



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 27, 1999

Jeffrey J. Parker, Treasurer
Inglis for Senate Committee, Inc.
3 Ben Street
Greenville, SC 29601

RE: MUR 4847
Inglis for Senate Committee, Inc., and
Jeffrey J. Parker, as treasurer

Dear Mr. Parker:

On November 3, 1998, the Federal Election Commission notified Inglis for Senate Committee, Inc., ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on October 21, 1999, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. §§ 432(h), 434(b)(3)(B), 434(b)(5)(A), provisions of the Act, and 11 C.F.R. § 103.3(a), a provision of the Commission's regulations. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved. If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Jeffrey J. Parker, Treasurer

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Eric Brown, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Designation of Counsel Form
Factual and Legal Analysis
Conciliation Agreement

cc: Robert D. Inglis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Inglis for Senate Committee, Inc. and
Jeffrey J. Parker, as treasurer

MUR: 4847

This matter was generated by a complaint filed with the Federal Election Commission by Richard Harpootlian. See 2 U.S.C. § 437g(a)(1).

I. BACKGROUND

The complaint, filed on October 29, 1998, alleges that the Inglis for Senate Committee, Inc. and Jeffrey J. Parker, as treasurer (the "Committee" or "Inglis Committee"), failed to report contributions from political committees and filed incomplete disclosure reports.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), requires principal campaign committees to file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a). Reports filed under the Act must identify each political committee which makes a contribution to the reporting committee during the reporting period, in addition to the date and amount of the contribution. 2 U.S.C. § 434(b)(3)(B). Reports shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, including the date, amount, and purpose of such operating expenditure. 2 U.S.C. § 434(b)(5)(A). Authorized political committees are required to identify each political committee contributing to it on the report covering the period during which the contribution was received. 11 C.F.R. § 104.3(a)(4)(ii). Contribution includes "(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of

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influencing any election for Federal office; or (ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 2 U.S.C. § 431(8)(A)(i) and (ii) and 11 C.F.R. § 100.7(a)(1). Each in-kind contribution shall be reported as a contribution, 11 C.F.R. § 104.13(a)(1), and an expenditure, 11 C.F.R. § 104.13(a)(2).

The Act requires every person receiving a contribution for an authorized political committee, to forward such contribution with its date of receipt to the treasurer no later than ten days after receiving such contribution. 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 102.8(a). The date of receipt is the date that a person who receives a contribution for an authorized political committee obtains possession of the contribution. 11 C.F.R. § 102.8(a). Political committee receipts shall be deposited in a depository designated by that committee. 2 U.S.C. § 432(h). "All receipts received by such committee shall be deposited in such accounts." 2 U.S.C. § 432(h)(1). All deposits shall be made within ten days of the treasurer's receipt of the contribution. 11 C.F.R. § 103.3(a). Commission regulations provide that receipts shall be deposited pursuant to 11 C.F.R. § 103.2, except that any contribution may be returned to the contributor without being deposited within ten days of the treasurer's receipt. 11 C.F.R. § 103.3(a).

A refunded contribution is when the recipient committee first deposits the check and later sends the contributor a check for all or part of the contribution. A returned contribution is when the recipient committee sends the original check back to the contributor without depositing it. 11 C.F.R. § 103.3(a). Committees returning undeposited contributions to donors within ten days of the treasurer's receipt incur no reporting obligation. 11 C.F.R. § 103.3(a). Federal Election

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Commission, Campaign Guide for Congressional Candidates and Committees at p. 31 n. 10 (1995).

B. Facts

1. The Complaint

The complaint alleges that the Committee failed to follow requirements governing the reporting of receipts and the handling of political committee contributions.¹ According to the complaint, Tupperware PAC reported a July 31, 1998 \$1,000 contribution to the Inglis Committee, but the Inglis Committee did not report the contribution or its refund. The complainant provides a newspaper article quoting a campaign spokesperson as saying that there were additional PAC checks awaiting to be returned.

The complaint further alleges that Committee reports omitted required itemization. With respect to the Committee's 1998 July Quarterly Report (covering May 21, 1998 through June 30, 1998), the complaint alleges that the Committee failed to itemized \$220,485 in disbursements. The complaint also alleges that the Committee's 1998 12 Day Pre-General Report failed to include an itemization of contributions from political committees totaling \$4,000. The complaint requests a Commission investigation, the highest civil penalty allowed by law, and an audit of the Committee. The Committee responded to the complaint on November 20, 1998.

2. The Response

a. Handling of Political Committee Checks

The Committee's response states that it intended neither to solicit nor receive political action committee ("PAC") money. The response concedes that the Committee received a number of PAC checks, and that certain checks were not returned to the contributors within ten

¹ To the extent the complaint makes an issue of the candidate's adherence to a pledge not to solicit or accept PAC contributions, this issue by itself is not cognizable under the Act or Commission regulations.

days. The response includes a list that identifies each PAC check received and returned by the Committee.² Respondents also attach copies of the voided checks that were returned and Certified Mail Delivery Receipts that identify the return address and the date each check was returned.

The response states that in some cases, the length of time the checks were held by the Committee is shorter than the contributing PAC's disclosure reports reflect. In the case of the reported contributions by Tupperware PAC, the Palmetto Leadership PAC, and the National Electrical Construction PAC, the Committee contends that there was a significant discrepancy between the check date and the date that a PAC actually sent or delivered the check to the Inglis Committee.

b. Itemization of Disbursements

The response addresses the Committee's failure to include itemized disbursements with its 1998 July Quarterly Report covering May 21, 1998 through June 30, 1998. The response concedes that the Committee delayed sending the required disbursement schedules. The response states that this Senate campaign was the candidate's first statewide race³ and resulted in a large amount of activity, especially during the last six months of the campaign. According to the response, the Committee's software, recordkeeping, and accounting burdens were

² Although the text of the response identifies sixteen PACs, Attachment A to the response actually lists nineteen PAC checks totaling \$23,000. Six additional contributions appear on the public record, however. Three of the contributions are from the Air Products and Chemicals PAC (\$1,000 on September 14, 1998), Guidant Corporation PAC (\$1,000 on October 13, 1998), and Wal-Mart Stores, Inc. PAC (\$5,000 on September 11, 1998). The three other contributions are in-kind political committee contributions apparently made to the Committee. Contributions from the National Chamber Alliance for Politics (\$920.92 on October 23, 1998 and \$566.93 on November 3, 1998) and the National Taxpayers Union Campaign Fund (\$1,160 on October 28, 1998) were reportedly made as in-kind contributions, yet the Inglis Committee failed to disclose the receipt of these in-kind contributions, which totaled \$2,547.86.

³ Inglis was a successful U.S. House candidate in South Carolina's Fourth Congressional District in 1992, 1994, and 1996.

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exacerbated by the number of transactions across a wide geographic area and the Committee lacked adequate staff. The response states that when the treasurer realized that the report would not be ready by its July 15th deadline, the treasurer had to choose between filing the complete report late or filing a partial report with the itemized disbursements to follow.⁴

c. *Itemization of \$4,000 in Contributions from Authorized Political Committees*

In response to the complaint's allegation that the Committee's 1998 12 Day Pre-General Report failed to itemize \$4,000 in contributions in support of Line 11(c), the Committee contends that the page itemizing the contributions was included with the report and was apparently missing from the complainant's copy. The original copy of the report in the U.S. Senate's Office of Public Records, however, also does not include the Schedule A for Line 11(c).

C. Analysis

This matter raises four issues: the Committee's handling of political committee checks, the failure to report the receipt of in-kind contributions, the itemization of disbursements, and the itemization of \$4,000 in contributions from authorized political committees.

1. Handling of Political Committee Checks

At issue is the Committee's handling of 22 contributions totaling \$30,000. In addition to the 19 checks totaling \$23,000 listed in the response, the public record reveals three additional checks totaling \$7,000 apparently forwarded to the committee (Air Products and Chemicals PAC (\$1,000 on September 14, 1998), Guidant Corporation PAC (\$1,000 on October 13, 1998), and Wal-Mart Stores, Inc. PAC (\$5,000 on September 11, 1998)). To determine whether the Committee failed to deposit or return checks within ten days of the treasurer's receipt, as

⁴ The response states that the Committee filed the disbursement information on July 28, 1998 and that the Commission could not have reviewed the report or inquired as to the status of the schedules before such date. The response notes that the public knew from the original filing the total amount of disbursements, as the figure is listed on the Detailed Summary Page of the report.

required by Commission regulations, two dates must be compared. The first controlling date is the treasurer's date of receipt. For the 19 checks identified in the response, the "letter date" is provided. The "letter date" apparently refers to the date the check came into the treasurer's possession, the date of a letter accompanying the check, or the date of the postmark of the envelope containing the check. For purposes of the Act and Commission regulations, the receipt date is the date that a person who receives a contribution for an authorized political committee obtains possession of the contribution. 11 C.F.R. § 102.8(a). Section 103.3(a), however, provides that a contribution may be returned within ten days of the treasurer's receipt. Therefore, the "letter date" provided in the response is acceptable as the treasurer's date of receipt for the checks at issue.

The second controlling date is the date that the Inglis Committee returned the checks. The response provides the Certified Mail Delivery Receipt for nineteen of the returned checks. Therefore, the earlier of the postmark date or the Date of Delivery was used as the date each contribution was returned.

Based on the above analysis, possibly 15 political committee checks totaling \$20,500 were not returned within ten days, while seven of the 22 checks were returned within ten days. As the Committee concedes, and this Office's review of the response and other public information confirms, political committee contribution checks received by the Committee were not deposited or returned within ten days. Therefore, there is reason to believe that the Inglis for Senate Committee, Inc. and Jeffrey J. Parker, as treasurer, violated 2 U.S.C. § 432(h) and 11 C.F.R. § 103.3(a).

2. Failure to Report the Receipt of In-kind Contributions

Three other contributions appear on the public record that were not identified in the response. These contributions were reported as in-kind contributions by the contributing committees, yet the Inglis Committee failed to disclose their receipt on its disclosure reports. Contributions from the National Chamber Alliance for Politics (\$920.92 on October 23, 1998 and \$566.93 on November 3, 1998) and the National Taxpayers Union Campaign Fund (\$1,160 on October 28, 1998) were reportedly made as in-kind contributions, yet the Inglis Committee failed to disclose the receipt of these in-kind contributions, which totaled \$2,547.86. The in-kind contributions were apparently neither returned nor refunded; the Committee failed to report these contributions. Therefore, there is reason to believe that the Inglis for Senate Committee, Inc., and Jeffrey J. Parker, as treasurer, violated 2 U.S.C. § 434(b)(3)(B).

3. Itemization of Disbursements

The complaint asserts that the Inglis Committee's 1998 July Quarterly Report failed to include an itemization of disbursements. On July 15, 1998, the Committee filed the Summary Page, Detailed Summary Page, and receipt schedules for this report. The Detailed Summary Page of this report listed \$220,485 in operating expenditures. Supporting disbursement schedules for this amount were filed on July 28, 1998, 13 days after the original report was filed and due.

The response asserts several reasons for the partial filing: new computer software; different internal recordkeeping demands that required more work; and the apparent lack of trained staff. The response notes that the omission of the schedules was quickly corrected, the most significant part of the report was timely filed, and from the Committee's perspective the delay appears immaterial.

The Act and Commission regulations, 2 U.S.C. § 434(a)(2)(A)(iii) and 11 C.F.R. § 104.5(a)(1)(iii)(B), require reports to be complete as of the last day of the report's coverage date. The Committee was the principal campaign committee for a candidate for U.S. Senate. Consequently, the 1998 July Quarterly Report should have been complete as of the last day of the immediately preceding quarter, June 30, 1998. However, the Committee's report failed to include itemization for operating expenditures during the reporting period. Therefore, there is reason to believe that the Inglis for Senate Committee, Inc. and Jeffrey J. Parker, as treasurer, violated 2 U.S.C. § 434(b)(5)(A).

4. Itemization of \$4,000 in Contributions from Authorized Political Committees

The complaint alleges that the Committee failed to itemize \$4,000 in contributions on its 1998 12 Day Pre-General Report. The response to the complaint enclosed a copy of the Schedule A allegedly filed with the report.⁵ The copy of the report on file with the Commission's Public Records Division, however, is missing this page. The original copy of the report filed with the U.S. Senate's Office of Public Records and the copy of the report filed with the South Carolina State Election Commission are also missing this page. Furthermore, RAD sent the Committee a Request for Additional Information ("RFAI") dated December 8, 1998 and Second Notice dated January 7, 1999 that referenced the missing Schedule A, and instructed the Committee that contributions from other authorized committees must be itemized pursuant to 11 C.F.R. § 104.3(a)(4)(ii). Therefore, there is reason to believe that Inglis for Senate Committee, Inc., and Jeffrey J. Parker, as treasurer, violated 2 U.S.C. § 434(b)(3)(B).

⁵ The four contributions disclosed on the Schedule A that was filed with the response are contributions from authorized committees totaling \$4,000: the Committee to Elect Lindsey Graham (\$1,000 on October 2, 1998), Sam Brownback for U.S. Senate (\$1,000 on October 2, 1998), Friends of Sessions Senate Committee (\$1,000 on October 5, 1998), and Murkowski '98 (\$1,000 on October 12, 1998). The contributions fell outside of the 48 Hour Notice Reporting period, October 15 through October 31, 1998.

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