr. Hileman should also be credited to PPM.

We believe that the evidence demonstrates that PPM contributed a total of \$1,100 to the Chavez campaign during the period leading up to the June, 2006 election. We therefore

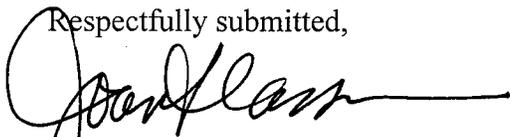
¹² Under the Political Reform Act, at Government Code section 84302, the true source of each contribution must be disclosed. Because Mr. Hileman filed a complaint with the FPPC mirroring the allegation of this Complaint, we make no findings or recommendations on this issue.

Memorandum To:
San Jose Elections Commission
June 7, 2007
Page 23

recommend that the Commission find that PPM violated section 12.06.540 by making contributions to the Chavez campaign in excess of the \$500 limit.

The evidence does not indicate that the Chavez campaign accepted any contributions knowing they were in excess of the contribution limit. As we have been advised by the City Clerk that Chavez returned \$600 on June 6, Municipal Code Section 12.04.130 instructs that her campaign's inadvertent acceptance of the excess contributions does not constitute a violation. We recommend that the Commission dismiss the complaint with regards to her campaign.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joan L. Cassman", with a long horizontal flourish extending to the right.

Joan L. Cassman
M.D. Moye
Steven D. Miller

ATTACHMENTS TO REPORT OF INVESTIGATION

- **Exhibit A** - Fax date-stamped December 22, 2006, containing Complaint, as well as an email from Complainant dated January 9, 2007 withdrawing original request for anonymity.
- **Exhibit B** - Letters from Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP, to Respondents, dated January 11, 2007, re: Notification to Respondent.
- **Exhibit C** - Email from Garrick Hileman to multiple PPM employees, dated May 4, 2006 and Email from Robert Stang to multiple PPM employees, dated September 21, 2006
- **Exhibit D** - May 6, 2006 Article from FogCityJournal.com about the May 5, 2006 fundraising event.