

BEFORE THE FEDERAL ELECTION COMMISSION

2003 JUL 29 A 11: 30

MUR 5020

SENSITIVE

In the Matter of

Donald J. Trump)
Trump Hotel & Casino Resorts, Inc.)
Fred Buro)
Mark Brown)
Lawrence Mullin)

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

Take no further action as to Donald Trump, Trump Hotel and Casino Resorts, Inc., Fred Buro, Mark Brown, or Lawrence Mullin; find reason to believe that Joseph R. Jingoli, Jr violated the Federal Election Campaign Act ("Act") and enter pre-probable cause conciliation.

II. BACKGROUND

MUR 5020 involves allegations that corporate entities facilitated the making of contributions in connection with three events to raise money for the Gormley for Senate Primary Election Fund¹ On October 3, 2001, the Federal Election Commission found reason to believe that (1) Donald Trump violated 2 U.S.C. § 441a(a)(1)(A); (2) Harrah's Entertainment, Inc., and their subsidiaries and officers ("Harrah's") violated 2 U.S.C § 441b(a);² (3) Mirage Casino Resorts, Inc , (now "MGM Mirage") and Steve Wynn, as an officer, violated 2 U.S.C. § 441b(a); and (4) the Gormley for Senate Primary Election Fund and Alan Staller, as treasurer (the "Committee") violated 2 U.S.C §§ 434(b), 441a(f), and 441b

¹ William L Gormley ran unsuccessfully against Representative Bob Franks for the Republican nomination for U S Senate in 2000 Since 1982, Mr Gormley has represented legislative District 2 (Atlantic City) as a New Jersey State Senator

² The RTB finding against Harrah's included findings against two subsidiaries (Marina Associates and Atlantic City Showboat, Inc) and one officer of each subsidiary (Herbert Wolfe and David Jonas)

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1 This report updates the Commission on responses to the reason to believe findings from
2 Mr. Trump and part of the Committee's response as it relates to a new violation Responses to
3 the reason to believe findings from other respondents will be presented in a subsequent report as
4 this Office is currently informally investigating the facts surrounding the other events and
5 respondents. In light of the response from Mr. Trump we believe that no further action should be
6 taken with regard to the Trump fundraiser, and based on information provided by the Committee
7 we believe that conciliation is an appropriate resolution as to one respondent. The basis for each
8 recommendation is discussed below.³

9 **III. FACTS AND ANALYSIS**

10 **A. Donald Trump**

11 On March 27, 2000, Mr. Trump held a fundraiser for the Committee at his New York
12 residence. See GCR #1 (Attachment 2); Attachment 1 at 3 In addition to the contribution
13 limitation of \$1,000 per election, the Act excludes up to \$1,000 spent by an individual for
14 invitations, food, and beverages where such items are voluntarily provided on the individual's
15 residential premises for candidate-related activity. 2 U.S.C. § 431(8)(B)(ii); 441a(a)(1)(A) The
16 basis for the RTB finding against Mr Trump focused on his use of personal funds to finance the
17 event and this Office's then belief that "it would seem unlikely" that Mr. Trump would be able to
18 expend \$2,000 or less on this event (including \$1,000 of which would be an in-kind contribution
19 since Mr. Trump had not previously contributed to the Committee) without violating 2 U.S.C.

³ The case was transferred to a different staff attorney on May 9, 2003 All of the facts recounted in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub L 107-155, 116 Stat 81 (2002) Accordingly, unless specifically noted to the contrary, all citations to the Act are prior to the effective date of BCRA and all citations to the Commission's regulations are to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA

1 § 441a(a)(1)(A) *See also* 11 C.F.R § 100 7(b)(6) As counsel for Mr. Trump states, since the
2 fundraiser was sponsored solely by Mr. Trump, the “only remaining issue of fact is how much
3 Mr. Trump paid for those invitations, food and beverages ” Attachment 1. Counsel argues that
4 the executed affidavit of Norma I. Foerderer, Mr. Trump’s personal executive assistant, resolves
5 this matter as to Mr. Trump

6 In her affidavit, Ms. Foerderer states that she voluntarily assisted Mr. Trump after her
7 normal working hours in organizing the fundraiser. Attachment 1 at 3. Her services included:

- 8 (1) Creating and producing 200 invitations on Mr. Trump’s personal stationery,
9 addressed to individuals on Mr. Trump’s personal mailing list and mailed
10 using Mr. Trump’s personal postage account for approximately \$110;
- 11 (2) Purchasing approximately \$250 in beverages for the reception, which included
12 coca-cola, sparkling water and fruit juices,
- 13 (3) Purchasing approximately \$364 in cheese, crackers, and fruit, which was set
14 out on one table (about the size of a card table) in the foyer of Mr. Trump’s
15 residence, and
- 16 (4) Hiring two bartenders, each of whom worked four hours at \$40 per hour, for a
17 total of \$320.

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19 *Id* at 4. The total cost of these goods and services was \$1,044.⁴ *Id* at 2 Ms. Foerderer also
20 asserts that 10-12 bottles of white wine were served at the event at no additional cost to Mr
21 Trump because he regularly receives bottles of wine as holiday gifts and he served those bottles
22 of wine at the reception. *Id.* Upon further inquiry, counsel informed this Office that no receipts
23 were kept by either Mr. Trump or Ms. Foerderer for the goods purchased. However, counsel
24 stated that the food was paid for with Mr. Trump’s personal monies, not corporate funds *See*
25 Attachment 2. Counsel also provided this Office with a copy of the invitation sent by Mr
26 Trump, adding that Ms. Foerderer was able to prepare her affidavit because she was able to

⁴ The response states that the total cost of these goods and services was \$1,004 However, Ms Foerderer
mistakenly calculated the cost of the two bartenders at \$280, when in fact 2 x 4 x \$40 equals \$320 The difference in
the amount increases the total goods and services purchased to \$1,044

1 “recall this event very vividly because that was and remains the most modest reception ever
2 hosted in the Trump residence.” *Id.* at 1

3 Counsel for Mr. Trump correctly states that 2 U.S.C. § 431(8)(B)(11) provides that the use
4 of real or personal property, or the cost of invitations, food and beverages, voluntarily provided
5 by an individual for candidate-related activities is not a contribution to the extent the cumulative
6 value of such items does not exceed \$1,000 for any single election. Thus, the first \$1,000 of the
7 amount spent by Mr Trump for the event did not constitute a contribution to the Committee *Id*
8 at 2. Counsel adds that “the remaining *de minimus* [\$44 00] was a permissible contribution
9 because ... Mr. Trump made no other contribution to the [Committee],” and therefore Mr. Trump
10 did not violate 2 U.S.C. § 441a(a)(1)(A). *Id*

11 If this Office accepts Ms. Foerderer’s assertions, Mr. Trump spent \$1,044 for stationery,
12 stamps, food, bartenders, and beverages other than wine. Although Ms Foerderer did not
13 calculate the value of the wine into the cost of the event, the fact that Mr. Trump received the
14 wine as a gift does not change the fact that wine is clearly something of value, and that Mr.
15 Trump conferred a benefit on the Committee when he served it at the fundraiser. Thus, the value
16 of the wine consumed counts against the \$2,000 that Mr. Trump could have lawfully spent on the
17 fundraiser. However, counsel states that Mr Trump “did not have the wine appraised” and that
18 neither Ms. Foederer nor Mr. Trump “recall the brand names/years/vintages, etc , of any of the
19 wine.” Attachment 2 at 2.

20 Given that counsel corroborated or confirmed all other information about the Trump
21 fundraiser, that Mr. Trump made no other contribution to the Committee, and that it is unlikely
22 additional information about the wine will be discovered, this Office believes further

1 investigation of the cost of this event would not be productive. As such, we recommend that the
2 Commission exercise its prosecutorial discretion and take no further action as to Mr. Trump.

3 In addition to Mr. Trump, in GCR #1 this Office made no recommendations as to four
4 other respondents (Trump Hotel and Casino, Inc., Fred Buro, Mark Brown, or Lawrence Mullin)
5 who were allegedly involved in the Trump fundraiser. As their involvement in the Trump
6 fundraiser has now been substantially refuted with affidavits submitted in response to the
7 complaint and by Ms. Foerderer, this Office now recommends that the Commission close the file
8 as to respondents Trump Hotel and Casino Resorts, Inc., Mr. Brown, Mr. Mullin and Mr. Buro.

9 **B. Other Respondents**

10 On or about February 9, 2000, Mr. Gormley attended a fundraiser held at *Le Cirque*, a
11 restaurant in the Bellagio Hotel (a subsidiary of MGM Mirage, Inc.), in Las Vegas, Nevada.
12 While this Office is still investigating other details surrounding this fundraiser as to the
13 Committee and MGM Mirage and its executives, part of the Committee's response to the reason
14 to believe findings conceded that the Committee accepted an excessive in-kind contribution from
15 Joseph R. Jingoli, Jr. Attachment 3 at 2, 4.

16 Mr. Jingoli is Chief Executive Officer of Joseph Jingoli and Sons, Inc., a construction
17 company located in New Jersey. On October 28, 1999, Mr. Jingoli contributed the maximum
18 amount under 2 U.S.C. § 441a(a) to the Committee – \$1,000 for use in the primary election and
19 \$1,000 for use in the general election. See Committee's 1999 Year-End Report. Then, on
20 February 8, 2000, Mr. Jingoli, Mr. Gormley, and one other individual flew to Las Vegas to attend
21 the *Le Cirque* fundraiser the following day. According to the Committee, it did not pay for the
22 travel expenses of Mr. Gormley or of the other individuals who attended the event with him.
23 Instead, the Committee states that Mr. Jingoli paid for three airline tickets at a cost of \$4,845

1 (\$1,601 for each plane ticket, plus a flight insurance charge of \$14, for a total of \$1,615 each)
2 Attachment 3 at 4. The Committee provided a copy of a credit card statement in Mr Jingoli's
3 name reflecting the charges for the airfare *Id* at 7 The Committee also admitted that it failed to
4 reimburse Mr. Jingoli for this travel expense *Id* at 4 While Commission regulations provide
5 for a \$1,000 exception for unreimbursed travel expenses incurred by an individual on behalf of a
6 candidate, this would not remedy the entirety of the apparent violation 11 C.F.R. § 100.7(b)(8)
7 Thus, as the Committee admits, Mr Jingoli's payment of the airfare constituted an excessive in-
8 kind contribution

9 This Office recommends that the Commission find reason to believe that Joseph R
10 Jingoli, Jr. violated 2 U.S.C. 441a(a) when he made an excessive in-kind contribution to the
11 Committee

12 **IV. CONCILIATION**

13 This Office recommends that the Commission enter into pre-probable cause conciliation
14 with Mr. Jingoli. Attachment 4

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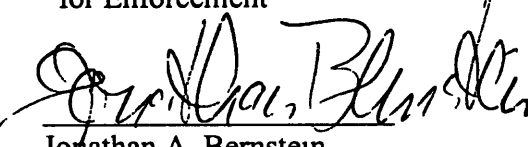
V. RECOMMENDATIONS


1. Take no further action as to Donald Trump, Trump Hotel and Casino Resorts, Inc , Fred Buro, Mark Brown, or Lawrence Mullin.
2. Find reason to believe that Joseph R. Jingo1, Jr. violated 2 U.S.C. § 441a(a).
3. Approve the attached Factual and Legal Analysis.
4. Enter into pre-probable cause conciliation with Joseph R. Jingo1, Jr and approve the attached conciliation agreement
5. Approve the appropriate letters.

Lawrence H Norton
General Counsel

7/18/03
Date

BY 
Lawrence L. Calvert Jr
Deputy Associate General Counsel
for Enforcement


Jonathan A. Bernstein
Assistant General Counsel


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1 Attachments:

- 2 1. Response to RTB finding – Donald Trump (Nov. 16, 2001)
- 3 2. Supplemental Response – Donald Trump (May 20, 2003)
- 4 3. Response to RTB finding – Gormley for Senate Primary Election Fund (Dec. 28, 2001)
- 5 4. Conciliation Agreement – Joseph R. Jingoli, Jr.
- 6 5 Factual and Legal Analysis (Jingoli)

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