



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 19 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kristi Willis

Austin, TX 78752

RE: MUR 5811
Kristi Willis

Dear Ms. Willis:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 12, 2006, the Commission found reason to believe that you knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 439a(b), provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, 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 investigation to be made public.

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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel 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.

If you have any questions, please contact Lynn Tran, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530. We look forward to your response.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kristi Willis

MUR: 5811

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). Based on the available information, there is reason to believe that Kristi Willis knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 439a(b) by commingling Committee funds with personal funds and converting campaign funds to her own personal use.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Doggett for U.S. Congress is the principal campaign committee for Lloyd Doggett, a member of the House of Representatives from Texas' 25th Congressional District. James Cousar is the treasurer of the Committee. Kristi Willis served as a staff member in the Committee's Austin office with responsibility for handling the Committee's accounts until March 2004. Willis worked in Doggett's Austin office from 1998-2004, her last position was as Doggett's district director.

From 1999-2004, Willis made a total of \$168,402 in unauthorized disbursements from Committee accounts – 41 disbursements totaling \$43,231.42 to "Ms. Kristi Willis" and 40 disbursements to "American Express" totaling \$125,170.58. The first unauthorized disbursement was made on January 8, 1999 and initially reported on the 1999 Mid-Year Report filed July 9,

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1999. The last disbursement was made on March 15, 2004. The money embezzled by Willis from the Committee was spent on ordinary living expenses including house and car payments according to Willis' attorney. *See Tara Copp, Former Doggett Aide Admits to Taking Money from the Campaign*, Austin American-Statesman, Feb. 2, 2006.

Willis, who never served as the Committee's treasurer, volunteered to be the campaign bookkeeper and was responsible for recording all checks that came in to the Committee or were paid out by the Committee. When Willis wrote an unauthorized check from the campaign, she would destroy the canceled check and not make an entry in the checkbook ledger for the disbursements she made to herself. Because Willis managed the accounts, she informed Cousar of the account balances. According to the Committee's treasurer, James Cousar, the Committee did not notice Willis' embezzlement because no one double-checked her accounting. No one from the Committee suspected any wrongdoing by Willis since the totals continued to balance each year. *See Copp, supra* at 2-3.

In conjunction with the submission of its 2005 Year End Report on January 31, 2006, the Committee's treasurer, James Cousar, notified the Commission that the Committee included on its 2005 Year End Report a debt of \$166,638.42 due to the Committee from Willis, after Willis admitted to making the unauthorized disbursements. The Committee also submitted an explanatory letter outlining the Committee's knowledge about the unreported disbursements and indicating it would submit updated reports to reflect Willis' unauthorized disbursements. On February 23 and 24, 2006, the Committee filed amendments for all reports filed from the 1999 Mid-Year Report through the 2005 Year End Report disclosing \$168,402 in unauthorized disbursements of Committee funds by Ms. Willis.

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B. Analysis

The Act prohibits the commingling of committee funds with “the personal funds of any individual.” 2 U.S.C. § 432(b)(3); *see also* 11 C.F.R. § 102.15. By using the Committee’s accounts to write checks to herself and to pay her personal bills, Willis improperly transferred Committee funds for her personal use, and, in so doing, commingled Committee funds with her own personal funds in violation of 2 U.S.C. § 432(b)(3).

The Act prohibits “any person” from converting contributions or donations to an authorized committee for the individual’s personal use. 2 U.S.C. § 439a(b). The Act sets forth examples of *per se* instances of improper personal use, such as using campaign contributions or donations for mortgage or rental payments, clothing expenses, noncampaign-related automobile expenses, or household food items. *See* 2 U.S.C. § 439a(b)(2)(A)-(I); *see also* 11 C.F.R. § 113.1(g). In addition, the Act considers a contribution or donation improperly converted for personal use if “the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective” of the campaign. 2 U.S.C. § 439a(b)(2). Because the Committee was also an authorized committee, Willis also improperly converted campaign funds for her own personal use in violation of 2 U.S.C. § 439a(b).

Willis’ attorney has stated that the money she embezzled from the campaign was “spent on the type of normal living expenses: house expenses and car expenses. On the (records) I’ve gone over, it just looks like somebody’s ordinary expenses.” *See* Copp, *supra* at 2. The items referenced by Willis’ attorney would establish *per se* violations of 2 U.S.C. § 439a(b)(2). The fact that the campaign funds were use for “ordinary expenses” that were “incurred irrespective of” Willis’ involvement with the Committee would also establish a violation of the Act.

Because Willis engaged in a scheme to hide her embezzlement by destroying the canceled checks and reporting incorrect account balances to the Committee treasurer, there is a sufficient basis to find there is reason to believe Willis' violations of the Act were knowing and willful.¹ Accordingly, the Commission found that there is reason to believe Kristi Willis knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 439a(b).

¹ To establish a knowing and willful violation, there must be knowledge that one is violating the law. See *FEC v John A. Dramesi for Congress Comm*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *US v Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.

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