

BUSTED! Two Corporations and an Officer Fined \$133,500 for Impermissible Use of Corporate Resources to Assist Senate Campaign

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The Federal Election Commission (FEC) announced on September 11, 2008, that it had reached settlements with CAC-Florida Medical Centers, LLC—formerly known as CarePlus Medical Centers, Inc. (CPMC), CarePlus Health Plans, Inc. (CPHP) and Heriberto Valdes for violating the federal prohibition on making corporate contributions and expenditures on behalf of Alex Penelas's 2004 campaign committee for United States Senate in Florida.

As explained by the FEC in its press release:

The FEC investigation found that Mr. Valdes, Vice President and Chief Operating Officer of CPMC, sent a coercive e-mail to administrators at the company's patient care centers soliciting contributions for the Penelas Committee. Mr. Migual B. Fernandez, President and Chief Executive Officer of CPMC and Chairman and Chief Executive Officer of CPHP, directed his executive assistant to carry out tasks during work hours, using corporate resources to plan a fundraiser for the Penelas Committee. Mr. Fernandez also permitted corporate funds to be spent on the fundraiser.

Federal campaign finance law and the regulations of the FEC prohibit corporations from making contributions or expenditures in connection with the election of any candidate for federal office. This prohibition extends to facilitating the making of contributions to candidates or political committees, including the use of corporate resources or facilities to engage in fundraising on behalf of a federal candidate.

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Examples of such facilitation provided by the FEC press release include:

Ordering or directing subordinates or support staff to plan, organize or carry out a fundraising project as a part of their work responsibilities using corporate resources, unless the corporation receives advance payment for the fair market value of such services, and using coercion to urge any individual to make a contribution or engage in fundraising activities on behalf of a candidate or political committee.

Corporations need to ensure that they have the policies, processes and training in place to prevent the use of corporate resources for federal political activity. Training is especially important given the complexity of FEC regulations that nonetheless provide for some exceptions and safe harbors related to corporate activity.

As a result of the settlements, CAC-Florida Medical Centers, LLC was required to pay a civil penalty of \$66,000, CarePlus Health Plans, Inc. was required to pay a civil penalty of \$62,000 and Mr. Valdes was required to pay a civil penalty of \$5,500.