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2003 OCT -7 P 4:08

FIRST GENERAL COUNSEL'S REPORT

**RAD REFERRAL: 02L-05
DATE ACTIVATED: 11/21/02**

SENSITIVE

**EXPIRATION OF STATUTE OF
LIMITATIONS: 10/26/05**

SOURCE: INTERNALLY GENERATED

**RESPONDENTS: Democratic Party of Virginia-Federal Campaign
Committee and Abbi G. Easter, as treasurer**

RELEVANT STATUTE: 2 U.S.C. § 434(b)

**INTERNAL REPORTS CHECKED: Disclosure Reports
Referral Materials
Requests for Additional Information
Responses to Requests for Additional Information**

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This referral from the Reports Analysis Division ("RAD") concerns reporting by the Democratic Party of Virginia-Federal Campaign Committee ("the Committee") and Abbi G. Easter, as treasurer (collectively "Respondents"). Specifically, the Committee's August 30, 2001 amendment to the 2000 Pre-General Report disclosed a total net increase of \$712,103.29 in receipts and \$732,049.26 in disbursements from the Committee's original 2000 Pre-General Report, filed on October 26, 2000—a net increase of 31% and 32%, respectively.

For the reasons set out below, this Office recommends that the Commission find reason to believe that the Democratic Party of Virginia-Federal Campaign Committee and Abbi G. Easter, as treasurer, violated 2 U.S.C. § 434(b). This Office also recommends that the Commission attempt to resolve this matter through pre-probable cause conciliation.

II. DISCUSSION

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires treasurers of political committees to file pre-election reports that disclose, *inter alia*, the total amount of all receipts, the total amount of receipts attributable to refunds, the date of any refunds, and identification information for any person who provides refunds aggregating more than \$200 in the calendar year. *See* 2 U.S.C. § 434(b). A political committee's pre-election reports must also include the total amount of all disbursements, and identify persons to whom expenditures aggregating more than \$200 in the calendar year were made by the reporting committee to meet candidate or committee operating expenses. *See id.* Further, a political committee's pre-election reports must include the date, amount, and purpose of such operating expenditures. *See id.*

Based on the information in the Committee's reports and correspondence with RAD, it appears that \$710,000 of the additional \$712,103.29 in the Committee's receipts and \$710,000 of the additional \$732,049.26 in the Committee's disbursements resulted from the Committee's misreporting of a single \$710,000 transaction. The events relating to that transaction appear to have occurred as follows:

On September 29, 2000, the Committee disbursed \$710,000 from its federal account to Applied Political Technologies. However, according to the Committee, this disbursement was in

1 error because the Committee intended to disburse the sum of \$710,000, allocated as \$305,300.01
2 from the Committee's federal account and \$404,699.99 from its non-federal account, to Greer,
3 Margolis, Mitchell, Burns & Associates ("Greer Margolis"). The Committee later attributed the
4 error to a mistake by its bank. (*See Attach. 1.*)

5 On October 4, 2000, five days after the disbursement to Applied Political Technologies,
6 the Committee disbursed funds to Greer Margolis as originally intended: \$710,000, allocated as
7 \$305,300.01 from the Committee's federal account and \$404,699.99 from its non-federal
8 account. The next day, on October 5, 2000, Applied Political Technologies, the unintended
9 recipient of the September 29, 2000 wire transfer, refunded the erroneously received \$710,000 to
10 the Committee. Thus, by October 5, 2000, \$710,000 (allocated between the federal and
11 nonfederal accounts) had been properly disbursed to Greer Margolis and the Committee had
12 received the erroneously wired \$710,000 back from Applied Political Technologies and
13 redeposited it to its federal account. However, the Committee's reporting took a long while to
14 catch up to these events.

15 Compounding the original disbursement error, the Committee's October Quarterly
16 Report, filed on October 12, 2000, and its Pre-General Report, filed on October 26, 2000, reflect
17 the events surrounding the September 29, 2000 transaction not as they actually occurred, but as
18 they were intended: a September 29, 2000 allocated disbursement to Greer Margolis (under the
19 description "Media Buy/Wire Transfer"). When the Committee filed its first amended 2000 Pre-
20 General Report on December 7, 2000, it correctly reported the October 4, 2000 disbursement of
21 \$710,000 to Greer Margolis. On the same day, however, the Committee filed an amended 2000
22 October Quarterly Report that continued to incorrectly disclose a September 29, 2000
23 disbursement of \$710,000 to Greer Margolis, not Applied Political Technologies.

1 On August 31, 2001, the Committee filed an amended 2000 12-Day Pre-General Report.
2 That amendment contained the October 4, 2000 expenditure of \$710,000 to Greer Margolis for
3 "Media Buy-Issue Ads" and the previously unreported October 5, 2000 refund of \$710,000 from
4 Applied Political Technologies, accompanied by the notation: "This is a refund of wire [sic]
5 transfer from 9/29/2000 made in error."

6 Thus, when comparing the original 2000 Pre-General Report and the August 2001
7 amendment, it appears that the bulk of the additional receipts in the latter are attributable to the
8 \$710,000 refund on October 5, 2000 that was mistakenly wired to Applied Political Technologies
9 on September 29, 2000. The bulk of the additional disbursements are attributable to a late
10 reported \$710,000 disbursement on October 4, 2000 to Greer Margolis.¹

11 While the erroneous wire transfer to Applied Political Technologies apparently triggered
12 the reporting discrepancies between the original 2000 Pre-General Report and August 2001
13 amendment, the subject of the referral from RAD, this Office's review of the Committee's

¹ Other than the \$710,000 receipt, the December 7, 2000 amended Pre-General Report summary page included an additional \$1,160.81 in unitemized receipts that did not appear in the original October 26, 2000 report. The August 2001 amended Pre-General Report summary page adjusted the additional unitemized receipts to \$2,103.29. The Committee subsequently filed an amendment to the Pre-General summary page on January 22, 2002 to correct the Column B aggregate amounts.

Other than the Greer Margolis transaction, the December 7 report also included the following itemized disbursements that did not appear in the original report: First Virginia Bank-Colonial for \$367.62 on October 2, 2000, Melinease Hutchinson for \$107.12 on October 2, 2000, Virginia Department of Taxation for \$411.41 on October 4, 2000, Virginia Department of Taxation for \$1,099.72 on October 4, 2000, Wachovia Bank for \$2,692.09 on October 4, 2000, Wachovia Bank for \$6,628.55 on October 4, 2000, Melinease Hutchinson for \$911.90 on October 11, 2000, and Wachovia Bank for \$67.57 on October 13, 2000. The August 2001 Amended Pre-General Report omitted the two disbursements to Melinease Hutchinson and, in addition to those in the December 7 report, included the following itemized disbursements: American Audio Video for \$75.00 on October 3, 2000, Jasper L. Hendricks, III for \$373.86 on October 1, 2000, Wayne Wilson for \$784.59 on October 1, 2000, Pauline Huffman for \$768.70 on October 1, 2000, Elena Panglinan for \$500.00 on October 1, 2000, Metro Herald Newspapers for \$8,000.00 on October 1, 2000, MacMannes, Inc. for \$280.00 on October 3, 2000, and xpedx-Richmond for \$53.01 on October 16, 2000. There is a slight discrepancy between the total amount of itemized receipts and the total receipts set out on the reports' summary pages. However, in discussions with this Office, RAD explained that the amounts set out in the referral are based on the summary pages of the reports, not an independent calculation of the itemized receipts.

1 interim amendments revealed another problem. In its first amended Pre-General Report, filed
2 December 7, 2000, at a time when it had not yet reported the refund from Applied Political
3 Technologies (and perhaps did not realize how an accretion of \$710,000 to its federal account
4 had transpired), the Committee reported the receipt of \$710,000 to its federal account from the
5 Democratic Senatorial Campaign Committee (DSCC) on October 4, 2000. The Committee again
6 reported this receipt in its third amendment to its Pre-General Report, filed on April 18, 2001.
7 However, it appears from a review of the DSCC's reports that this transaction did not occur.
8 When the Committee filed its fourth amended Pre-General Report on August 30, 2001, the
9 \$710,000 from the DSCC was dropped from the reported receipts. This suggests that the
10 Committee may have misreported the Applied Political Technologies refund to its federal
11 account as a contribution from the DSCC before realizing what had actually occurred.²

12 Based on the foregoing, this Office recommends the Commission find reason to believe
13 that the Democratic Party of Virginia-Federal Campaign Committee and Abbi G. Easter, as
14 treasurer, violated 2 U.S.C. § 434(b).

15
16 **III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY**

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² During September and October of 2000, the DSCC had made a significant number of large transfers to the Committee in connection with the Allen-Robb Virginia Senatorial election.

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IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Democratic Party of Virginia-Federal Campaign Committee and Abbi G. Easter, as treasurer, violated 2 U.S.C. § 434(b).
3. Approve the attached Factual and Legal Analysis.
4. Enter into conciliation with the Democratic Party of Virginia-Federal Campaign Committee and Abbi G. Easter, as treasurer, prior to a finding of probable cause to believe.
5. Approve the attached conciliation agreement.
6. Approve the appropriate letter.


Lawrence H. Norton
General Counsel

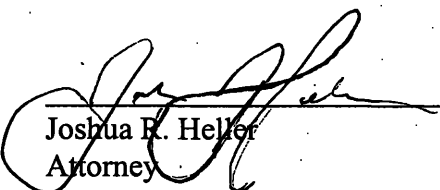
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

10/7/03

Date

BY:


Susan L. Lebeaux
Assistant General Counsel



Joshua R. Heller
Attorney

Attachments:

1. Letter from Alan Moore, Democratic Party of Virginia-Federal Campaign Committee Executive Director, to Scott Walker, RAD Analyst (Jan. 15, 2002).
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

Democratic ★ Virginia

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Family Council
General Chair

Lawrence H. Frazzette III
State Chair

January 15, 2002

Mr. Scott Walker
Reports Analyst
FEC
Washington, DC 20463

Reference: Amended 12 Day Pre-General Report (10/1/00-10/18/00, dated 8/30/01)
Letter dated Oct. 24, 2001

Identification #: C00155952

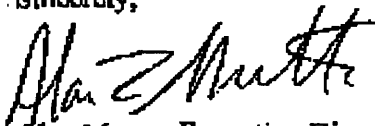
Dear Mr. Walker,

On the Amended October Quarterly Report (7/1/00 - 9/30/00), dated 12/7, the vendor reported as Greer, Margolis, Mitchell, Burns & Associates was a mistake. The vendor should have been Applied Political Technologies (APT). However, this transaction was made in error by the bank. The wire-out of \$710,000 should never have occurred. The bank made a mistake, and the wire was from the federal account. Therefore, when APT wired the incorrect transaction back, the total refund was deposited into our federal account. The original transaction was 100% federal, so the refund was 100% federal. In addition, please see the attached summary sheets for the FEC reports submitted since this error.

However, the original entry showing Greer, Margolis, Mitchell, Burns & Associates should have been on Schedule B, not Schedule H4, since the transaction was 100% federal. Attached, please find a new Schedule B showing the correct entry. This Schedule B corresponds to the Amended October Quarterly Report (7/1/00 - 9/30/00).

Please let me know if you have any questions.
I can be reached at 804-644-1966, ext. 223.

Sincerely,



Alan Moore, Executive Director

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