



Review of a determination by IPSA to refuse an expense claim

Mr Liam Byrne MP
Member of Parliament for Birmingham Hodge Hill

26 February 2016

Peter Davis
Compliance Officer for IPSA
4th Floor
30 Millbank
London
SW1P 4DU

Introduction

1. In October 2015, Mr Liam Byrne MP submitted a claim to the Independent Parliamentary Standards Authority (IPSA) for costs relating to the postage of leaflets, under the *MPs' Scheme of Business Costs and Expenses* (the Scheme). Following consideration, the claim was rejected by IPSA on the grounds that the mailing in question was political in nature, as opposed to parliamentary.
2. On 21 December 2015, Mr Byrne's office contacted the Compliance Officer for IPSA to request a review of the decision by IPSA to refuse the expense claim.
3. *Section 6A of the Parliamentary Standards Act 2009* (the Act) provides that if:
 - (a) the IPSA determines under section 6(3)¹ that a claim is to be refused or that only part of the amount claimed is to be allowed, and*
 - (b) the member (after asking the IPSA to reconsider the determination and giving it a reasonable opportunity to do so) asks the Compliance Officer to review the determination (or any altered determination resulting from the IPSA's reconsideration)*

The Compliance Officer must -

 - (a) consider whether the determination (or the altered determination) is the determination that should have been made, and*
 - (b) in light of the consideration, decide whether or not to confirm or alter it.*
4. Paragraph 9 of the notes for *Guidance on the Conduct of Reviews by the Compliance Officer for IPSA* states that

The Compliance Officer will, taking into account all information, evidence and representations, decide whether the determination (or the altered determination) is the determination that should have been made under the Scheme and in light of that, whether or not to confirm or alter it.
5. The claim referred to is numbered 462569 and contains three claim lines relating to Office Costs Expenditure (OCE). Two claim lines were approved and paid in full by IPSA, and as such are not considered as part of this review. The claim line in question relates to £1,853.75 worth of postage expenditure for leaflets produced by the MP. The exact details of the claim submitted to IPSA are attached at Annex A.

¹ Section 6(3) of the Act states that on receipt of a claim, the IPSA must – (a) determine whether to allow or refuse the claim, and (b) if it is allowed, determine how much of the amount claimed is to be allowed and pay it accordingly.

6. The Compliance Officer has establish that an internal review of the initial decision to reject the claim has been conducted by IPSA and the original decision upheld.
7. As a result there is no impediment to the Compliance Officer accepting the request for a review.

The Basis for the Review

8. The proxy for Mr Byrne submitted the following information in support of his request for a review.

This claim has been rejected on the grounds that '4 ward leaflets provided all prominently feature local Labour councillors, as well as the MP, and it is important to ensure that public funds are not being used for political campaigning.'

This is not true; all Councillors representing wards within the bounds of the constituency of Birmingham Hodge Hill are represented. There is no reference whatsoever to political parties or the political persuasion of any of the individuals depicted. Further information on the Councillor's representing wards within Birmingham Hodge Hill can be found on Birmingham City Council's website: <http://www.birmingham.gov.uk/wardcllrs>. As you will see all Councillors, regardless of political persuasion, are included.

The leaflets are entirely non-political and represent important, factual information relevant to constituents - surgery times and contact details.

The decision to include local Councillors was taken after a discussion with IPSA over the telephone in May / June where [name redacted], from Liam Byrne's office, was advised that the inclusion of factual information such as a local councillor's contact details and surgery times would be acceptable under the scheme. We do not have an exact date or time of the telephone call. IPSA have advised that it may be a call that took place at 12:26 on the 22nd June 2015, however as it may or not be we are requesting that IPSA review the recordings of all telephone calls between IPSA and the office of Liam Byrne MP during the months of May and June 2015 to identify the exact advice given.

The advice given over the phone was reinforced by an email from [name redacted], Validation Officer, dated 25th June 2015, at 10:41. Subject: RE: Evidence Request Tracking ID:0032050. Which stated; "The MP's Scheme of Business Costs and Expenses allows for the distribution of contact and surgery details."

We sought clarification from IPSA on the specific example of the inclusion of local councillor's details and were told explicitly that such details would be acceptable so long as the content was in no way party political.

It was only after we received confirmation over the phone from IPSA of the question of including Councillor's details that we decided to include these in the leaflet. If we had not received that confirmation we would not have included local councillor's details.

The Review

17. In conducting the review, the Compliance Officer has relied upon the Seventh Edition of the Scheme (April 2015 to present) and, in addition, has utilised the following:

- Validation Notes – notes appended to a claim submitted by an MP by the IPSA Validator describing the reason for the rejection of a claim;
- Workflow History – shows the date the claim was opened by the MP or proxy, the date of submission to IPSA and details of how the claim was processed by IPSA;
- Correspondence between IPSA and the MP; and
- Copies of the mailings in question.

18. The following areas of the Scheme are relevant to the review:

Fundamental Principles

2. Members of Parliament have the right to be reimbursed for unavoidable costs where they are incurred wholly, exclusively and necessarily in the performance of their parliamentary functions, but not otherwise.

Chapter 3: General Conditions of the Scheme

3.2 In making any claim under the Scheme, an MP must certify that the expenditure was necessary for performance of his or her parliamentary functions.

3.4 The following are examples of activities that are not considered as necessary for the performance of MPs' parliamentary functions:

b. work which is conducted for or at the behest of a political party;

d. activities which could be construed as campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000.

Chapter 6: Office Costs Expenditure

6.1 Office Costs Expenditure (OCE) is provided to meet the costs of renting, equipping and running an MP's office or offices and surgeries where these costs are not claimable from other budgets under this Scheme, or from other sources.

6.5 MPs are entitled to exercise discretion over claims for items that meet the purposes of Office Costs Expenditure budget, provided that the claims meets the general conditions of the Scheme and the conditions of this chapter.

6.6 Office Costs Expenditure may only be claimed for the performance of parliamentary functions.

19. The claim relates to colour printed cards measuring 21cm x 10cm, which were distributed to local residents. The cards are specific to each council ward within the MP's constituency and feature a photo of the MP alongside local councillors together with contact details and surgery times for both. There are four variations of the leaflet all of which are attached at Annex B.

20. When the claim was originally validated by IPSA on 17 November 2015, it was refused. The following reason for the refusal was sent to the MP by IPSA.

I have not paid this because the 4 ward leaflets provided all prominently feature local Labour councillors, as well as the MP, and it is important to ensure that public funds are not being used for political campaigning. Cf the General Conditions of the Scheme, para 3.4 (listing activities which are NOT considered as necessary for the performance of MP's parliamentary functions); 3.4d - activities which could be construed as campaign expenditure within the scope of the Political Parties, Elections and Referendums Act 2000, 3.4e - activities which could be construed as election expenses within the scope of the Representation of the People Act 1983.

21. Following refusal of the claim, the MP requested an internal review by IPSA which was conducted on 30 November 2015 and concluded that:

As each of the leaflets additionally feature three Local Councillors, the expense should, at best, be considered only partially incurred by the MP.

22. IPSA's review further notes the following:

Whilst the MP is correct insofar as the leaflets contain "all Councillors representing wards within the boundaries of Birmingham Hill", and make no explicit reference "to political parties or the political persuasion of the Councillors", Birmingham Hodge Hill is a safe Labour seat, and all of the Local Councillors referenced in the leaflets represent the Labour Party.

It cannot reasonably be said that, at the point of commissioning the leaflets, the MP consciously put party political affiliations aside in order to consider representatives of all parties equally, as only members of the Labour Party sit on the Council. It would therefore have been impossible to give representatives of all parties equal consideration. There is a

concern that the makeup of the Council is being used as a convenient way to circumvent our proscriptions.

The leaflets also contain photographs of the Local Councillors next to the MP, alongside the slogan “fighting hard for your fair share in [Ward name]”. The original documents clearly display the branding of the Labour Party, including the official font and colour. These features are considered to have exceeded the leaflets’ stated mandate (to provide factual information) and appear to be an attempt to raise the local profile of local Labour representatives, including the MP. For these reasons, it is recommended that the review request is rejected and the original decision is upheld.

23. Claims for leaflets informing constituents of an MP’s contact details and surgery times are permitted under the Scheme, a fact noted by IPSA in an email to Mr Byrne’s office on 25th June 2015. The leaflets in question contain such information.
24. The Compliance Officer notes that the party affiliation of all the representatives featured on the leaflets is Labour, however this is not referred to within the leaflet. The leaflets feature every councillor representing council wards within the MP’s constituency; providing contact details and surgery times and dates. Political affiliation would have been an issue if councillors representing other parties had not been featured but, as this is not the case, it should not be a determining factor in payment of the claim.
25. The Compliance Officer acknowledges that the colour and font used on the leaflet are similar to those used by the Labour Party. That said, no reference is made to the Labour Party and they do not feature the Labour Party logo. Therefore, the Compliance Officer does not believe that the colour of the leaflet or the font used can be a determining factor in payment of the claim.
26. Consideration should also be given as to whether the cost of the leaflets can be described as having been incurred ‘*wholly, exclusively and necessarily in the performance of [the MP’s] parliamentary functions*’. Each leaflet features four elected representatives, three of whom (on each leaflet) are local councillors. IPSA’s original review contends that costs relating to the work of councillors is not parliamentary in nature and should not be funded under the terms of the Scheme.
27. After providing IPSA and the MP with a copy of his draft findings, the Compliance Officer has received representations from both parties. Mr Byrne believes that he was misled by IPSA into believing that the leaflet was compliant with the Scheme and that his claim would be met in full. Mr Byrne says that he would not have incurred the cost without these assurances. The correspondence from the MP can be seen at Annex C.

28. IPSA has requested that the Compliance Officer reconsider the apportionment of the costs. It holds that, as there are three councillors on each leaflet, only a quarter of the cost should be met from the Scheme. The correspondence from the IPSA Chief Executive is contained in Annex D.
29. The Compliance Officer has considered these representations and would make the following observations:
- a. Paragraph 9 of the Guidance on the Conduct of Reviews by the Compliance Officer for IPSA states that:
The Compliance Officer will, taking into account all information, evidence and representations, decide whether the determination (or the altered determination) is the determination that should have been made under the Scheme and in light of that, whether or not to confirm or alter it.

The review process is confined to a determination as to whether the claim is in accordance with the Scheme only and cannot encompass the content of any dialogue between IPSA and the MP which predated the claim.
 - b. That portion of the leaflet containing contact details for local councillors is not “*wholly, exclusively and necessarily in the performance of ... parliamentary functions²*” and is therefore not allowable under the Scheme.
 - c. While the Compliance Officer acknowledges the validity of the argument put forward by IPSA in relation to the division of costs, he remains of the opinion that the cost of postage should be divided equally between IPSA and Birmingham City Council.

Conclusions

30. The Scheme does not include guidance to MPs on fonts or colours to be used in their communications. Indeed, Chapter Six of the Scheme, relating to Office Costs Expenditure OCE (under which this claim was made) entitles an MP to utilise discretion over claims for items that meet the purposes of OCE. Imposing additional regulation on OCE claims in addition to the existing rules undermines this entitlement to discretion and cannot be permissible.
31. Had the MP’s constituency contained councillors of varying political affiliations, and had the leaflets only contained the details of Labour Councillors, this clearly would not have been allowable. As it stands, the MP has included within the leaflets every elected councillor representing the four council wards within his constituency. Their political

² Fundamental Principle 2

affiliation is not noted anywhere and should not be relevant when payment of the claim is considered.

32. The Compliance Officer agrees with IPSA insofar as that part of the leaflet containing reference to local councillors is not parliamentary in nature. While the objective of providing information to local residents about their elected officials is laudable, IPSA and the Scheme are only responsible for meeting the cost where the purpose is parliamentary.
33. **Taking into account all available information, the Compliance Officer believes that the determination made by IPSA to refuse the claim in full was incorrect and not made in accordance with the Scheme. However, he concurs with IPSA that only part of the leaflet is parliamentary and that, in consequence, the total cost should not be borne by them.**
34. **The Compliance Officer has therefore concluded that the cost of the leaflet should be divided equally between the MP and the local council with the MP being reimbursed for half of the original claim for £1853.75.**
35. Section 6A(6) of the Act provides that an MP requesting a review may appeal the decision of the Compliance Officer to a 'First-tier Tribunal' if they are not satisfied with the outcome. The appeal must be submitted within 28 days of receiving the decision. Further information on how to appeal a decision by the Compliance Officer can be found at the following address: <https://www.gov.uk/guidance/mp-expenses-appeal-a-compliance-officers-decision>.
36. In accordance with the Guidance on the Conduct of Reviews by the Compliance Officer for IPSA, details of the review will be published in a manner decided by the Compliance Officer.

A handwritten signature in grey ink, appearing to read 'Peter Davis', is shown on a light grey background.

Peter Davis
Compliance Officer for IPSA
compliance@theipsa.org.uk

Annex A: Refused Claim

Form Type	Form No.	Date	Expense Type	Details	Amount	Reason for Refusal
EXPENSES: Office Costs	0000462569	05/10/2015	Postage Purchase	leafletsthatdeliver 11962 advice cards	1853.75	NOT PAID Not Under Scheme

Annex B: Leaflets being claimed

Your Member of Parliament and Councillors



...fighting hard for your fair share in Bordesley Green

"It is an honour to be elected to serve our community – and serve all year round. Keep this card safe so that if you ever need our help you can get in touch straight away."

Your local team:

Rt Hon Liam Byrne MP
Cllr Shafique Shah
Cllr Uzma Ahmed
Cllr Mohammed Aikhlaq



Your Member of Parliament and Councillors



...fighting hard for your fair share in Hodge Hill

"It is an honour to be elected to serve our community – and serve all year round. Keep this card safe so that if you ever need our help you can get in touch straight away."

Your local team:

Rt Hon Liam Byrne MP
Cllr Majid Mahmood
Cllr Anita Ward
Cllr Fiona Williams



Your Member of Parliament and Councillors



...fighting hard for your fair share in Shard End, Kitts Green, Tile Cross, Lea Village and The Glebe

"It is an honour to be elected to serve our community – and serve all year round. Keep this card safe so that if you ever need our help you can get in touch straight away."

Your local team:

Rt Hon Liam Byrne MP
Cllr Marje Bridle
Cllr Ian Ward
Cllr John Cotton



Your Member of Parliament and Councillors



...fighting hard for your fair share in Washwood Heath

"It is an honour to be elected to serve our community – and serve all year round. Keep this card safe so that if you ever need our help you can get in touch straight away."

Your local team:

Rt Hon Liam Byrne MP
Cllr Ansar Ali Khan
Cllr Mohammed Idrees
Cllr Mariam Khan



Get in touch

Your local
Member of Parliament:

Rt Hon Liam Byrne MP

☎ 0121 789 7287

✉ Liam.Byrne.MP@parliament.uk

✉ 35a Coleshill Road, Hodge Hill,
Birmingham, B36 8DT

Surgery Times:

(always call for an appointment)

- 1st Friday of every month 4 – 5pm
| Shard End Community Centre 170
Packington Avenue, B34 7RD.
- 1st Saturday of every month 9.30am
– 11am | Saltley Methodist Church,
140 Alum Rock Road, B8 1HU

Your local councillors:

Cllr Shafique Shah

☎ 0121 303 2039

✉ shafique.shah@birmingham.gov.uk

Advice Bureaux times:

- 2nd Friday of every month, 7.00pm
| Small Heath Methodist Church,
corner of Blake Lane and Yardley
Green Road.
- Last Friday of every month, 7.00pm
| Saltley Community Leisure Centre,
Broadway Avenue, Bordesley Green.

Cllr Uzma Ahmed

☎ 07582 379055

✉ uzma.ahmed@birmingham.gov.uk

Advice Bureaux times:

- 2nd Friday of every month,
7.00pm | Small Heath Methodist
Church, corner of Blake Lane and
Yardley Green Road.
- Last Friday of every month,
7.00pm | Saltley Community
Leisure Centre, Broadway Avenue,
Bordesley Green.

**Cllr Mohammed
Aikhlaq**

☎ 07931 314135

✉ Mohammed.Aikhlaq@birmingham.gov.uk

Advice Bureaux times:

- 2nd Friday of every month,
7.00pm | Small Heath Methodist
Church, corner of Blake Lane and
Yardley Green Road, Bordesley
Green.
- Last Friday of every month,
7.00pm | Saltley Community
Leisure Centre, Broadway Avenue,
Bordesley Green.



Get in touch

Your local
Member of Parliament:

Rt Hon Liam Byrne MP

☎ 0121 789 7287

✉ Liam.Byrne.MP@parliament.uk

✉ 35a Coleshill Road, Hodge Hill,
Birmingham, B36 8DT

Surgery Times:

(always call for an appointment)

- 1st Friday of every month 4 – 5pm
| Shard End Community Centre 170
Packington Avenue, B34 7RD.
- 1st Saturday of every month 9.30am
– 11am | Saltley Methodist Church,
140 Alum Rock Road, B8 1HU

Your local councillors:

Cllr Majid Mahmood

☎ 0121 303 2039

✉ majid.mahmood@birmingham.gov.uk

Advice Bureaux times:

- 1st Saturday of the month, 10.00am
– 12.00noon | Ward End Library,
Washwood Heath Road, B8 2HF.
- 4th Wednesday of the month,
6.00 – 7.00pm | Bibsy Bananas CIC
Youth Den, 116-118 Dregghorn Road,
Bromford, B36 8LN.

Cllr Anita Ward

☎ 0121 303 2039

✉ anita.ward@birmingham.gov.uk

Advice Bureaux times:

- 3rd Thursday of the month,
10.30am | St. Margaret's
Community Hub, St. Margaret's
Church, St. Margaret's Road, B8 2BA.
- 3rd Saturday of the month, 10.30am
– 12.00noon | Ambridge House,
Folkestone Croft B36 8RA

Cllr Fiona Williams

☎ 0121 303 2039

✉ fiona.williams@birmingham.gov.uk

Advice Bureaux times:

- 3rd Tuesday of the month,
10.00am | Hodge Hill United
Reformed Church, Coleshill Road,
B36 8BG.
- 2nd Saturday of the month, 10.00-
11.00am | The Scout Hut, Maryland
Ave B34 6EA



Get in touch

Your local
Member of Parliament:

Rt Hon Liam Byrne MP

☎ 0121 789 7287

✉ Liam.Byrne.MP@parliament.uk

✉ 35a Coleshill Road, Hodge Hill,
Birmingham, B36 8DT

Surgery Times:

(always call for an appointment)

- 1st Friday of every month 4 – 5pm
| Shard End Community Centre 170
Packington Avenue, B34 7RD.
- 1st Saturday of every month 9.30am
– 11am | Saltley Methodist Church,
140 Alum Rock Road, B8 1HU

Your local councillors:

Cllr Ian Ward

☎ 0121 303 4155

✉ ian.ward@birmingham.gov.uk

Advice Bureaux times:

- 3rd Wednesday of the month,
7.00pm | Shard End Community
Centre, 170 Packington Avenue,
B34 7RD.
- Last Wednesday of the month,
7.00pm | The Pump, 286 Kitts Green
Road, B33 9SB.

Cllr Marje Bridle

☎ 0121 303 2039

✉ marje.bridle@birmingham.gov.uk

Advice Bureaux times:

- 1st Friday of the month, 7.30pm
| The Pump, 286 Kitts Green Road,
Next to Lea Village Shops, B33
9SB.
- Last Friday of the month, 7.30pm
| Shard End Community Centre,
170 Packington Avenue, B34
7RD.

Cllr John Cotton

☎ 0121 303 1077

✉ john.cotton@birmingham.gov.uk

Advice Bureaux times:

- 1st Tuesday of the month, 7pm
| Shard End Community Centre,
170 Packington Avenue, B34
7RD.
- 4th Tuesday of the month, 7pm
| St. Peter's Church, Haywood
Road, Tile Cross, B33 0UH.



Get in touch

Your local
Member of Parliament:

Rt Hon Liam Byrne MP

☎ 0121 789 7287

✉ Liam.Byrne.MP@parliament.uk

✉ 35a Coleshill Road, Hodge Hill,
Birmingham, B36 8DT

Surgery Times:

(always call for an appointment)

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| Shard End Community Centre 170
Packington Avenue, B34 7RD.
- 1st Saturday of every month 9.30am
– 11am | Saltley Methodist Church,
140 Alum Rock Road, B8 1HU

Your local councillors:

**Cllr Mohammed
Idrees**

☎ 0121 303 2039

✉ mohammedidrees@birmingham.gov.uk

Advice Bureaux times:

- Every Wednesday of the month, 5.00
– 7.00pm | 292 Alum Rock Road,
Alum Rock, B8 3DD.
- Every Saturday of the month,
10.00am – 12.00noon | 292 Alum
Rock Road, Alum Rock, B8 3DD.

Cllr Ansar Ali Khan

☎ 07811 106033

✉ ansar.ali.khan@birmingham.gov.uk

Advice Bureaux times:

- 1st Thursday of the month, 6 –
7pm | Norton Hall, 90 Ralph Rd,
B8 1NA
- 2nd Thursday of the month, 6 –
7pm | Naseby Centre, Naseby Rd,
B8 3HG
- 3rd Thursday of the month, 6 –
7pm | Monk Road Church, B8 2TS
- 4th Thursday of the month, 6 –
7pm | Naseby Centre, Naseby Rd,
B8 3HG

Cllr Mariam Khan

☎ 0121 303 2039

✉ mariam.khan@birmingham.gov.uk

Advice Bureaux times:

- 1st Thursday of the month, 6 – 7pm |
Norton Hall, 90 Ralph Rd B8 1NA
- 2nd Thursday of the month, 6 – 7pm
| Naseby Centre, Naseby Rd B8 3HG
- 3rd Thursday of the month, 6 – 7pm |
Monk Road Church, B8 2TS
- 4th Thursday of the month, 5 – 6 pm
| Naseby Centre, Naseby Rd B8 3HG
for Under 25s only
- 4th Thursday of the month, 6 – 7pm
| Naseby Centre, Naseby Rd B8 3HG



Annex C: Representations from Mr Byrne

Peter Davis
Compliance Officer for IPSA
4th Floor, 30 Millbank
London SW1P 4DU

16th February 2016

RE: Compliance report into IPSA decision to reject claim 462569

Dear Peter,

Thank you for your letter dated 3rd February 2016 and the accompanying report of your investigation into IPSA's decision to reject my claim for the cost of postage for contact details distributed to constituents – claim number 462569.

Your review determined that IPSA was incorrect to refuse the claim in full and that IPSA should reimburse me for half of the original claim for £1835.75.

I write to register that I disagree with this decision and to seek your advice about the next steps in the appeal process.


As I stated in my original application to you, my office sought clarification from IPSA on the specific, in principle, inclusion of local councillor's contact and surgery details in such literature. We were told explicitly by IPSA that such details would be acceptable so long as the content was in no way party political.

I was encouraged to note that your review has determined that the content was in no way party political however, as above, I am disappointed that you have agreed to allow IPSA to only reimburse me for half the costs, given we only incurred these costs after explicit approval by IPSA.

I look forward to hearing from you with regards to the next steps in the appeal process.

With all best wishes

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Liam Byrne', with a long horizontal flourish extending to the right.

RT HON LIAM BYRNE MP
Birmingham Hodge Hill

Annex D: Representations by IPSA



Marcial Boo
Chief Executive

4th floor
30 Millbank
London SW1P 4DU

T 020 7811 6473
E marcial.boo@parliamentarystandards.org.uk
www.parliamentarystandards.org.uk

Mr Peter Davis
Compliance Officer for IPSA

8 February 2016
Our ref: CEO-2016-29

Dear Peter,

Thank you for your letter of 3 February, and for your draft report on IPSA's determination to refuse an expense claim submitted by Mr Liam Byrne MP. You asked whether I wish to make a representation on the report.

I accept your determination that only part of the leaflet in question is parliamentary, so that the total cost should not be borne by IPSA.

You will be aware that, in their work, our validators determine whether a claim is eligible or not. We do not ask them to form a judgement, as you properly have, about the proportion of the costs of a single claim that should be payable.

But, given that you have reached the view that the cost of the leaflet should be divided equally between the MP and the local councillors, and that IPSA should reimburse Mr Byrne for half the original claim of £1,835.75, I wonder whether your logic should in fact dictate a different split.

Annex B of your report contains a copy of the leaflets, showing a photograph and the contact details of four people – Mr Byrne and three local ward councillors. On this basis, I would argue that the proportion of the leaflet that has been used to support Mr Byrne's parliamentary functions is a quarter, not half, and that IPSA should reimburse him for the corresponding proportion of the cost.

I would be grateful if you would consider this point prior to finalising your report.

With best wishes,

Marcial Boo