

Memorandum

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

TO: San Jose Elections Commission
FROM: Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP
DATE: June 8, 2007
RE: **Citizen Complaint**

Complainant: **Kansen Chu**

Respondents: **Hon Lien for City Council Campaign, Santa Clara
County Republican Party, San Jose Silicon Valley
Chamber of Commerce/COMPAC**

Alleged Violations: **Coordination of Independent Expenditure**

Complaint Filed: **May 16, 2007**

I. INTRODUCTION

Pursuant to a Citizen Complaint filed on May 16, 2007, we conducted an investigation to determine whether the Hon Lien for City Council Campaign ("Lien Campaign" or "Campaign"), Santa Clara County Republican Party ("Republican Party"), San Jose Silicon Valley Chamber of Commerce/COMPAC ("Chamber" or "COMPAC") violated Title 12 of the San Jose City Municipal Code ("Municipal Code") by coordinating independent mailings by the Republican Party and COMPAC with the Lien Campaign.¹

II. EXECUTIVE SUMMARY

We find no evidence to sustain the allegation of coordination. Although each of the three mailers referred, at least in part, to a common factual allegation regarding candidate Kansen Chu – that he was the subject of several local tax liens² - , we find no evidence that the Republican Party mailer or the COMPAC mailer was made "at the behest" of the Lien Campaign. Rather, the facts demonstrate that the Republican Party and COMPAC decided on their own without input from the Lien Campaign to include the information about Chu in their mailers.

¹ The investigation was conducted pursuant to Municipal Code §12.04.080 and City Council Resolution No. 72547.

² This information was later discredited and the Republican Party and Lien Campaign acknowledged that fact.

As there was no evidence of either coordination with the Lien Campaign or that the third party mailers were sent out "at the behest of" the Lien Campaign, we find no violation of the Municipal Code. We recommend that the Complaint be dismissed and that the matter be closed.

III. COMPLAINT/ALLEGATIONS

A copy of the Complaint is attached as **Exhibit A**. The Complaint alleged violations of the contribution provisions of the Municipal Code, in particular that the cost of "independent expenditures" by the Republican Party and COMPAC should be considered contributions to the Lien Campaign.

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

The Respondents were notified of the allegations and presented with a complete copy of the Complaint on May 23 and 24, 2007. (**Exhibit B**)

Pursuant to a review of the Complaint and the relevant statutory provisions, the Evaluator determined that the Complaint alleged violations of the Municipal Code. Specifically, to the extent that the third party mailers were coordinated in advance with the Lien Campaign or were mailed at the behest of the Lien Campaign to the general public, the third party mailers would not be "independent expenditures" and would constitute contributions to the Lien Campaign. As it was apparent that the cost of the mailers likely exceeded the statutory contribution limit, the "contribution" by virtue of these mailers would exceed the Municipal Code contribution limits.

V. FACTUAL SUMMARY

A. The Lien Campaign Mailer

Hon Lien and Kansan Chu were both candidates for the June 5, 2007 election for the San Jose City Council, District Four. On or about March 8, 2007, the Lien Campaign engaged Joe Giardiello ("Giardiello") of TCB Consulting to conduct opposition research concerning Kansan Chu ("Chu"), Hon Lien's ("Lien") opponent in the City Council runoff election. (**Exhibit C**) On or about April 30, 2007, the Lien Campaign engaged Autumn Press to prepare a mailer using information developed by Giardiello and contracted with Advertisers Mailing Service for distribution of the mailers.³ (**Exhibit D**) The mailer was sent out on May 1, 2007. (A copy is attached at Exhibit A, pp. 11-14)

³ Lien states that the design and preparation of the mailer was performed by a campaign volunteer.

B. The Republican Party Mailer

On or about April 1, 2007, the Republican Party engaged Giardiello for an assignment to conduct opposition research regarding Chu.⁴ On or about April 7, 2007, the Republican Party received a report from Giardiello detailing information uncovered in his research regarding Chu. **(Exhibit E)** Carole Morrison ("Morrison"), Executive Director for the Republican Party, states that the organization was not aware of Giardiello's prior engagement or work for the Lien Campaign. Giardiello states that at the time he was engaged by the Republican Party he did not disclose that he had performed work for the Lien Campaign.

On or about May 2, 2007, the Republican Party engaged First Class Mailing, LLC to print a mailer containing in part information from the Giardiello report. **(Exhibit F)** The Republican party mailer was distributed on May 7, 2007.⁵ (A copy is attached at Exhibit A, pp. 18-19) Morrison states that mailer was sent only to registered republicans based on a list provided by the Santa Clara County Registrar of voters. Prior to sending out the Republican Party mailer, Morrison was not aware of the Lien Campaign mailer.⁶

C. The COMPAC Mailer

In April, 2007, Tab Berg ("Berg") of Tab Communications, Inc. was engaged by COMPAC to produce a series of mailers concerning the City Council runoff. Berg has provided services to COMPAC in the past and advised that he researches, writes, designs, produces and handles mailing when so engaged.⁷ Berg states that he was instructed to have the first mailer available for delivery about the time that voters would be receiving absentee ballots. Sometime between May 2 and May 5 Berg recalls that he received numerous fax copies of the Lien Campaign mailer.⁸

Berg mailed the COMPAC mailer out on or about May 10, 2007. (A copy is attached at Exhibit A, pp. 15-17) Berg did not have any contact with the Lien Campaign or the Republican Party in the course of preparing and sending out the COMPAC mailer.

⁴ Giardiello was described as a "well known Republican consultant providing opposition research services." TCB Consulting describes its services on its webpage as "Political Consulting and Opposition Research for Republican Political Campaigns."

⁵ Morrison states that she designed the mailer and that Daniel Huenergardt prepared artwork and graphics for the mailer. **(Exhibit G)**

⁶ Morrison lives in Mountain View.

⁷ A review of disclosure forms filed by COMPAC this year and last indicated Tab Communications is a vendor regularly used by COMPAC.

⁸ Berg cannot recall with certainty, but thinks that he also saw the Republican Party mailer because it was posted on the Party's website.

VI. LEGAL AUTHORITY

Relevant legal authority related to this investigation is found in the Municipal Code, the Political Reform Act (California Government Code §85000 et seq.), and the California Code of Regulations.

A. Municipal Code

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

1. 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.

2. 12.06.130 Independent expenditure.

A. "Independent expenditure" shall mean an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee. An expenditure that is made to or at the behest of a candidate or controlled committee is not an "independent expenditure".

B. Any expenditure in aid or in opposition to a council or mayoral candidate which is not an "independent expenditure" is deemed to be a contribution to that candidate, subject to the limitations of this chapter.

3. 12.06.270 Contribution limitations to city council 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 opposition to the nomination or election of a candidate for city council which will cause the total amount contributed by such person to the candidate and any controlled committee of such candidate to exceed one hundred dollars per election, except as provided in Part 5 of this chapter.

4. **12.06.320 Contributions and expenditures by independent committees.**

A. Independent committees are "persons" for purposes of the contribution limitations to city council and mayoral candidates. Any expenditure by an independent committee in aid of or in opposition to a council or mayoral candidate which is not an "independent expenditure" is deemed to be a contribution to that candidate, subject to the limitations of this chapter.

B. Each independent committee making contributions or independent expenditures in a council or mayoral election which does not participate in elections other than for city offices shall file the reporting statements required by Section 12.06.910. For each expenditure or contribution, the committee shall report what amount or portion was of benefit to a particular candidate.

5. **12.06.500 Voluntary campaign expenditure limits program.**

Each candidate participating in the voluntary campaign expenditure limits program shall comply with and receive all the benefits of the provisions of this chapter.

6. **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. Political Reform Act

The Political Reform act (California Government Code §85000 et seq.) contains the following provision relevant to this investigation:

Section 85312 Communications to Members of an Organization.

For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to its members who are registered with that party which would

otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.

C. FPPC Regulations

The regulations of the Fair Political Practices Commission Code⁹ contains the following provisions relevant to this investigation:

1. 18225.7. Made at the behest of.

(a) "Made at the behest of" means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of. Such arrangement must occur prior to the making of a communication described in Government Code section 82031.

(b) Expenditures "made at the behest of" a candidate or committee include expenditures made by a person other than the candidate or committee, to fund a communication relating to one or more candidates or ballot measures "clearly identified" as defined at Title 2, California Code of Regs. section 18225(b)(1), which is created, produced or disseminated,

(1) After the candidate or committee has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

(2) After discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate or committee, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics.

(c) An expenditure is presumed to be made at the behest of a candidate or committee if it is:

(1) Based on information about the candidate's or committee's campaign needs or plans provided to the expending person by the candidate or committee, or

(2) Made by or through any agent of the candidate or committee in the course of the agent's involvement in the current campaign, or

(3) For a communication relating to a clearly identified candidate or ballot measure

⁹ Set forth at 2 California Code of Regulations ("CCR").

when:

(A) The person making the expenditure retains the services of a person who provides either the candidate or the committee supporting or opposing the ballot measure with professional services related to campaign or fundraising strategy for that same election, or

(B) The communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate or committee.

(d) An expenditure is not made at the behest of a candidate or committee merely when:

(1) A person interviews a candidate on issues affecting the person making the expenditure, or

(2) The person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate or the candidate's agents, or

(3) The person making the expenditure has made a contribution to the candidate or committee, or

(4) The person making the expenditure is responding to a general, non-specific request for support by a candidate or committee, provided that there is no discussion with the candidate or committee prior to the expenditure relating to details of the expenditure, or

(5) The person making the expenditure has invited the candidate or committee to make an appearance before the person's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate or committee prior to the expenditure relating to details of the expenditure, or

(6) A person informs a candidate or committee that the person has made an expenditure, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure, or

(7) An expenditure is made at the request or suggestion of the candidate or committee for the benefit of another candidate or committee.

(e) Notwithstanding any other provision of this section, if two or more committees exchange information between or among themselves, subsequent expenditures by each committee shall not, merely by reason of that exchange, be considered to be "made at the behest of" the other committee(s), where the committees are (i) all general purpose committees, (ii) all committees primarily formed to support or oppose the same candidate or candidates, or (iii) all committees primarily formed to support or oppose the same measure or measures.

(f) Throughout this section the terms "candidate" and "committee" include their agents, when the agent is acting within the course and scope of his or her agency. The term "expenditure" refers to a payment defined as an "expenditure" by Government Code section 82025 and Title 2, California Code of Regs. section 18225. A determination that an expenditure has been "made at the behest of" a candidate or committee does not establish that the expenditure is a "contribution" as defined by Government Code section 82015 or Title 2, California Code of Regs. section 18215. However, expenditures governed by Title 2, California Code of Regs. section 18550.1 may be treated as contributions pursuant to the provisions of that section.

2. **18531.7. Payments for Communications -- Section 85312.**

(a) Definitions. For purposes of Government Code section 85312 "payments for communications to members" are any payments made by an organization or its sponsored committee for the publication, dissemination or communication to the organization's members, employees, or shareholders, or to the families of the organization's members, employees or shareholders by newsletter, letter, flyer or the like of material, written or spoken, that supports or opposes a candidate or ballot measure. "Payments for communications to members" do not include any payments made by an organization for general public advertising such as broadcasting, billboards, and newspaper advertisements or for communications to persons who are not members, employees, or shareholders, or families of members, employees, or shareholders of the organization.

(1) An "organization," other than a political party, means a sole proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, labor union and any other organization or group of persons acting in concert, including a committee as defined by Government Code section 82013, but excluding a candidate or individual.

(2) "Member" means any person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers or on a disposition of all or substantially all of the assets of the organization or on a merger or on a dissolution. "Member" also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under 26 U.S.C. 501, subdivision (c). Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

(3) A person is not a "member" of an organization if the person is only on a mailing or contact list of the organization without meeting the definition provided in subdivision (a)(2) of this regulation.

(4) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(5) "Family" means a member's, employee's, or shareholder's spouse, domestic partner as defined by Family Code section 297, dependent children, and parents who reside with the member, employee, or shareholder.

. . .

(e) A payment that is made at the behest of a candidate or committee for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure is not a contribution to the candidate or committee at whose behest the communication was made.

3. **18550.1. Independent and Coordinated Expenditures.**

(a) For purposes of Government Code section 85500(b), an expenditure is not considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure funds a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate and is made under the following circumstances:

(1) The expenditure is made at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or

(2) The communication funded by the expenditure is created, produced or disseminated,

(A) After the candidate has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

(B) After discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics.

As used throughout this regulation, the term "candidate" includes a candidate controlled committee and the agent of the candidate or controlled committee, when the agent acts within the course and scope of his or her agency.

(b) In addition to the rule provided in subdivision (a) of this regulation, there shall be a

presumption that an expenditure funding a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate is not independent of the candidate on whose behalf, or for whose benefit, the expenditure is made, when:

(1) It is based on information about the candidate's campaign needs or plans provided to the expending person by the candidate, or

(2) It is made by or through any agent of the candidate in the course of the agent's involvement in the current campaign, or

(3) The person making the expenditure retains the services of a person who provides the candidate with professional services related to campaign or fundraising strategy for that same election, or

(4) The communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

(c) Notwithstanding the foregoing, an expenditure shall not be considered a contribution to a candidate merely because:

(1) The person making the expenditure interviews the candidate on issues affecting the person making the expenditure, or

(2) The person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate, or

(3) The person making the expenditure has previously made a contribution to the candidate, or

(4) The person makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditure, or

(5) The person making the expenditure has invited the candidate to make an appearance before the person's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditure, or

(6) The person making the expenditure informs the candidate that the person has made an expenditure, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure, or

(7) The expenditure is made at the request or suggestion of the candidate for the benefit

of another candidate or committee.

VII. FACTUAL FINDINGS AND ANALYSIS OF ISSUES

There are several primary factual issues that must be resolved to determine whether the third party mailers fall within the definition of a contribution to the Lien Campaign. As we discuss below, the answers to these questions are largely addressed by the relevant provisions of the PRA that are applicable to the Municipal Code.

A. Was the Republican Party mailer an independent expenditure or contribution?

No.

Under Government Code Section 85312, "payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements." Government Code Section 85312 is applicable to political parties. (See, **Exhibit H**, Campaign Disclosure Manual 2, p. 2-2, and Appendix 1-4 (exceptions to the definition of "contribution" include "[p]ayments made by an organization (including a political party) for certain communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to a candidate endorsed in the communications.")

The facts indicate the Republican Party mailer was sent out to registered Republicans. There is no evidence that the communication was sent to a broader audience or that the mailer was broadcasted or publicized publicly. On these facts, the mailer was a "member communication." Thus, under Section 85312 of the PRA, the communication is deemed not to constitute a contribution or expenditure. (See, **Exhibit H**, p. 3-5 (coordination of communication with candidate permitted for member communications)¹⁰)

B. Does the evidence establish that the Republican Party mailer was sent out in coordination with the Lien Campaign or at the behest of the Lien Campaign?

No.

There is insufficient evidence of facts consistent with the definition of a coordinated expenditure under FPPC Regulation Sections 18225.7 and 18550.1. There is no evidence of communication between the Republican Party and the Lien Campaign regarding their respective mailers, their content, or their timing. The principals of each deny that such communications took place. The sole evidence to suggest that the mailers were undertaken in concert or in a

¹⁰ The Republican Party reported the cost of the mailer as required by the statute and Regulations.

coordinated fashion is the timing - one mailer following the other by a few days. Such coincidence, in the absence of other evidence, is insufficient to establish coordination.

Sections 18225.7(b)(3)(A) and 18550.1(b)(3) provides that an expenditure funding a communication is presumed not to be independent of the candidate when:

The person making the expenditure retains the services of a person who provides the candidate with professional services related to campaign or fundraising strategy for that same election.

We find that other evidence rebuts this presumption or that it is not applicable. It is true that the Lien Campaign and the Republican Party both used Joe Giardiello of TCB Consulting for opposition research on Chu. There is, however, no evidence that either the Lien Campaign or the Republican Party was aware of the other's engagement of Giardiello or that the common decision to employ his services arose from a coordinated plan. Likewise, there is no evidence that information provided by Giardiello to one party was shared with the other. In the absence of such or similar corroborating facts, the lack of any knowledge of Giardiello's services being provided to the other rebuts the presumption of coordination.¹¹

Sections 18225.7(b)(3)(B) and 18550.1(b)(4) set forth a similar presumption of coordinated activity based on the fact that:

The communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

In this instance, the Republican Party mailer repeats an allegation, also included in the Lien Campaign mailer that "Kansen Chu's businesses have been levied with 10 tax liens in 10 years." [emphasis omitted] In the Lien Campaign mailer, the text states: "Kansen Chu and/or his business had 10 liens over 10 years." This mailer also goes on to detail some of the putative liens and includes a graphic related to one of the putative liens.

The evidence shows that the Republican Party intended a mailer focused on tax issues and the clear theme of the mailer is taxes (both statements on the front of the mailer concern taxes). The mailer has five sections spread over two pages: 1- Lien pledge regarding taxes; 2 - Chu's record on tax issues (which includes the statement that is common to the Lien mailer); 3 - Lien's vision statement; 4 - endorsement from Mayor Reed; 5 - endorsement from police officers. The Lien Campaign mailer is focused on "trust" and cites the tax liens and apparent prior health code violations by his business as indicia of Chu's lack of trustworthiness. The four pages of the mailer devote one entire page to the lax lien issue and three pages to the health violation issues.

¹¹ The Complaint suspects coordination by virtue of the fact that each of the mailers contained "the same factual mistake" regarding the tax liens. Giardiello provided the same information to both the Party and Campaign regarding the liens, so the evidence fails to establish that the Campaign shared the information with the Party.

Although “substantial part” is not precisely defined under the applicable statutes and regulations, the foregoing facts fail to establish that the Republican Party mailer “replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the [Lien Campaign].” Accordingly, we do not find that the presumption under (b)(4) applies. Moreover, the minimal commonality between the content of the two mailers is inconsistent with an inference of prior discussions between the two parties and consistent with the conclusion that each acted independently.

Consequently, we do not find the Republican Party’s mailer to be a contribution to the Lien Campaign.

C. Does the evidence establish that the COMPAC mailer was sent out in coordination with the Lien Campaign or at the behest of the Lien Campaign?

No.

Similar to the discussion above, evidence fails to persuade that the definition of a coordinated expenditure under FPPC Regulation Sections 18225.7 and 18550.1 has been met. As noted above, the fact that the mailers occurred about the same time is not enough by itself to establish coordination. Along the same lines, the allegation in the Complaint that “the Hon Lien Campaign or one of her agents shared this incorrect information with the Chamber of Commerce” is no more than speculation based on the timing of the mailers and the common statement regarding tax liens. However, as Berg acknowledges, he reviewed the Lien Campaign mailers before producing the COMPAC mailer. There is no evidence of communication between him or anyone else from COMPAC and the Lien Campaign regarding their respective mailers and/or their content or their timing.

Nothing in the Municipal Code, the PRA and/or its implementing Regulations generally prohibit an independent committee from using information from a candidate’s campaign as part of an independent communication. On the one hand, the Regulations specifically permit a campaign to provide photographs, position papers and similar items to an independent committee for an independent expenditure (provided there is no discussion of the content, timing and related details of the independent communication). (*See*, Section 18225.7(d)(2) and 18550.1(c)(2)) At the same time, the Regulations permit replication and republishing of a candidate’s communication - provided the independent expenditure does not do so in whole or in substantial part. (*See*, Section 18225.7(c)(3)(B) and 18550.1(b)(4)) Although the COMPAC mailer contains more information concerning the tax liens than the Republican Party mailer, we still do not find that it repeats the Lien Campaign mailer “in substantial part.”

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VIII. RECOMMENDATIONS

We recommend that the Elections Commission dismiss the Complaint and close the file in this matter without further action.

Respectfully submitted,

Mike Moya, TM

Joan L. Cassman
M. D. Moya
Steven Miller

ATTACHMENTS TO REPORT OF INVESTIGATION

- **Exhibit A** - Citizen Complaint, dated May 16, 2007, including attachments.

- **Exhibit B** -
 - (1) Electronic mail message from Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP, to G. Camarillo, dated, May 23, 2007, re: Notification to Respondent.
 - (2) Letter from Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP, to Hon Lien, dated, May 24, 2007, re: Notification to Respondent.
 - (3) Letter from Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP, to C. Morrison, dated, May 24, 2007, re: Notification to Respondent.

- **Exhibit C** - Memorandum from J. Giardiello to V. Aljouny, dated March 8, 2007, re: Chu/Lien Research Project

- **Exhibit D** -
 - (1) Invoice from Autumn Press, dated May 1, 2007, re: Kansen Chu
 - (2) Invoice from Advertisers Mailing Services, dated May 1, 2007, re: Kansen Chu Brochure

- **Exhibit E** - Memorandum from TCB Consulting, dated April 7, 2007, re: Executive Summary, Kansen Chu

- **Exhibit F** - Invoice from First Class Mailing, LLC, dated May 3, 2007, re: Hon Lien mailers

- **Exhibit G** - Invoice from D. Huenergardt, dated May 8, 2007, re: Mailer Kansen

- **Exhibit H** - Excerpts from Campaign Disclosure Manual 2: Information for Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates