



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

SEP 01 2006

Alan P. Dye, Esq.
Heidi K. Abegg, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, DC 20006

RE: MUR 5572
David W. Rogers;
Friends of Dave Rogers, and
Christian Winthrop, in his
official capacity as treasurer;
Special Operations Fund f/k/a
Rogers for Congress, and
Christian Winthrop, in his
official capacity as treasurer

Dear Mr. Dye and Ms. Abegg:

On October 25, 2004, the Federal Election Commission (the "Commission") notified your clients, David W. Rogers, Friends of Dave Rogers and Christian Winthrop, in his official capacity as treasurer, and Special Operations Fund f/k/a Rogers for Congress and Christian Winthrop, in his official capacity as treasurer, of a complaint alleging that they violated the Federal Election Campaign Act of 1971, as amended ("the Act"), and provided your clients with a copy of the complaint.

After reviewing the allegations contained in the complaint, your clients' responses, and publicly available information, the Commission, on August 17, 2006, found reason to believe David W. Rogers, Friends of Dave Rogers and Christian Winthrop, in his official capacity as treasurer, and Special Operations Fund f/k/a Rogers for Congress and Christian Winthrop, in his official capacity as treasurer, violated 2 U.S.C. § 439a, a provision of the Act, in connection with the sale of the Committees' mailing lists. Enclosed are the Factual and Legal Analysis that sets forth the basis for the Commission's determination, and Subpoenas to Produce Documents and Orders to Answer Questions (3).

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements should be submitted under oath. All such materials, as well as responses to the enclosed Subpoenas, must be submitted to the General Counsel's Office within thirty (30) days of

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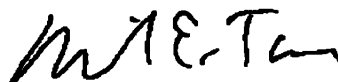
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your receipt of this letter. If you require an extension of time, you must demonstrate specific good cause for the extension and submit the request in writing at least five (5) days prior to the current due date. However, please be advised that the Office of the General Counsel ordinarily will not give extensions beyond twenty (20) days. If you are interested in pre-probable cause conciliation, we will consider such a request at the appropriate time.

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 Audra Wassom, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: David W. Rogers;
Special Operations Fund
f/k/a Rogers for Congress;
and Christian Winthrop,
in his official capacity as Treasurer;
Friends of Dave Rogers; and
Christian Winthrop,
in his official capacity as Treasurer

MUR: 5572

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by William J. Lynch, Chairman Rhode Island Democratic State Committee. Complainant alleges that David Rogers and his 2002 and 2004 campaign committees, Friends of Dave Rogers and Rogers for Congress respectively, violated 2 U.S.C. § 439a when David Rogers converted contributions to his personal use by selling or renting contributor lists developed by his campaign committees with contributions from the 2002 and 2004 elections, and retaining the proceeds from that sale as personal "salary."¹ The evidence demonstrates that there is reason to believe that David W. Rogers, Special Operations Fund f/k/a Rogers for Congress and Christian Winthrop, in his official capacity as treasurer, and Friends of Dave Rogers and Christian Winthrop, in his official capacity as treasurer, violated the Act by converting campaign assets to the personal use of David W. Rogers.

¹ Complainant also contends that the alleged violations may involve knowing and willful conduct by Rogers under 2 U.S.C. § 437g(d)(1). Since the payment Rogers received in 2003 for the sale of the contributor lists exceeded \$25,000, Complainant urged the Commission to consider referring the matter to the Department of Justice as an apparent violation of the Act under 2 U.S.C. § 437g(c).

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Accordingly, the Commission finds reason to believe that David W. Rogers,

Special Operations Fund f/k/a Rogers for Congress and Christian Winthrop, in his official capacity as treasurer, and Friends of Dave Rogers and Christian Winthrop, in his official capacity as treasurer, violated section 439a of the Act and section 113.1 of the Commission's Regulations.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

David W. Rogers was the Republican candidate for Congress in Rhode Island's First Congressional District in the 2002 and 2004 general elections.

Friends of Dave Rogers was the principal campaign committee for David Rogers' 2002 campaign for Congress. The committee's treasurer is Christian Winthrop. The committee filed several reports with the Commission, the last dated July 15, 2003, seeking to terminate as a political committee. Due to a failure to respond to certain questions from RAD about the requested termination, the committee was not allowed to terminate and has been sent multiple failure to file notices, the last dated February 17, 2006. The committee has not responded to any of these notices.

Rogers for Congress was the principal campaign committee for David Rogers' 2004 campaign for Congress. At the time of the complaint, Michael Rogers was the treasurer of Rogers for Congress.² Rogers for Congress was formed in February of 2003, prior to Friends of Dave Rogers filing its first termination report. In February and March

² Michael Rogers was formerly the treasurer for Rogers for Congress and was identified as such in the Complaint. In accordance with the Commission's Treasurer Policy, Michael Rogers has been replaced as a Respondent in this MUR with the successor treasurer of the re-named committee, Christian Winthrop.