



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 22 2013

Lisa Lisker, Treasurer
McCain Victory 2008
228 S Washington Street, Suite 115
Alexandria, VA 22314

RE: MUR 6689

Dear Ms. Lisker:

On November 13, 2012, the Federal Election Commission notified McCain Victory 2008 and you in your official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 7, 2013, based upon the information contained in the complaint, and information provided by the respondents, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on May 7, 2013.

Documents related to the case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A Factual and Legal Analysis further explaining the basis for the Commission's decision is enclosed.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Anthony Herman
General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: McCain Victory 2008
Lisa Lisker as treasurer

MUR 6689

I. INTRODUCTION

This matter was generated by a Complaint filed by Grace Sheedy alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). It was scored as a low-rated matter under the Enforcement Priority System, a system by which the Federal Election Commission ("Commission") uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

The Complaint alleges that, during 2007 and 2008 (the "time period"), Jim C. Walton ("Walton") violated the biennial limit on contributions to federal candidates at 2 U.S.C. § 441a(a)(3). Compl. at 1-2.¹ Specifically, according to the Complaint, Walton contributed \$46,100 to federal candidates. *Id.* at 2. The Complaint provides a chart listing contributions from Walton to federal candidates, seemingly drawn on Commission records. Compl., Ex. A. On that chart are two contributions from Walton to John McCain 2008, Inc., Senator John McCain's 2008 presidential primary committee, and Joseph Schmuckler in his official capacity as treasurer ("McCain 2008"), totaling \$4,600 and two contributions from Walton to

¹ During the time period, individuals could contribute \$42,700 to federal candidates and their authorized committees and \$65,500 to party committees and other political committees. Price Index Increases for Expenditure and Contribution Limitations, 72 Fed. Reg. 5294, 5295 (Feb. 5, 2007) ("Contribution Limit Increases").

1 McCain-Palin Compliance Fund, Inc. and Joseph Schmuckler in his official capacity as treasurer
2 ("GELAC"), totaling \$4,300.² *Id.* As a consequence, according to the Complaint, Walton
3 exceeded the biennial limit of \$42,700 on contributions to federal candidates by \$3,400. *Id.*

4 According to information obtained by the Commission, Walton reportedly made a
5 contribution of \$2,300 to McCain 2008 in May 2008 and a \$4,300 contribution to McCain
6 Victory 2008, a joint fundraising committee, and Lisa Lisker in her official capacity as treasurer
7 ("McCain Victory") in August 2008. It appears that Walton instructed McCain Victory to
8 allocate \$2,000 of his contribution to the Republican National Committee and \$2,300 to GELAC.
9 Instead, in what may have been a processing error, on August 29, 2008, McCain Victory
10 allocated his contribution as follows: \$2,300 to McCain 2008 (the wrong amount to an incorrect
11 recipient) and \$2,000 to GELAC (the wrong amount to the correct recipient). *Id.* at 1-2.

12 The transfer to McCain 2008, when aggregated with Walton's May 2008 \$2,300
13 contribution to McCain 2008, would have resulted in an excessive contribution by Walton to
14 McCain 2008, as well as a contribution of \$2,000, instead of \$2,300, to GELAC. The record
15 reflects, however, that the misallocated contributions were returned to McCain Victory, which
16 then complied with the donor's intent.³

17 Although McCain Victory initially misreported the amounts and one of the recipients of
18 Walton's contribution, it appears to have corrected its errors and reported the transactions

² A major party candidate for president who receives public funding for the general election is permitted to accept contributions designated for a general election legal and accounting compliance fund, or GELAC, which is a special account used to pay legal and accounting expenses incurred in complying with Federal law. See 11 C.F.R. § 9003.3(a)(1).

³ After reviewing GELAC's financial disclosure reports, the Commission was unable to pinpoint whether GELAC transferred the original \$2,000 contribution back to McCain Victory. Given, however, that Walton contributed a total of \$4,300, not \$6,300, to McCain Victory during the time period, it appears likely that McCain Victory and GELAC unwound the initial erroneous transfer.

- 1 correctly. Therefore, the Commission exercises its prosecutorial discretion and dismisses this
- 2 matter as to McCain Victory 2008 and Lisa Lisker in her official capacity as treasurer, pursuant
- 3 to *Heckler v. Chaney*, 470 U.S. 821 (1985).

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