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October 13, 1998

Xavier McDonnell, Esq.  
Enforcement Division  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW, Room 659  
Washington, DC 20463

Re: MUR 4798 - Buncombe County Republican Party and its  
Treasurer (now Gary S. McClure)

Dear Mr. McDonnell:

Gary S. McClure, Treasurer of the Buncombe County Republican Party, and I, acting as counsel for such Party and treasurer, have now completed a total review of the financial records of the Buncombe County Party going back to January 1, 1995. We have also reviewed all prior correspondence to, and conversations with the former treasurer and Mr. McClure and are writing you to detail the results of that investigation and to seek advice regarding the same.

First, to answer your question with regard to the issue of showing a balance on hand of \$10,039.92 on Mr. McClure's January 30, 1998 report, please be advised that this sum was reduced by the transfer to the state account of the Buncombe County Republican Party of \$9,500 on January 21, 1998, as shown on the debit and credit memos attached to our response to interrogatories. Therefore, this report should properly reflect that the sum of \$539.92 was on hand at the close of January 30, 1998. If the report had run through December 31, 1997, the balance of \$10,039.92 would have been correct and the report should have shown the sum of \$8,925 still outstanding at the time.

I have determined that the reason for the transfer of funds in the sum of \$8,925 from the federal account back to a state activity only account created for the purpose of receiving such funds began with the letter sent to Martin Reidinger, former

Mr. McDonnell  
10/13/98  
P. 2

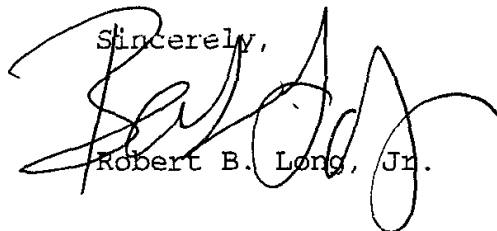
treasurer, on May 21, 1997, by J.P. Andre, Reports Analyst, Reports Analysis Division and follow up conversations that Mr. McClure had with Amanda Mixson with the North Carolina State Republican Party and Amy Reynolds at the Federal Election Commission. I am enclosing a copy of Mr. Andre's letter with the language highlighted which created this impression. As you will note, it states that the method of correcting such is to transfer to a non-federal account the amount in excess of \$5,000.

From our review of all contributions to the Buncombe County Republican Party from January 1, 1995 to date, we find that all contributions would qualify as being proper except the Randolph County Republican Executive Committee transfer of \$13,925 during calendar year 1996 for a mailing for a local legislative candidate, a copy of which has been previously furnished to you and which has been explained in detail in the answers to interrogatories.

Because the contributions were legal except for the Randolph County transfer for an expenditure that had to be at least 90 percent or more of a state nature, perhaps no allocation between federal activity and non-federal activity should be made for other expenditures, but rather to simply note that this was an at least 90 percent state expenditure and other proper funds were on hand to make up the 10 percent or so of federal allocation for this particular mailing.

After you have had an opportunity to review this letter, the enclosure herewith transmitted, and the other information submitted, I would appreciate your thoughts about achieving a just final resolution of the matter.

Sincerely,



Robert B. Long, Jr.

RBLjr/sp  
Enclosure

4044 166 40 66



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

MAY 21 1997

Martin Reidinger, Treasurer  
Buncombe County Republican Party  
P.O. Box 7363  
Asheville, NC 28802

Identification Number: C00165803

Reference: 30 Day Post-General Report (10/17/96-11/25/96)

Dear Mr. Reidinger:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses a contribution(s) from an organization which is not a political committee registered with the Commission (pertinent portion(s) attached). In addition, the contribution appears to exceed the limits set forth in the Act. 2 U.S.C. §441a(f) precludes a political committee from receiving contributions from a person or another committee in excess of \$5,000 in a calendar year. Also, in order to make contributions to your committee, organizations which are not political committees must either: 1) establish a separate account which contains only those funds permitted under the Act, or 2) demonstrate through a reasonable accounting method that the organization has received sufficient funds subject to the limitations and prohibitions in order to make the contribution. 11 CFR §102.5(b)

If your committee does not finance non-federal activity, the receipt of the referenced contribution(s) may violate the limitations and prohibitions of 2 U.S.C. §§441a(f) and 441b. If your committee engages in both federal and non-federal activity, either through a separate non-federal account, or one account that finances activity in connection with both federal and non-federal elections, your committee may be in violation of 11 CFR §102.5(a).

In order to be in compliance with the Act, your committee must: 1) refund to the donor, or transfer-out to a non-federal account, the amount in excess of \$5,000 and 2) determine the extent to which your committee received funds that are not permissible, and refund or transfer-out the prohibited funds.

If you choose to transfer the funds to an account not used to influence federal elections, the Commission advises that you inform the contributor in writing and provide the contributor with the option of receiving a refund. You may wish to seek a written authorization (either before or after the transfer-out) from the donor for any transfer-out to protect the donor's interests.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for the transfer-out or refund. Should you choose to transfer-out or refund the funds, the Commission will presume the funds were impermissible, absent a statement from your committee to the contrary. Transfers-out and refunds should be disclosed on a Schedule B supporting Line 22 or 28 of the report covering the period during which they are made.

Although the Commission may take further legal action concerning the acceptance of prohibited and excessive contribution(s), your prompt refund or transfer-out will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. *If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.*

Sincerely,



J.P. Andre  
Reports Analyst  
Reports Analysis Division