

**FEDERAL ELECTION COMMISSION**

999 E Street, N.W.  
Washington, D.C. 20463

**FIRST GENERAL COUNSEL'S REPORT**

Audit Referral: 00-05  
Audit Referral Date: April 17, 2000  
Date Activated: May 17, 2000

Expiration of Statute of Limitations:  
January 4, 2000 – December 31, 2001<sup>1</sup>  
Staff Member: Jamila I. Wyatt

**SOURCE:** AUDIT REFERRAL

**RESPONDENTS:** Missouri Democratic State Committee, and Donna Knight, as treasurer  
Mary Bruntrager Schroeder  
Donald Schupak  
Kathy Weinman

**RELEVANT STATUTES AND REGULATIONS:** 2 U.S.C. § 441a(a)(1)(C)  
2 U.S.C. § 441a(a)(2)(C)  
2 U.S.C. § 441a(f)  
11 C.F.R. § 102.5(a)

**INTERNAL REPORTS CHECKED:** Audit Documents

**FEDERAL AGENCIES CHECKED:** None

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<sup>1</sup> The statute of limitations date for the earliest violation for receiving excessive contributions is May 19, 2000; and the statute of limitations date for the last violation for the receipt of an excessive contribution is September 27, 2001. The statute of limitations date for the earliest violation for failure to properly allocate federal and non-federal expenses is January 4, 2000; and the statute of limitations date for the last violation for failure to properly allocate federal and non-federal expenses is November 8, 2001. The statute of limitations date for the earliest violation for failing to allocate refunds and rebates of allocable expenses is January 4, 2000; and the statute of limitations date for the last violation for failing to allocate refunds and rebates of allocable expenses is December 31, 2001.

**I. GENERATION OF THE MATTER**

This matter was generated by an audit of Missouri Democratic State Committee (the "Committee") and Donna Knight, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b). See Attachment 1.

**II. FACTUAL AND LEGAL ANALYSIS**

The Audit staff found that the Committee received excessive contributions from 16 individuals and two political action committees totaling \$80,250 in violation of 2 U.S.C. § 441a(f). Attachments 1, and 2. Of the \$80,250 in excessive contributions, the Committee transferred \$50,000 within 60 days of the receipt of the excessive contribution into a non-federal account, and reattributed \$25,000 to spouses of the excessive contributors.<sup>3</sup> Following these improper transfers and reattributions, three contributors requested and received refunds of their excessive contributions totaling \$25,250.<sup>4</sup> The Audit staff identified the excessive contributors and found that Mary Bruntrager Schroeder made contributions totaling \$10,250; Donald Schupak made contributions totaling \$11,500; and Kathy Weinman made a contribution of \$25,000 in violation of 2 U.S.C. § 441a(a)(1)(C). Attachment 2.

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<sup>2</sup>

<sup>3</sup> The Committee did not present any evidence that it notified any of the contributors within 60 days of its receipt of the excessive contribution that they may seek a refund. Attachment 1, at 3. Nor did the Committee present any evidence that it notified the contributors of the transfers to its non-federal account, or of the reattributions of the excessive portion of the contributions to their spouses. *Id.*

<sup>4</sup> The Committee did not make these refunds within 60 days of receiving the excessive contribution, therefore, they are untimely.

<sup>5</sup>

21.04.403.2722

In addition, the Audit Division found that the Committee made disbursements totaling \$223,458 for allocable expenses from its non-federal account. Attachment 1, at 5. The federal share of these allocable expenditures is \$49,161 ( $\$223,458 \times .22$ ).<sup>6</sup> *Id.* It appears the Committee failed to have the federal accounts reimburse the non-federal account \$49,161. 11 C.F.R. § 102.5(a); *see also* 11 C.F.R. § 106.5(g); Attachment 1, at 6.

Finally, the Audit staff found that the Committee deposited \$39,584 into its federal account for allocable refunds and rebates received from vendors. Attachment 1, at 7. The refunds and rebates appear related to disbursements for shared federal and non-federal expenses. *Id.* The non-federal portion of the refunds and rebates totaled \$30,662 which consisted of \$2,172 for refunds and rebates traced to the 1994 election cycle, and \$28,490 for refunds and rebates related to the 1996 election cycle.<sup>7</sup> Attachment 1, at 7. The Committee did not reimburse or otherwise make any adjustments to its account for the non-federal share of the refunds and rebates. 11 C.F.R. § 102.5; *see also* 11 C.F.R. § 106.5(g); Attachment 1, at 8. Therefore, the federal account should have reimbursed the non-federal account a total of \$79,823 (\$49,161 + \$30,662) to account for the allocable expenses and the refunds and rebates.

Based on the audit referral and schedule of contributions, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a). The Office of General Counsel also recommends that the Commission find reason to believe that Mary Schroeder, Donald Schupak, and Kathy Weinman violated 2 U.S.C. § 441a(a)(1)(C). However, with respect to Mary Schroeder and Donald Schupak, this Office

<sup>6</sup> Based on the ballot composition ratio, the allocation percentage for these expenses was 22% federal and 78% non-federal. Attachment 1, at 5.

<sup>7</sup> During the 1994 election cycle, the Committee's non-federal allocation was 71% ( $\$3,059 \times .71 = \$2,172$ ). During the 1996 election cycle, the Committee's non-federal allocation was 78% ( $\$36,525 \times .78 = \$28,490$ ).

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believes that the proper ordering of the Commission's resources and priorities warrants taking no further action against these contributors and send admonishment letters. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

**III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY**

21-04-1403-2724

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Missouri Democratic State Committee and Donna Knight, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions;
3. Find reason to believe that Missouri Democratic State Committee and Donna Knight, as treasurer, failed to allocate its federal and non-federal expenses and refunds and rebates related to federal and non-federal disbursements in violation of 11 C.F.R. § 102.5(a);
4. Find reason to believe that Mary Schroeder made an excessive contribution in violation of 2 U.S.C. § 441a(a)(1)(C), but take no further action, send an admonishment letter and close the file;

21-04-403-2725

5. Find reason to believe that Donald Schupak made an excessive contribution in violation of 2 U.S.C. § 441a(a)(1)(C), but take no further action, send an admonishment letter and close the file;
6. Find reason to believe that Kathy Weinman made an excessive contribution in violation of 2 U.S.C. § 441a(a)(1)(C), and enter into conciliation prior to a finding of probable cause to believe;
7. Enter into conciliation with the Missouri Democratic State Committee and Donna Knight, as treasurer, prior to a finding of probable cause to believe;
8. Approve the attached Factual and Legal Analyses;
9. Approve the attached Conciliation Agreements; and
10. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

10/24/00  
Date

Kim Leslie Bright  
BY: Kim Leslie Bright  
Associate General Counsel

Attachments

1. Audit Referral Materials
2. Audit Schedule of Contributions
3. Audit Schedule of Allocable Disbursements Made From Non-Federal Account and Audit Schedule of Refunds and Rebates
4. Proposed Conciliation Agreements
5. Factual and Legal Analyses

21.04.403.2726



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel *HCS*

DATE: October 24, 2000

SUBJECT: Audit Referral 00-05-Memo to the Commission

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

CIRCULATIONS

DISTRIBUTION

SENSITIVE

☒

NON-SENSITIVE

☐

72 Hour TALLY VOTE

☒

24 Hour TALLY VOTE

☐

24 Hour NO OBJECTION

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INFORMATION

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COMPLIANCE

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Open/Closed Letters

☐

MUR

☐

DSP

☐

STATUS SHEETS

☐

Enforcement

☐

Litigation

☐

PFESP

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RATING SHEETS

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AUDIT MATTERS

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LITIGATION

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ADVISORY OPINIONS

☐

REGULATIONS

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OTHER

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21.04.403.2727



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: Lawrence M. Noble  
General Counsel

FROM: Mary W. Dove/Lisa R. Davis  
Acting Commission Secretary 

DATE: October 30, 2000

SUBJECT: Audit Referral #00-05 - First General Counsel's Report and  
Revised Conciliation Agreement.

The above-captioned document was circulated to the Commission  
on Wednesday, October 25, 2000.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Mason	—
Commissioner McDonald	—
Commissioner Sandstrom	—
Commissioner Smith	—
Commissioner Thomas	<u>XXX</u>
Commissioner Wold	—

This matter will be placed on the meeting agenda for

Tuesday, November 7, 2000.

Please notify us who will represent your Division before the Commission on this  
matter.

21 "04" 403 "2728