



FEDERAL ELECTION COMMISSION
WASHINGTON, D C. 20463

AUG 24 2004

Sharon Smith
210 Jetway Road
Clinton, AR 72031

RE: MUR 5514
Sharon Smith

Dear Mrs. Smith:

On August 12, 2004, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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

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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.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bradley A. Smith".

Bradley A. Smith
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Sharon Smith

MUR 5514

I. GENERATION OF MATTER

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).

II. THE APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and that no person shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f.

III. FACTS AND ANALYSIS

A. Shelly Davis' Memorandum

Information in the Commission's possession alleges that CWS may have reimbursed campaign contributions to multiple federal campaigns through company payments of fraudulent invoices, or other reimbursement vehicles, to conduits who were outside vendors to CWS. According to a December 3, 2002 memorandum to CWS board members from Shelly Davis, administrative assistant to former Community Water System, Inc. ("CWS") General Manager Greg Smith, Ms. Davis alleges that CWS engaged in political contribution reimbursement activity in 1998, 2000, and 2002, including in connection with an August 9, 2002 fundraiser for Congressman Berry and an August 15, 2002 fundraiser for Senator Hutchinson.

Although Ms. Davis in her December 3, 2002 memorandum refers generally to multiple individuals who were instructed to contribute with the expectation of reimbursement, she identified by name only attorney Heartsill Ragon III of Gill Elrod Ragon Owen & Sherman P.A. ("Gill Law Firm"), who provided legal services to CWS,¹ and an individual believed to be Charles McLaughlin.²

On December 16, 2002, shortly after Ms. Davis described the alleged reimbursement scheme to members of the CWS board, CWS reportedly dismissed Greg Smith and terminated its working relationship with the Gill Law Firm, reportedly noting in a file memorandum that Mr. Smith's activities on behalf of CWS appeared to involve illegal contributions to political candidates and the falsification of records.³ Both Mr. Smith and the Gill Law Firm reportedly have maintained their innocence; Mr. Smith and CWS currently are embroiled in two separate lawsuits (wrongful termination and breach of contract) growing out of the allegations in this

¹ According to Dun and Bradstreet reports, the Gill Law Firm has been incorporated since 1994. Heartsill Ragon III is listed as a Vice President of the firm.

² Although Ms. Davis' December 3, 2002 memorandum only refers to the name "Charlie," this Office believes that she is referring to Charles McLaughlin. Information in the Commission's possession reveals that Greg Smith addressed Charles McLaughlin by the nickname "Charlie" in e-mail correspondence regarding the making of political contributions, and Mr. McLaughlin made political contributions to Congressman Berry and others in 2000 and 2002. Moreover, Dun and Bradstreet reports identify Mr. McLaughlin as the President of McLaughlin Engineering, Inc., a company that appears to have worked with CWS on matters concerning the Lonoke-White Project. Under these circumstances, the Commission believes there is a permissible inference that "Charlie" is in fact Charles McLaughlin.

³ See Christine Weiss, *CWS memo cites 'illegal acts' leading to firing*, The Heber Springs Sun-Times, January 3, 2003.

matter.⁴

B. Analysis

CWS board member Barbara Sullivan has made statements to the media suggesting that the scope of the reimbursement scheme may exceed \$20,000 in reimbursed contributions. *See Bert King, Water Chief Fired Due to Dereliction*, The Cabot Star Herald, January 8, 2003. FEC disclosure reports indicate the alleged reimbursement scheme may have extended to other potential conduits making contributions to the Berry and Hutchinson campaigns in 2002, including Sharon Smith, the spouse of Greg Smith, CWS's former General Manager, who reportedly contributed \$1,000 each to the Berry committee and to the Hutchinson committee on the same dates as the Heartsill Ragon III and Charles McLaughlin contributions. In this overall context, it is possible that Sharon Smith may have been reimbursed by CWS for one or more of her contributions.

Therefore, there is reason to believe that Sharon Smith violated 2 U.S.C. § 441f.

⁴ *See* Sonja Oliver, *CWS board still facing lawsuits*, The Heber Springs Sun-Times, December 24, 2003. In February 2003, following Smith's termination, CWS dissolved its contract with Cenark. *See* Michelle Hillen, *Lawsuits fly. Fired utility chief, water system toe-to-toe Pipeline conflict of interest cited*, The Arkansas Democrat Gazette, July 1, 2003. Mr. Smith apparently lost approximately \$1.3 million in Cenark fees due to the contract dissolution. *Id.* On December 23, 2003, citing breach of contract, Cenark sued CWS for "\$1.2 million-plus." *See* Randy Kemp, *Smith sues CWS for \$1 2 million*, The Heber Springs Sun-Times, January 30, 2004.