



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MEMORANDUM

TO: The Commission

FROM: Daniel A. Petalas *DAP*
Associate General Counsel for Enforcement

Mark Allen *MA*
Acting Assistant General Counsel

Dawn M. Odrowski *DMO*
Attorney

SUBJECT: MUR 6597 (Kinde Durkee)
Pre-Probable Cause Conciliation

Attached is a negotiated conciliation agreement signed by Kinde Durkee. Attachment 1. The agreement would settle Durkee's knowing and willful violations of 2 U.S.C. §§ 432(b)(3), 432(c), 434(b), and 439a(b) [now 52 U.S.C. §§ 30102(b)(3), 30102(c), 30104(b) and 30114(b)]¹ resulting from an embezzlement scheme Durkee engaged in over the course of ten years while serving as treasurer for hundreds of federal and state political committees, including the five political committees referenced in the conciliation agreement.

We recommend that the Commission accept the agreement and close the file in this matter.

I. BACKGROUND

This matter was initiated by a Complaint filed by Feinstein for Senate and Fund for the Majority, Feinstein's leadership PAC ("Feinstein Committees"), against their former treasurer, Kinde Durkee, alleging violations of the commingling, personal use, and reporting provisions of the Act; by *sua sponte* submissions ("Submissions")

relating to Durkee's embezzlement and the resulting misreporting attributable to her actions; and by RAD referrals involving the

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act") was transferred from Title 2 to new Title 52 of the United States Code.

misreporting ("Referrals"). The Complaint, Submissions, and Referrals were all initiated following Durkee's March 30, 2012, guilty plea to five counts of mail fraud.² In the Plea Agreement, Durkee admitted that she routinely misappropriated client funds by moving, without authorization, substantial sums of money from client accounts into the accounts of her business, Durkee & Associates, or into other clients' accounts and used the transferred funds to pay personal and business expenses and to repay unauthorized withdrawals from other clients' accounts.³ All told, Durkee admitted causing in excess of \$7 million in losses to more than 10 and possibly 50 or more clients.⁴ The facts set forth in the Plea Agreement address primarily Durkee's dealings with the Committees and identify specific unauthorized transactions by Durkee involving their accounts and funds. Durkee was sentenced on November 28, 2012, to a 97-month prison term and ordered to pay \$10.5 million in restitution.⁵ She began serving her prison sentence on January 2, 2013. The criminal judgment was later amended in September 2013 to reduce the restitution amount to \$9,749,989.76 due to an error in the amount attributable to Fund for the Majority.⁶

Based on the transactions involving the Committees identified in the Plea Agreement, the Referrals, and information provided in the Complaint and Submissions, on December 17, 2013, the Commission opened MURs as to Kinde Durkee in the Referrals and Submissions, merged them into MUR 6597, and found reason to believe that Durkee knowingly and willfully violated the Act by commingling the Committees' funds with personal funds, failing to keep accurate records of the Committees' finances, filing inaccurate reports with the Commission, and converting campaign funds to her personal use.⁷ The Commission simultaneously authorized the Office of General Counsel to engage in pre-probable cause conciliation with Durkee.

² Plea Agreement, *United States v. Kinde Durkee*, 12-cr-00123 (E.D. Cal. Mar. 30, 2012) ("Plea Agreement").

³ *Id.* at 2, 14-15.

⁴ *Id.* at 11.

⁵ Judgment, *United States v. Kinde Durkee*, 12-cr-00123 (E.D. Cal. Nov. 28, 2012).

⁶ Amended Judgment, *United States v. Durkee*, 12-cr-00123 (E.D. Cal. Sept. 26, 2013) ("Amended Judgment"); Stipulation to Amend Judgment, *United States v. Durkee*, 12-cr-00123 (E.D. Cal. Sept. 8, 2013).

⁷ Certification, MUR 6597; Pre-MURs 534, 537, 538, 539; RAD Referrals 12L-18, 12L-28, 12L-29, 12L-30 and 12L-43 (Dec. 17, 2013).

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4 We believe the attached conciliation agreement is a reasonable resolution of this matter
5 given Durkee's incarceration and financial status. Therefore, we recommend that the
6 Commission accept the attached conciliation agreement with Kinde Durkee and close the file in
7 this matter.
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9 **III. RECOMMENDATIONS**
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- 11 1. Accept the attached conciliation agreement with Kinde Durkee;
12 2. Approve the appropriate letters; and
13 3. Close the file.
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