

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Arent Fox
ATTORNEYS AT LAW

April 5, 2005

2005 APR 11 A 10: 08

Craig Engle
202 775 5791 DIRECT
202 857 6395 FAX
engle.craig@arentfox.com

VIA FACSIMILE AND MAIL

Scott E. Thomas
Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Scott S. Ward
202/715-8414 DIRECT
wards@arentfox.com

Re: MUR - 5648
J. Edgar Broyhill III
Broyhill for Congress and Tim Nerhood, Treasurer¹

Dear Mr. Chairman:

This letter will serve as the first response to the allegations contained in the above referenced MUR against Broyhill for Congress and J. Edgar Broyhill ("Respondents"). This initial response is intended to forward documentation refuting Commission charges that the Respondents failed to file three FEC Form 10s in a timely manner. We will forward a response to the other charges under separate cover.

The Commission alleges that the Respondents failed to file in a timely manner FEC Form 10s on March 12, April 30, and June 8, 2004. Documents attached to the Affidavit of Christy Wilson, Finance Director for the Committee, show that the Respondents made each of these filings on time.

- **March 12, 2004 Loan** - Mr. Broyhill loaned his Committee \$25,000 on March 12, 2004. In compliance with their obligations Respondents faxed the required Form 10 that same day. A facsimile confirmation sheet is attached as Exhibit A to the Wilson Affidavit. As further evidence Respondents emailed the Form 10 to the other candidates in the primary the next day. A print out of that email is also attached as Exhibit A to the Wilson Affidavit.
- **April 30, 2004 Loan** - Mr. Broyhill loaned his Committee \$150,000 on April 30, 2004. On May 1, 2004, Christy Wilson, the finance director for Broyhill for Congress, emailed the Form 10 to the Commission. An email showing delivery notification to the FEC is attached as Exhibit B to the Wilson Affidavit.
- **June 8, 2004 Loan** - Mr. Broyhill loaned his Committee \$50,000 on June 8, 2004. Ms. Wilson emailed the required Form 10 on June 9, 2004 to the FEC. An

¹ Mr. Nerhood was substituted as Treasurer for the Committee on the amended Statement of Organization filed on March 31, 2005

26044142511

email showing delivery notification to the FEC is attached as Exhibit C to the Wilson Affidavit.

The documents attached to the Wilson Affidavit show that the Respondents did in fact file these three Form 10s, as required and on time. The Respondents should not be held liable for the failure of the FEC to process these forms.

Respondents will provide further response to the remaining allegations contained in the above referenced MUR after these factual issues are resolved. Simply put, Respondents fully discharged their duty with regard to these forms and they should not be included in this matter.

Sincerely,



Craig Engle
Scott S. Ward

Enclosures

26044142512

AFFIDAVIT OF CHRISTY WILSON

Christy Wilson, being duly sworn, deposes and states as follows:

1. I am over eighteen years of age and have personal knowledge of the facts herein.

2. I am a resident of Huntersville, North Carolina.

3. I was the Finance Director for the Broyhill for Congress Campaign (the "Committee"). As part of my duties I oversaw the preparation and submission of FEC Form 10 filings by the Committee.

4. Attached as Exhibit A are true and correct copies of a facsimile confirmation sheet, showing delivery of the Committee's Form 10 on March 12, 2004, and an email showing delivery of the Form 10 to other candidates in the primary along with a delivery notification sheet. This facsimile confirmation sheet can be distinguished from the initial Form 10 filed by the Committee on the same day by the time stamp. The FEC's facsimile machine stamped the initial Form 10 fax at 6:06 pm on March 12, 2004. The facsimile confirmation sheet attached hereto was sent at 9:59 pm on March 12, 2004.

5. Attached as Exhibit B is a true and correct copy of an email delivery notification showing delivery of the Committee's Form 10 on May 1, 2004 to an FEC address.

6. Attached as Exhibit C is a true and correct copy of an email delivery notification showing delivery of the Committee's Form 10 on June 9, 2004 to an FEC address.

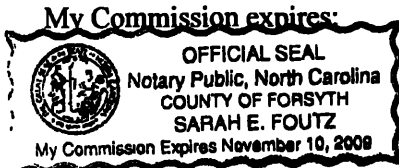
Further the affiant sayeth not.

This 5th day of April, 2005.


Christy Wilson, Finance Director
Broyhill for Congress

STATE OF NORTH CAROLINA)
)
COUNTY OF FORSYTH)

This 5th day of April, 2005, Christy Wilson personally appeared before me, a Notary Public in and for the State and County aforesaid, who after being duly sworn on oath acknowledged the foregoing instrument and stated that the information contained herein is true and correct to the best of her knowledge and belief.



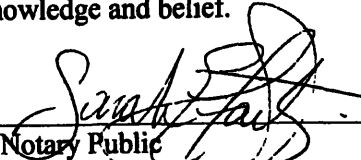

Notary Public

EXHIBIT A

26044142515

ENDING REPORT

Mar. 12 2004 10:00PM

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	2022190174	Mar. 12 09:59PM	00'41	SND	01	OK

26044142516

From: Cwilson [cwilson@broyhill.net]
Sent: Thursday, March 03, 2005 2:01 PM
To:
Cc:
Subject: FW: FEC Form 10

Attachments: form102.jpg

-----Original Message-----

From: Christy Wilson [mailto:christywilson@broyhillforcongress.us]
Sent: Saturday, March 13, 2004 8:43 PM
To:
Subject: FEC Form 10

Broyhill for Congress

A North Carolina Tradition

Christy Wilson
Finance Director

Broyhill for Congress
Post Office Box 5656
Winston-Salem, North Carolina 27113

tel: 336-794-0900
fax: 336-765-6994
mobile: 704-699-0631

christywilson@broyhillforcongress.us

Powered by Plaxo

Add me to your address book..

Want a signature like this?

FEC FORM 10

24-HOUR NOTICE OF EXPENDITURE FROM CANDIDATE'S PERSONAL FUNDS (11 CFR 400.21 and 400.22)
(Millionaires' Amendment)

1. Name of Candidate 2. Office Sought 3. State 4. District 5. Candidate ID Number

Ed Broyhill

House

North Carolina 5

H 4 NC05195

6. Name of Principal Campaign Committee

7. Committee ID Number

Broyhill for Congress

C 00388736

8. Address

Post Office Box 5656

9. City, State and ZIP Code

Winston-Salem, North Carolina 27113

10. Expenditures of Personal Funds (If the candidate has made expenditures for different elections, submit a separate Form 10 for each election.)

Aggregate Expenditures Previously Reported During the Election Cycle

50000.00

	DATE	ELECTION	AMOUNT	CHECK IF LOAN/DE
A.	03 12 2004	<input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other	25000.00	<input checked="" type="checkbox"/>
B.		<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>
C.		<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>
D.		<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>

11. Total Expenditures This Notice

25000.00

12. Total Expenditures Election Cycle To Date

400000.00

TYPE OR PRINT NAME OF COMMITTEE TREASURER

L. Glenn Orr, Jr.

SIGNATURE OF COMMITTEE TREASURER

DATE

Signature on file with FEC

03-13-2004

For further information contact:
Federal Election Commission, 999 E Street, NW, Washington, DC 20463
Toll Free 800-424-9530, Local 202-694-1100

26044142518

EXHIBIT B

26044142519

April 30 Form 10 confirmation
From: Cwilson [cwilson@broyhill.net]
Sent: Tuesday, March 01, 2005 4:33 PM
To: Tim Nerhood
Subject: April 30 Form 10 and confirmation
Attachments: FEC430.tif

-----Original Message-----

From:
Sent: Saturday, May 01, 2004 10:48 PM
Subject:

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: text/plain; charset=us-ascii

Your message was successfully relayed to a system that does not support delivery confirmations. Unless the delivery fails, this will be the only delivery notification.

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: message/delivery-status

Reporting-MTA: broyhillforcongress.us
Final-Recipient: rfc822;2022190174@fec.gov
Action: relayed
Status: 2.0.0

-----IMA4e485e2.40c2/broyhillforcongress.us
Content-Type: message/rfc822

Received: from christy [67.35.187.109] by broyhillforcongress.us with ESMTTP (SMTPD32-8.05) id A5C6164800CA; Sat, 01 May 2004 21:47:34 -0500
Return-Receipt-To: "Christy Wilson" <christywilson@broyhillforcongress.us>
From: "Christy Wilson" <christywilson@broyhillforcongress.us>
To: <christywilson@broyhillforcongress.us>
Subject: FEC
Date: Sat, 1 May 2004 22:47:49 -0400
Message-ID: <!!UENERkVCMDKAAQACAAAAAAAAAAAAAAAAABgAAAAAAAAA5fHbM3zO50S6kMHm/xtjRSKAAAAQAAAA11PAK/2hskOOie7ijOwnxAEAAAAA@broyhillforcongress.us>
MIME-Version: 1.0
Content-Type: multipart/mixed;
boundary="-----_NextPart_000_0000_01C44B4F.257E99D0"
X-Priority: 3 (Normal)
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook, Build 10.0.4510
Importance: Normal
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165
Disposition-Notification-To: "Christy Wilson" <christywilson@broyhillforcongress.us>

-----IMA4e485e2.40c2/broyhillforcongress.us--

EXHIBIT C

26044142521

June 9 Form 10 confirmation.txt
From: Cwilson [cwilson@broyhill.net]
Sent: Tuesday, March 01, 2005 5:46 PM
To: Tim Nerhood
Subject: 6/8

Attachments: FEC509.tif

-----Original Message-----

From:
Sent: Wednesday, June 09, 2004 6:25 PM
Subject:

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: text/plain; charset=us-ascii

Your message was successfully relayed to a system that does not support delivery confirmations. Unless the delivery fails, this will be the only delivery notification.

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: message/delivery-status

Reporting-MTA: broyhillforcongress.us
Final-Recipient: rfc822;2022190174@fec.gov
Action: relayed
Status: 2.0.0

-----IMA4c47846.40ec/broyhillforcongress.us
Content-Type: message/rfc822

Received: from christy [66.56.135.58] by broyhillforcongress.us with ESMT
(SMTPD32-8.05) id A80F5760152; wed, 09 Jun 2004 17:24:15 -0500
Return-Receipt-To: "Christy Wilson" <christywilson@broyhillforcongress.us>
From: "Christy Wilson" <christywilson@broyhillforcongress.us>
To: <christywilson@broyhillforcongress.us>
Subject: FEC
Date: Wed, 9 Jun 2004 18:24:31 -0400
Message-ID:
<~!UENERkVCMDKAAQACAAAAAAAAAAAAAAAAABgAAAAAAAAA5fHbM3zO50S6kMHm/xtjRsKAAAAQ
AAAA4Jb87tXC0qFt7mFcqa/sQEAAAAA@broyhillforcongress.us>
MIME-Version: 1.0
Content-Type: multipart/mixed;
boundary="-----_NextPart_000_0003_01c4644F.AE550D20"
X-Priority: 3 (Normal)
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook, Build 10.0.4510
Importance: Normal
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165
Disposition-Notification-To: "Christy Wilson"
<christywilson@broyhillforcongress.us>

-----IMA4c47846.40ec/broyhillforcongress.us--

26044142522