

Physician, Heal Thyself: FEC Fines Doctors Group Thousands After Stunning Admission

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The Federal Election Commission (FEC or Commission) recently fined a New York-based physicians' group thousands after the partnership admitted reimbursing physicians nearly \$45,000 for federal political contributions. While the Commission also sanctioned two members of the partnership's leadership, the combined penalty amount for all parties involved was lower than normal because of the decision to utilize the FEC's *sua sponte* process to self-report the violations to the Commission.

In March 2018, Crystal Run Healthcare LLP filed a *sua sponte* submission with the FEC explaining that the partnership had reimbursed nearly three dozen federal political contributions to 17 doctors over a seven-year period. Most of the reimbursed contributions were made between June 2012 and September 2016, with many of the contributions coming in connection with a 2015 fundraiser for Rep. Sean Patrick Maloney's (D-NY) congressional campaign.

The federal contributions were made because the partnership had a history of reimbursing doctors' New York State political contributions based on what it thought was a permissible practice under state law. The process in place involved doctors submitting receipts of their contribution to the partnership, which resulted, in turn, in the "grossing up" of each partner's income allocation from the practice. In late 2017, Crystal Run learned that its practices were unlawful after a plaintiff in a lawsuit alleged that the partnership made hundreds of thousands of dollars in unlawful campaign contributions to Governor Andrew Cuomo's campaign. Following that development, the partnership hired a law firm and forensic accounting firm to review its records, and the partnership concluded that it should self-report its

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violations to the FEC.

During its review of the matter, the Commission considered whether the violations at issue were knowing and wilful, which is a higher-order violation that carries more significant civil penalties. The FEC weighed making this finding, in part, because of a disclaimer on the Maloney fundraising invitation – i.e., “[t]he funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution” – and the fact that at least one physician had read similar language on the Maloney website and questioned whether he should have made a reimbursed contribution. Ultimately, however, the Commission’s staff recommended against such a finding because the partnership self-reported the violation, had never attempted to hide the reimbursement payments, cooperated extensively with the Commission in resolving the matter, and implemented “significant remedial and compliance measures” to prevent a recurrence of the problem. The Commission also dismissed the matter against most of the individual partners whose contributions were reimbursed, although it ultimately sanctioned two officials at Crystal run – the CEO and COO – for their involvement in the practice and reimbursed contributions.

At the time of its settlement negotiations with the Commission, approximately \$25,800 in unlawful contributions remained within the statute of limitations for settlement purposes. Ultimately, the Commission reached an agreement with the partnership to settle the matter for \$5,000, and the two partnership officials were fined \$1,500 and \$1,000, respectively. Because the partnership self-reported the violations, these penalties were significantly less than the amounts the Commission would otherwise have sought.

If your organization discovers potential violations of the campaign finance laws, please contact your Wiley attorneys to discuss possible ways to resolve your matter.