FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR: 358
DATE *SUA SPONTE* FILED: 12/1/97
DATE OF NOTIFICATION: 12/4/97
DATE ACTIVATED: 2/12/98

STAFF MEMBER: Jose M. Rodriguez

COMPLAINANT: *Sua Sponte*
Department of Justice Referral

RESPONDENTS: Future Tech International, Inc.
Mark Jimenez, Chief Executive Officer and Chairman of the Board
Juan M. Ortiz, Chief Financial Officer
Louis Leonardo, President
Leonard Keller, Secretary and Director
Gregorio P. Narvasa, Treasurer
MarkVision Computers, Inc.
MarkVision Holdings, Inc.
Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A.
Marvin Rosen
High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo
Charles "Bud" Stack
Howard Glicken
Twenty-Six (26) Named Future Tech Employees

RELEVANT STATUTES: 2 U.S.C. § 431(11)
2 U.S.C. § 437g
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(3)
2 U.S.C. § 441b
2 U.S.C. § 441e
2 U.S.C. § 441f
11 C.F.R. § 110.4(a)(3)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: Department of Justice

I. GENERATION OF MATTER

On December 1, 1997, counsel for Mark Jimenez, Chief Executive Officer of Future Tech International, Inc. ("Future Tech"), filed a *sua sponte* submission with the Federal Election Commission ("Commission") disclosing that the corporation, at the instruction of Mr. Jimenez, reimbursed various employees via company bonuses for contributions to federal candidate committees totaling approximately $40,000 made between February 1994 and September 1996. The submission also asked for pre-probable cause conciliation. This submission further disclosed that Future Tech and Mr. Jimenez made numerous contributions to the Democratic National Committee's ("DNC's") non-federal account, but concluded that such contributions were not in violation of the Act.

In response, this Office sought further information from counsel regarding Future Tech's and Mr. Jimenez's non-federal contributions. On March 23, 1998, counsel filed a supplement to the *sua sponte* disclosing that Future Tech and Mr. Jimenez made approximately $110,000 in contributions to the DNC's non-federal account between May 1993 and March 1994, at a time when Mr. Jimenez was a foreign national. This supplemental submission also disclosed that Mr. Jimenez further reimbursed employees for approximately $21,500 in contributions to local Dade County candidates in South Florida.

Subsequent to the *sua sponte* submission, in approximately August of last year, the Department of Justice ("DOJ") informed the Office of the General Counsel that they were conducting plea negotiations with Mr. Jimenez and Future Tech concerning criminal violations arising from essentially the same activity as that at issue in this matter.

and on September 30, 1998 DOJ

indicted Mr. Jimenez on seventeen counts of, *inter alia*, conspiring to make contributions in the name of another, conspiring to make prohibited corporate contributions, causing false statements to be filed with the Commission and exceeding the individual contribution limits. *See* Jimenez Indictment, filed Sept. 30, 1998 (D.D.C. 1998) (No.98-0343). As a consequence of the indictment, Mr. Jimenez fled the country to avoid prosecution. *See* William March and Jacqueline Soteropoulos, *Indicted Donor May Be Fugitive*, Tampa Tribune, Nov. 25, 1998, Final Edition, Florida/Metro at 1.

These changed circumstances prompted renewed plea negotiations with Future Tech, resulting in separate plea agreements with the corporation and its Chief Financial Officer (CFO), Juan M. Ortiz, dated December 17, 1998. In its plea agreement, Future Tech pleads guilty to two counts of evading corporate income taxes for the years 1994 and 1995, by reporting false salaries, wages and deductions associated with the contributions at issue in this matter. *See* Attachment 1, at 1 (¶ I.A). In his separate plea agreement, Mr. Ortiz pleads guilty to one count of knowingly and willfully allowing his name to be used to make a $1,000 corporate contribution to the Clinton/Gore campaign in 1996. *See* Attachment 2, at 1 (¶ I.A).[1] The plea agreements impose maximum fines of approximately $1M and $25,000 dollars, respectively. *See* Attachment 1, at 5 (¶ I.G); Attachment 2, at 4 (¶ I.F). Pursuant to the plea agreements, Respondents produced Factual Resumes detailing the transactions at issue. *See* Attachments 3 and 4.

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[1] Neither plea agreement addresses the Act's foreign national prohibition.

Because the plea agreements and civil settlement submissions supplant the original *sua sponte* submission in this matter, this report does not focus on the initial representations made, and arguments raised, by Respondents (many of which have been effectively corrected or

withdrawn). However, to the extent that information in the *sua sponte* helps to clarify the transactions at issue, this report will refer to that original submission.

As is next discussed, the Factual Resumes executed by Future Tech and Mr. Ortiz as part of the plea agreements provide a credible record of the FECA violations by the corporation and its officers, much of which is consistent with information in this Office's possession. Based on this information, this report makes reason to believe recommendations with regard to not only Future Tech and Mr. Jimenez, but also with regard to Messrs. Ortiz, Leonardo, Keller and Narvasa, and with regard to two related corporations used by Mr. Jimenez to make a portion of the contributions at issue – MarkVision Holdings, Inc. and MarkVision Computers, Inc.[3] This report also makes reason to believe recommendations against the apparent solicitors of the contributions at issue and against the various Future Tech employees who allowed their names to be used to make the contributions at issue; however, this report also recommends that the Commission take no further action concerning these Future Tech employees. Last, in light of Future Tech's proposed settlement, this report also recommends that the Commission enter into pre-probable cause conciliation with Future Tech, the four named officers and the two related corporations, and provides a proposed conciliation agreement for the Commission's approval. However, because Mr. Jimenez as a fugitive from justice is outside the reach of the Commission and Respondents' settlement proposal does not speak for this one Respondent, the proposed conciliation agreement does not address his involvement in the violations.

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[3] There exists a third separately incorporated entity associated with the MarkVision trade name -- MarkVision, Inc. This entity lists Future Tech as its principal and shares the same corporate address as Future Tech. *See* Dun & Bradstreet Database. However, because the indictment does not charge MarkVision, Inc. in the conduit scheme, and because the factual resumes accompanying the plea agreements do not implicate this separate entity in the violative activity, this Office does not make any recommendations concerning MarkVision, Inc.

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), sets forth limitations and prohibitions on the type of funds which may be used in elections. Section 441a(a)(1)(A) limits the amount an individual may contribute to a federal candidate committee to $1,000 per election. Additionally, Section 441a(a)(3) limits an individual's aggregate yearly federal contributions to a maximum of $25,000. For purposes of this provision, contributions made to a candidate committee in years other than when the election is held with respect to that candidate count towards the aggregate total for the year when such election is in fact held. *See* 2 U.S.C. § 441a(a)(3) and 11 C.F.R. § 110.5(c)(2).

The Act also prohibits certain contributions. Section 441b(a) states that it shall be unlawful for a corporation to make a contribution or expenditure in connection with any election to any federal political office, and for any officer or director of any corporation to consent to any contribution or expenditure by the corporation. This provision also makes it unlawful for any candidate, political committee, or other person knowingly to accept or receive a contribution prohibited by section 441b(a). For purposes of section 441b(a) a contribution includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services, or anything of value made to any candidate for federal office. *See* 2 U.S.C. § 441b(b)(2).

Section 441e states that it shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value in connection with an election to any political office; or for any person -- including any political committee -- to solicit, accept, or receive any such contribution from a foreign national. 2 U.S.C. § 441e(a); 11 C.F.R.

§ 110.4(a). The Commission has consistently applied this prohibition to both federal and non-federal elections. *See* MURs 2892, 3460, 4398 and 4638.[4]

The term "foreign national" is defined at 2 U.S.C. § 441e(b)(1) as, *inter alia*, a "foreign principal" as that term is defined at 22 U.S.C. § 611(b). Under Section 611(b), a "foreign principal" includes a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States. The Act further provides that resident aliens are excluded from the definition of "foreign national." *See* 2 U.S.C. § 441e(b)(2). The prohibition is further detailed in the Commission's Regulations at 11 C.F.R. § 110.4(a)(3). This provision states that a foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, including a corporation, with regard to that person's federal or non-federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, state, or federal office or decisions concerning the administration of a political committee.

In addressing the issue of whether a domestic subsidiary of a foreign national parent may make contributions in connection with local, State or Federal campaigns for political office, the Commission has looked to two factors: the source of the funds used to make the contributions

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[4] One district court recently held the foreign national prohibition at Section 441e applicable only to "contributions" for federal elections. *See* U.S. v. Trie, Crim. No. 98-0029-1 (PLF) (D.D.C. Oct.9, 1998). However, this lower court opinion failed to consider either the legislative history establishing the provision's broad scope or the Commission's consistent application of the prohibition to non-federal elections. By proposing settlement concerning Future Tech's contributions to the DNC in 1993 and 1994, Respondents implicitly acquiesce in the Commission's broad interpretation of the provision. *See* Attachment 5.

and the nationality status of the decision makers. Regarding the source of funds, the Commission has not permitted such contributions by a domestic corporation where the source of funds is a foreign national, reasoning that this essentially permits the foreign national to make contributions indirectly when it could not do so directly. *See, e.g.*, A.O.s 1989-20, 2 Fed. Election Camp. Guide (CCH) ¶ 5970 (Oct. 27, 1989); 1985-3, 2 Fed. Election Camp. Guide (CCH) ¶ 5809 (March 4, 1989); and 1981-36, 2 Fed. Election Camp. Guide (CCH) ¶ 5632 (Dec. 9, 1981). *See also*, A.O. 1992-16, 2 Fed. Election Camp. Guide (CCH) ¶ 6059 (June 26, 1992).

Even if the funds in question are from a domestic corporation, the Commission also looks at the nationality status of the decision makers. *See* A.O.s 1985-3 and 1982-10, 2 Fed. Election Camp. Guide (CCH) ¶ 5651 (March 29, 1982). The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person who is a foreign national, participate in any way in the decision-making process regarding the contributions. This prohibition has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

Accordingly, it is clear that the Act prohibits contributions from foreign nationals, as well as contributions from domestic corporations where either the funds originate from a foreign national source or a foreign national is involved in the decision concerning the making of the contribution.

The Act further prohibits any person from making a contribution in the name of another person, knowingly permitting their name to be used to effect such a contribution, or knowingly accepting a contribution made by one person in the name of another person. 2 U.S.C. § 441f. The Act defines person to include a corporation. 2 U.S.C. § 431(11).

Finally, the Act addresses knowing and willful violations. 2 U.S.C. §§ 437g(a)(5)(C), (6)(C), and 437g(d). "Knowing and willful" actions are those that were "taken with full knowledge of all the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). The knowing and willful standard requires knowledge that one is violating the law. FEC v. John A. Dramesi for Congress., 640 F.Supp. 985 (D.N.J. 1986). A knowing and willful violation may be established by "proof that the defendant acted deliberately and with knowledge that the representation was false." U.S. v. Hopkins, 916 F.2d 207, 214-15 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and their "deliberate convey[ance of] information they knew to be false to the Federal Election Commission." *Id.*

B. Background

Future Tech is a Florida corporation founded by Mr. Leonard Keller on approximately August 17, 1988. *See* Dun & Bradstreet Database. According to the *sua sponte*, in 1989 Mr. Jimenez, at the time a national of the Republic of the Philippines, purchased a controlling 80% interest in the then bankrupt Future Tech for approximately $30,000, eventually becoming Chairman of the Board and Chief Executive Officer of the corporation. *See Sua Sponte* at 1; Dun & Bradstreet Database. Future Tech's principal business is the wholesale exportation of computer hardware, including products manufactured by related corporations under the trade name MarkVision, to Central American, South American and Caribbean markets. The two related MarkVision corporations at issue in this matter are MarkVision Computers, Inc. and MarkVision Holdings, Inc. During the period at issue, Mr. Jimenez exercised direct control over these MarkVision entities. *See* Attachment 3, at 2-3 (¶ I.9-10). Under Mr. Jimenez's control, Future Tech has grown to approximately $251,261,000 in annual sales. *See* Dun and Bradstreet

Database. Counsel notes that in approximately July 1994, Mr. Jimenez obtained permanent resident alien status.[5] *See Sua Sponte* Supplement at 3.

C. Corporate and Foreign National Contributions

1. Contributions At Issue

a -- DNC contributions

During the 1994 and 1996 election cycles, Future Tech, at Mr. Jimenez's direction, made a total of $385,500 in contributions to the DNC's non-federal account. Mr. Jimenez made an additional $50,000 contribution to the party's non-federal account in his own name. While all these contributions appear to have been made under Mr. Jimenez's direction, only a portion were made prior to July 1994, when Mr. Jimenez obtained permanent resident alien status in the United States. Accordingly, consistent with the *sua sponte* submissions and Respondents' civil settlement proposal, as the following chart demonstrates only the $110,000 contributed prior to July 1994 is in apparent violation of 2 U.S.C. § 441e.[6]

[5] Although this Office has not independently confirmed Mr. Jimenez's immigration history, Future Tech's plea agreement suggests that counsel's representation on this issue is accurate.

[6] Because Future Tech's 1993 DNC contributions are not at issue in the criminal matter, the corporation's plea agreement addresses only the combined $100,000 DNC contributions made in 1994, and not the combined $10,000 DNC contributions made in 1993. *See* Attachment 1, at 21-22 (Count One)

Contributor	Date	Amount	
Future Tech Inc.	May 10, 1993	$ 5,000	
Future Tech Inc.	May 10, 1993	5,000	
Future Tech Internat'l Inc.	March 24, 1994	50,000	
Future Tech Internat'l Inc.	March 24, 1994	50,000	Total $110,000
Future Tech Internat'l Inc.	February 15, 1995	100,000	
Mark Jimenez	February 15, 1996	50,000	
Future Tech Internat'l Inc.	March 27, 1996	500	
Future Tech Internat'l Inc.	April 22, 1996	100,000	
Future Tech Internat'l Inc.	September 30, 1996	75,000	
	Total	$435,500	

Foreign nationals are prohibited from making political contributions to both the federal and non-federal accounts of party committees. *See* 2 U.S.C. § 441e, MURs 2892, 3460, 4398 and 4638. Even where the contribution funds originate from a domestic source, a contribution is deemed a foreign national contribution if a foreign national directed the making of the contribution. *See* 11 C.F.R. § 110.4(a)(3). As noted, the above contributions were made with Future Tech funds at Mr. Jimenez's direction while he was still a foreign national. Accordingly, this Office recommends that the Commission find reason to believe both Future Tech and Mr. Jimenez violated 2 U.S.C. § 441e by making foreign national contributions.

b -- reimbursed federal candidate contributions[8]

According to the Factual Resumes accompanying the plea agreements and Respondents' proposed settlement, Future Tech, again at Mr. Jimenez's direction, also reimbursed various

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[8] As discussed in the *sua sponte* and the plea agreement documents, in 1996 Respondents also made a total of $20,500 in conduit contributions, and $24,000 in in-kind contributions, to the campaigns of two Dade County Mayoral candidates. *See* Attachment 3, at 15-18 (¶ II.57-69). These transactions concerning local candidates do not raise any FECA implications.

employees of Future Tech, MarkVision Holdings, Inc. and MarkVision Computers, Inc. from 1993 through 1996 for approximately $39,500 in federal contributions as follows:

Year	Amount	Recipient
1994	6,000	Ted Kennedy for Senate
1995	23,000	Clinton/Gore 96 Primary Committee[9]
1996	2,000	Anne Henry for Congress (Arkansas)
1996	4,000	Roger H. Bedford for U.S. Senate (Alabama)
1996	2,000	Friends of Tom Strickland (Colorado)
1996	2,500	Torricelli for U.S. Senate
Total	$39,500[10]	

The Factual Resumes explain the various methods used in reimbursing these employee contributions. According to Future Tech's Factual Resume, Mr. Jimenez would identify candidates for Future Tech's support and subsequently solicit, either directly or indirectly, employees of Future Tech and the related MarkVision corporations, MarkVision Holdings, Inc. and MarkVision Computers, Inc., for political contributions with the clear understanding that the contributions would be reimbursed. *See* Attachment 3, at 7 (¶ II.26). During the years 1994 through 1995, on Mr. Jimenez's explicit instructions, the employee contributions were reimbursed via payments from the payroll accounts of Future Tech and MarkVision Computers, Inc. *See* Attachment 3, at 7-8 (¶ II.26-27). However, beginning in approximately May 1996,

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[9] The Public Finance Section of the Office of the General Counsel is presently addressing the re-payment ramifications of these conduit contributions. *See* LRA 529.

[10] The aggregate amount for all of these conduit contributions included in the plea agreements has been slightly reduced by $500 from the amount disclosed in the original *sua sponte*. Specifically, concerning the Kennedy committee contributions, the original *sua sponte* submission disclosed a total $11,000 in potentially reimbursed conduit contributions to this committee. However, Future Tech's plea agreement addresses only $6,000 in reimbursed contributions to this committee, suggesting that either the original *sua sponte* submission overstated the actual amount at issue or that insufficient evidence exists concerning the additional $5,000 in employee contributions. Conversely, the total contributions to the Clinton/Gore 96 committee and Strickland committee includes an additional $1,000 contribution to each by a Future Tech employee not disclosed in the *sua sponte*. Further, the total $2,500 in conduit contributions to the Torricelli committee were not disclosed in Respondents' original submission.

following press scrutiny of the employee contributions to the Clinton/Gore campaign, Mr. Jimenez installed a cash reimbursements method. *See id.* at 8 (¶ II.28). Under this method, Future Tech's treasurer, who maintained control of Mr. Jimenez's personal checking account, exchanged checks from Mr. Jimenez's personal account for cash that was available at Future Tech. *See id.* The cash was then distributed by the treasurer to the conduit employees for the full amount of their contributions. *See id.* at 15 (¶ II.56); *see also*, Attachment 4, at 10 (¶ II.33).

In addition to Mr. Jimenez's orchestration of the conduit scheme, Respondents' Factual Resumes also disclose the involvement of four other Future Tech officers in the reimbursement activity – Messrs. Ortiz, Leonardo, Keller and Narvasa. Future Tech's Factual Resume discloses that the conduit contributions where conducted with the knowledge and consent of these individuals. *See* Attachment 3, at 6-7 (¶ II.25). All four officers were either directly involved in, or had knowledge of, the solicitation and reimbursement of the conduit contributions, and in the disguising of the reimbursements in the corporate records. *See id.* (¶ II.26-27). As noted, prior to establishing the cash method described above, these individuals hid the reimbursements to employees of Future Tech and the two related MarkVision corporations as bonuses, payments or other payroll deductions from the payroll accounts of both Future Tech and MarkVision Computers, Inc. *See id.* (¶ II.26).

Additionally, Mr. Narvasa, as Future Tech's treasurer, controlled Mr. Jimenez's personal checking account and was the individual responsible for conducting the cash refunds to the employee conduits which occurred after May 1996. *See id.* at 2 (¶I.5) and 8 (II.28), *see also* Attachment 4, at 2 (¶ I.4) and 10 (¶ II.33). Further, Messrs. Ortiz, Leonardo and Narvasa also received reimbursements for federal candidate contributions made in their names.

Mr. Jimenez and all four named officers acted with the knowledge that they were violating the Act. *See* Attachment 3, at 8 (¶ II.28), 11 (¶ II.39) and 13-14 (¶ II.52), *see also*, Attachment 4, at 5 (¶ II.20) and 6 (¶ II.22).

The Act prohibits a corporation from making contributions in connection with a federal election, and prohibits any officer or director from consenting to any such contribution. 2 U.S.C. §411b(a). The Act further prohibits any person, including a corporation, from making a contribution in the name of another person. 2 U.S.C. §§ 441f, 431(11). Knowing and willful actions are taken with full knowledge of all the facts and with a recognition that the action is prohibited by law. 122 Cong. Rec. H3778 (daily ed. May 3, 1976). Accordingly, this Office recommends that the Commission find reason to believe Future Tech knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by disguising its contributions to federal campaign committees through the straw transactions involving its employees and certain employees of the related MarkVision corporations. Similarly, this Office recommends that the Commission find reason to believe that MarkVision Holdings, Inc. and MarkVision Computers, Inc. knowingly and willfully violated 2 U.S.C. § 441f by allowing the use of their employees for the conduit contributions, and that MarkVision Computers, Inc. additionally knowingly and willfully violated 2 U.S.C. § 441b(a) by being the source of a portion of the reimbursement funds. Further, this Office recommends that the Commission find reason to believe that Messrs. Jimenez, Ortiz, Leonardo, Keller and Narvasa each knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f by their participation in the reimbursement scheme, and that Messrs. Ortiz, Leonardo and Narvasa also knowingly and willfully violated 2 U.S.C. § 441f by allowing their names to be used by Mr. Jimenez and Future Tech to make contributions.

Concerning an individual's contributions, the Act prohibits contributions in excess of $1,000 to any candidate committee per election, as well as aggregate yearly contributions in excess of $25,000. 2 U.S.C. § 441a(a)(1)(A), (a)(3), *see also*, 11 C.F.R. § 110.5(c)(2). Mr. Jimenez appears to have reimbursed the federal contributions at issue made after May 1996 with personal funds totaling $10,500. When aggregated with his direct contributions, Mr. Jimenez appears to have exceeded the $1,000 candidate limit in 1996 with regard to Friends of Tom Strickland, Roger Bedford for U.S. Senate, Anne Henry for Congress, and Torricelli for U.S. Senate.

Accordingly, this Office recommends that the Commission find reason to believe Mr. Jimenez as an individual knowingly and willfully violated 2 U.S.C. § 441a(a)(1)(A). Moreover, when these contributions reimbursed by Mr. Jimenez with his personal funds are added to his direct contributions in 1996, it appears that Mr. Jimenez exceeded the annual twenty-five thousand dollar limit by $500.[11] Therefore, this Office further recommends that the Commission find reason to believe Mark Jimenez knowingly and willfully violated 2 U.S.C. § 441a(a)(3) for 1996.

D. Employee Conduits

Individuals are prohibited from knowingly permitting their names to be used to effect contributions by another person or entity. 2 U.S.C. § 441f. Various Future Tech employees – specifically, Lidia Azambuja, Ernesto Bonfante, Marcelino Brotonel, Edgar Crespo, Marcel Crespo, Reynaldo Crespo, Ricardo Crespo, Jacob Del Valle, Raymund dos Remedios, Rene dos Remedios, Richard Esparragoza, Jorge O. Fenton, David Fried, Manuel Garcia, William

[11] In 1996, Mr. Jimenez made a total $15,000 in federal contributions in his own name. When aggregated to the $10,500 in conduit contributions reimbursed with personal funds, Respondent's 1996 contributions total $25,500.

Gearhart, Luz Gonzales, Daria Haycox, Marcia Juan; Michael Marchese, Robert Nowell, Maria C. Ortiz, Ruth Ramirez, Juan Ruiz, Rolan Sacramento, Enrique Sanchez, and Jennifer C. Seijas – made contributions to federal campaign committees with the knowledge that their contributions would be reimbursed by Respondents, and they subsequently received reimbursements for their respective contributions. Accordingly, this Office recommends that the Commission find that there is reason to believe these individuals violated 2 U.S.C. § 441f. However, because there is no evidence of any additional complicity by these individuals in the violations at issue, this Office recommends to the Commission that it take no further action as to them and send the appropriate admonishment letter.

E. Solicitation

The foreign national prohibition at Section 441e explicitly prohibits any person from soliciting contributions from a foreign national source. 2 U.S.C. § 441e. The criminal plea agreement documents make no mention of the solicitors for the contributions at issue; however, the *sua sponte* in this matter does note that the political contributions at issue were solicited by a law firm. Although counsel does not disclose the law firm's identity in connection with the political contributions, and although Future Tech appears to have retained more than one law firm during the period at issue, there is an initial indication that Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A. ("Greenberg & Traurig") may have been involved in the solicitation of at least a portion of Future Tech's contributions.

Future Tech was a strong presence at the 1994 and 1995 Summit of the Americas, contributing $100,000 and providing computer equipment valued at $144,608 to the 1994 Summit and contributing an additional $50,000 and $49,371 in in-kind computer equipment to the 1995 Summit. *See Sua Sponte* at 14. In discussing Future Tech's activities in connection

with the 1994 Summit for the Americas, civil counsel identifies Greenberg & Traurig as the solicitor of Future Tech's contributions to the event. *See id.*. The *sua sponte* further explains that, following the 1994 Summit, Future Tech began making political contributions and that Future Tech's "corporate sponsorship of the Summit established the pattern for other politically-oriented contributions to come -- that of large donations paid by [Future Tech]." *Sua Sponte* at 16. In discussing the reimbursed federal candidate contributions, counsel similarly notes that "no one, especially not the attorneys who introduced the company to politics, explained that corporate reimbursement of 'hard money' contributions was not appropriate. Indeed, at the same time that employees were being asked for contributions, the company was being solicited by the same people for 'soft money' donations." *Sua Sponte* at 23 (emphasis added). In arguing mitigation, counsel further notes that Respondents believed their activity was proper because it was "initiated by their attorneys"; Future Tech was introduced to politics by "its own attorneys." *Id.* at 24.[12]

Although Greenberg & Traurig is not identified as the solicitor of the political contributions here at issue, the firm's identification as the solicitor for the 1994 Summit, together with counsel's statements that Future Tech's political contributions followed the pattern established with the Summit solicitation, and the statement that Respondents were also solicited for the political contributions by attorneys retained by the corporation, points to Greenberg & Traurig's involvement in the solicitation of these particular contributions. This initial conclusion is supported by both the law firm's known past solicitation practice and DNC contributor information within the Commission's possession.

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[12] As noted in the introduction to this report, Respondents have abandoned the various defenses and mitigation arguments raised in the original *sua sponte*.

As the Commission is aware, Greenberg & Traurig was a respondent in MUR 4638. In that matter, the law firm admitted in a conciliation agreement to having solicited $91,000 in contributions from a foreign national -- Mr. Thomas Kramer. Like Mr. Jimenez, Mr. Kramer was a wealthy businessman operating out of South Florida who made not only direct contributions in his own name, but also numerous contributions through his corporations and in two instances in the name of an employee. Additionally, internal DNC contribution documents obtained during the investigations in MUR 4638 and MUR 4530 identified Mr. Marvin Rosen, a named partner of Greenberg & Traurig, as the solicitor of Future Tech's two $50,000 contributions to the DNC in 1994.

These same documents also identified a separate solicitor for one of Future Tech's $5,000 DNC contributions in 1993. These internal documents cited Charles "Bud" Stack as the solicitor of a May 10, 1993 Future Tech non-federal DNC contribution. These same documents also identified Mr. Stack as a DNC Trustee in 1993 and as a named partner in the Florida law firm of High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo ("High & Stack").

Last, the MUR 4530 documents identified Howard Glicken as the solicitor of Mr. Jimenez's $1,000 contribution to the Clinton/Gore re-election campaign, suggesting that Mr. Glicken was involved in the Future Tech contributions to this campaign made in the names of various company employees. These indirect contributions totaled $23,000, and all but one were made on the same day as Mr. Jimenez's direct contribution. As the Commission is aware, the investigation in MUR 4638 revealed information implicating Mr. Glicken in the solicitation of approximately $88,000 in contributions from Mr. Kramer, including a $20,000 contribution to the Democratic Senatorial Campaign Committee made in the name of Mr. Kramer's secretary. Although the solicitation of the Future Tech contributions made in the names of the various

employees would not be in itself a violation of the Act, Mr. Glicken's apparent involvement in obtaining these contributions does carry potential liability.[13] If he solicited the employee contributions, Mr. Glicken was holding himself out as an agent of the Clinton/Gore re-election campaign. Sections 441b and 441f respectively prohibit the acceptance of corporate contributions and the acceptance of contributions in the name of another. To the extent Mr. Glicken was involved in the acceptance and receipt of the contributions, Mr. Glicken would have violated 2 U.S.C. §§ 441b and 441f by accepting and receiving these contributions on behalf of the committee.

As previously noted, the five year statute of limitations has already expired concerning Mr. Stack's apparent involvement in the solicitation of a portion of Future Tech's DNC contributions, barring the Commission from seeking a civil penalty in connection with this transaction. Similarly, the statute of limitations concerning Mr. Rosen's apparent involvement will expire on March 24, 1999, seemingly leaving insufficient time to seek a civil penalty in connection with this activity. Despite these time constraints, in order to allow these identified solicitors an opportunity to respond and clarify the record concerning their apparent involvement, this Office recommends findings of reason to believe concerning not only Mr. Glicken, but all three known solicitors and the two law firms cited above. Consistent with Respondents' plea agreement terms requiring their full cooperation with the Commission, this Office intends to informally seek from Future Tech and its officers further information concerning the involvement of the above individuals and entities in the solicitation of the contributions at issue,

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[13] Unlike Section 441e which explicitly prohibits the solicitation of a foreign national, neither Section 441b or 441f contain a similar solicitation prohibition.

and will make recommendations concerning the disposition of these respondents based on all additional information gathered. *See* Attachment 1, at 7 (¶ J.) and Attachment 2, at 4 (¶I.I).

Thus, this Office recommends that the Commission find reason to believe Marvin Rosen, Greenberg & Traurig, Charles "Bud" Stack, and High & Stack, violated 2 U.S.C. § 441e by soliciting the foreign national contributions discussed above. This Office also recommends that the Commission find reason to believe Howard Glicken violated 2 U.S.C. §§ 441b and 441f as a result of his involvement in the contributions made in the name of the Future Tech employees listed at Section D of this report.

F. Proposed Conciliation

III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that Future Tech International, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Find reason to believe that Future Tech International, Inc. violated 2 U.S.C. § 441e.

4. Find reason to believe that Mark Jimenez, knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b(a), and 441f.

5. Find reason to believe that Mark Jimenez violated 2 U.S.C. § 441e.

6. Find reason to believe that Juan Ortiz, Louis Leonardo, Leonard Keller and Gregorio Narvasa knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

7. Find reason to believe that MarkVision Computers, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

8. Find reason to believe that MarkVision Holdings, Inc. knowingly and willfully violated 2 U.S.C. § 441f.

9. Find reason to believe that Lidia Azambuja, Ernesto Bonfante, Marcelino Brotonel Edgar Crespo, Marcel Crespo, Reynaldo Crespo, Ricardo Crespo, Jacob Del Valle, Raymund dos Remedios, Rene dos Remedios, Richard Esparragoza, Jorge O. Fenton, David Fried, Manuel Garcia, William Gearhart, Luz Gonzales, Daria Haycox, Marcia Juan, Michael Marchese, Robert Nowell, Maria C. Ortiz, Ruth Ramirez, Juan Ruiz, Rolan Sacramento, Enrique Sanchez, and Jennifer C. Seijas violated 2 U.S.C. § 441f, but take no further action concerning these individuals.

10. Find reason to believe Marvin Rosen violated 2 U.S.C. § 441e.

11. Find reason to believe Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A. violated 2 U.S.C. § 441e.

12. Find reason to believe Charles "Bud" Stack violated 2 U.S.C. § 441e.

13. Find reason to believe High, Stack, Lazenby, Pallahach, Goldsmith & Del Amo violated 2 U.S.C. § 441e.

14. Find reason to believe Howard Glicken violated 2 U.S.C. §§ 441b and 441f.

15. Enter into conciliation with Future Tech International, MarkVision Computers, Inc., MarkVision Holdings, Inc., Juan Ortiz, Louis Leonardo, Leonard Keller and Gregorio Narvasa and approve the attached proposed conciliation agreement.

16. Approve the attached Factual and Legal Analyses and appropriate letters.

Lawrence M. Noble
General Counsel

2/12/99
Date

BY: _____
Lois G. Lerner
Associate General Counsel

Attachments

1. Future Tech International Plea Agreement and Information
2. Juan M. Ortiz Plea Agreement and Information
3. Future Tech International Factual Resume
4. Juan M. Ortiz Factual Resume
5. December 30, 1998 communication from Counsel for Future Tech
6. January 25 and February 4, 1999 Referral from the Department of Justice
7. Factual and Legal Analyses (5)
8. Sample Employee Factual and Legal Analysis (1)
9. Proposed Conciliation Agreement (1)