



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D C 20463

**JUN 30 2005**

**Take Back the House**  
**M. Mickey Williams, Treasurer**  
**12138 Central Avenue**  
**Suite 194**  
**Mitchellville, MD 20721**

**RE: MUR 5665**

**Dear Mr. Williams:**

On June 21, 2005, the Federal Election Commission found that there is reason to believe Take Back the House ("Committee") and you, in your official capacity as treasurer, violated 2 U.S.C. §§ 441a(f), 441b(a) and 434(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. §§ 102.9, 103.3(b) and 104.5(c). These findings were based upon information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, 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.

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.

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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.

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 attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Lela Scott, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas  
Chairman

Enclosures  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Take Back the House  
(a.k.a. Democratic Majority)  
M. Mickey Williams, in his official  
capacity as Treasurer

**MUR: 5665**

**I. INTRODUCTION**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities indicating that Take Back the House (a.k.a. Democratic Majority) and M. Mickey Williams, in his official capacity as Treasurer (hereinafter "the Committee"), accepted a contribution from an individual donor that exceeded the applicable limit by \$5,000, a prohibited corporate contribution in the amount of \$20,000, a prohibited labor organization contribution in the amount of \$25,000, and a contribution of \$2,500 from an unincorporated organization that is not registered with the Commission.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. EXCESSIVE CONTRIBUTION**

According to disclosure reports, the Committee accepted a \$10,000 contribution from an individual, Peter Angelos, in September 2002. Under the Federal Election Campaign Act of 1971, as amended ("the Act"), political committees, other than authorized political committees, national political party committees, or State political party committees, may accept up to \$5,000 from an individual per calendar year. See 2 U.S.C. §§ 441a(a) and (f). Accordingly, the \$10,000 contribution from an individual contributor is excessive on its face.

1 If a political committee receives a contribution that appears excessive on its face, the  
2 treasurer may request reattribution of the contribution by the contributor. *See* 11 C.F.R.  
3 § 103.3(b)(3). If a reattribution is not obtained, the treasurer is required to refund the excessive  
4 portion of the contribution to the contributor within sixty days of the treasurer's receipt of the  
5 contribution. *See id.* The Committee's disclosure reports do not indicate that the Committee  
6 reattributed any portion of the contribution to another contributor or refunded any portion of the  
7 contribution to Mr. Angelos. Therefore, there is reason to believe that the Committee violated  
8 2 U.S.C. § 441a(f) by knowingly accepting a contribution from an individual equal to twice the  
9 applicable contribution limit.

## 10 **B. APPARENT PROHIBITED CONTRIBUTIONS**

11 The Committee appears to have accepted three contributions from prohibited sources: (1)  
12 a \$20,000 contribution from AT&T Corporation ("AT&T") in November 2002; (2) a \$25,000  
13 contribution from the Michigan Regional Council of Carpenters ("MRCC"), a labor organization,  
14 in October 2002; and (3) a contribution of \$2,500 in May 2002 from the Interactive Digital  
15 Software Association PAC ("ISDA-PAC"), a nonfederal committee that appears to have lacked  
16 sufficient federal funds to make the contribution.

### 17 **1. Corporate Contribution**

18 Political committees are prohibited from knowingly accepting contributions made from  
19 corporations' general treasuries in connection with federal elections. *See* 2 U.S.C. § 441b(a) and  
20 11 C.F.R. § 114.2(b). In this instance, Take Back the House's disclosure reports indicate that it  
21 knowingly accepted a corporate contribution from AT&T in the amount of \$20,000, and the

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1 disclosure reports do not indicate that this contribution was ever refunded to AT&T as required  
2 by 11 C.F.R. § 103.3(b)(1).<sup>1</sup>

3 In response to a Request for Additional Information (“RFAI”) from the Commission’s  
4 Reports Analysis Division, the Committee’s treasurer maintained that receipt of this prohibited  
5 corporate contribution had been remedied, at least in part, because \$15,000 of this contribution  
6 had been “transferred” to a non-federal account of the Democratic Congressional Campaign  
7 Committee (“DCCC”). The Act and Commission regulations do not provide for this remedy.

8 Rather, a committee that accepts prohibited contributions such as these must refund the  
9 contribution to the contributor within thirty days of the treasurer’s receipt of the contribution.

10 See 11 C.F.R. § 103.3(b)(1). The “transfer” of prohibited funds, in whole or in part, to another  
11 political committee is not a remedy afforded by the Act or Commission regulations. Therefore,  
12 this contribution to the DCCC has no bearing on this violation of 2 U.S.C. § 441b(a).

13 Accordingly, there is reason to believe that Take Back the House and M. Mickey Williams, in his  
14 official capacity as Treasurer, violated 2 U.S.C. § 441b(a) by knowingly accepting a corporate  
15 contribution.

## 16 2. Labor Organization Contribution

17 Take Back the House’s disclosure reports indicate that it knowingly accepted a  
18 contribution in the amount of \$25,000 from the Michigan Regional Council of Carpenters

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<sup>1</sup> Although AT&T has a registered political committee, AT&T Corp Political Action Committee (AT&T PAC), this political committee does not appear to have been the source of the contribution. AT&T PAC did not report this contribution in its disclosure reports, and Take Back the House reported the contribution as having been made by “AT&T Corp.”

1 (“MRCC”), an organization that identifies itself as a trade union.<sup>2</sup> Political committees are  
2 prohibited from knowingly accepting contributions made from the labor organizations’ general  
3 treasuries in connection with federal elections. *See* 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a).  
4 The Committee’s disclosure reports do not indicate that this contribution was ever refunded to  
5 MRCC as required by 11 C.F.R. § 103.3(b)(1). Accordingly, there is reason to believe that Take  
6 Back the House and M. Mickey Williams, in his official capacity as Treasurer, violated 2 U.S.C.  
7 § 441b(a) by knowingly accepting a contribution from a labor organization.

### 8                   **3. Contribution From Non-Federal Funds**

9           Take Back the House also appears to have accepted a \$2,500 contribution from  
10 Interactive Digital Software Association Political Action Committee (“IDSA-PAC”) in May  
11 2002.<sup>3</sup> This nonfederal committee filed with the Internal Revenue Service as a Section 527  
12 organization and appears to have been registered as a nonfederal political committee with the  
13 Virginia State Board of Elections. In order for a political committee to accept a contribution  
14 from an unregistered organization into an account used to influence federal elections, the  
15 committee is required to take steps to insure that the contributor used permissible funds to make  
16 the contribution. *See* 2 U.S.C. §§ 441a(f) and 441b; 11 C.F.R. § 102.5(b). In addition, under  
17 Commission regulations, organizations that are not political committees under the Act may make  
18 contributions to federal committees, but they must be able to demonstrate through reasonable

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<sup>2</sup> *See* <http://www.hammer9.com/>. The United Brotherhood of Carpenters and Joiners of America, a labor organization, identifies the MRCC as one of its regional divisions. *See* <http://www.carpenters.org>.

<sup>3</sup> IDSA-PAC received termination approval from the Commission in August 2000 and had not re-registered with the Commission at the time that the contribution to Take Back the House was made.

1 accounting methods that any contribution to a federal committee was made with funds raised  
2 subject to the limitations and prohibitions of the Act. *See* 11 C.F.R. § 102.5(b)(1).  
3 According to disclosure reports filed with the IRS, all of the IDSA-PAC's receipts in 2002 were  
4 comprised of "dues" from its member trade associations, all of which are for-profit corporations.  
5 The large round numbers reported for these dues, such as \$100,000, suggests that they may have  
6 come directly from the general treasury of member corporations, rather than an aggregate of  
7 small contributions from individual donors.<sup>4</sup> Therefore, there is reason to believe that Take Back  
8 the House and M. Mickey Williams, in his official capacity as treasurer, violated 2 U.S.C.  
9 § 441b(a) and 11 C.F.R. § 102.5(b) by knowingly accepting a \$2,500 contribution from a  
10 nonfederal committee that did not have sufficient federal funds to make the contribution.

### 11 C. APPARENT REPORTING VIOLATIONS

12 Political committees are required to file complete and accurate reports of the committee's  
13 receipts and disbursements on time, to monitor contributions to ensure compliance with the Act's  
14 contribution source prohibitions and contribution limitations, to provide name and address  
15 information of contributors who contribute more than \$50, and to report the purpose of each  
16 disbursement. *See* 2 U.S.C. § 434(a); 11 C.F.R. §§ 102.9 and 103.3(b). The reports must be  
17 filed on certain dates specified by the Commission. *See* 11 C.F.R. § 104.5(c). Take Back the  
18 House has repeatedly failed to file reports consistent with these requirements.

19 The Committee's 2002 30-Day Post-General Election Report, which was filed on  
20 December 5, 2002, was the last disclosure report filed with the Commission. Since then, the

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<sup>4</sup> Small contributions from individual donors aggregating within the applicable contribution limits set forth in 2 U.S.C. § 441a(a) would indicate that IDSA-PAC had sufficient federal funds to make the contribution to Take Back the House.

1 Committee has failed to file nine required disclosure reports, leaving its activity from December  
2 2002 until the present completely unreported.<sup>5</sup> Accordingly, there is reason to believe that Take  
3 Back the House and M. Mickey Williams, in his official capacity as treasurer, violated 2 U.S.C.  
4 § 434(a) and 11 C.F.R. §§ 102.9, 103.3(b), and 104.5(c) by failing to file required disclosure  
5 reports with the Commission.

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<sup>5</sup> Take Back the House filed for termination in December 2002; however, termination has not been granted. In June 2003, the Commission, through its Administrative Fines Program, fined the Committee \$1,800 for failing to file its 2002 Year End Report and the fine has been transferred to the U.S. Treasury for collection.