

April 2, 2011

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FEDERAL ELECTION
COMMISSION

2011 APR -6 PM 2:01

OFFICE OF GENERAL
COUNSEL

Sent Via Certified Mail, Return Receipt Requested

Office of Gen. Counsel,
Federal Election Commission
999 E St. N.W.
Washington, DC 20463

SENSITIVE
MUR# 6467

**Re: Possible Violations of Federal Election Law by
Committee C00490946**

To Whom It May Concern:

Enclosed please find a March 26, 2011 opinion letter prepared by question handwriting expert David S. Liebman, 19 pages of supporting documentation and Mr. Liebman's two-page Curriculum Vitae. This opinion letter certifies that Arthur Lee Talley did not sign the October 20, 2010 FEC "Statement of Organization". This document was received by the FEC on October 27, 2010 and recorded as "10030480384" and labeled "Q1" within Mr. Liebman's enclosed documents. It appears that the reported forged signature, coupled with accompanying documentation from Mr. Talley and Virginia Third Congressional District Chairman Michael D. Waile allegedly documents that federal criminal law 18 U.S.C. § 1001 was clearly violated. The specific aspects of this criminal code section are:

US Code - Section 1001: Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully -

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not

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more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Please refer to the enclosed October 20, 2010 with Subject: "Mayday Mayday". This e-mail from the 3rd Congressional District Republican Committee Chairman Michael D Wade to the Duly Elected Treasurer of the same committee, Jim Hewitt states:

"Jim, we have a major problem big-time. We cannot find our FEC registration, a 25K money bomb and 115000 letter from big Richmond guys is held up please respond".

This E-Mail appears to document the urgency and extreme importance, which Michael Wade and others felt at that moment of the filing of the allegedly fraudulent October 20, 2010 FEC "statement of organization". Jim Hewitt reports that when he did contact Chairman Wade a day or so later, he was advised that Wade, Aaron Gilbranson and Chris Woodfin "took care of the FEC registration". Please Note: To assist readers in discerning what is quoted or is reported about the Respondents' behavior, from the comments by the writers of this complaint. **This font will be used regarding the Respondents' statements or submissions**, while this font will be used for the complaint writer's commentary.

Background information is required to understand the basis for the alleged forgery and false submission of federal documents to your agency. **Michael J Buxton and Sean V Devlin, the writers of this FEC complaint letter**, were Co-Directors of the Chuck Smith campaign committee. Consequently, we observed the following critical incidents, which preceded the alleged October 20, 2010 submission of a fraudulent document to your agency.

Jim Hewitt, the 3rd Congressional District Treasurer, had enraged Chairman Wade by supporting his opponent, Jennifer Lee at the May 22, 2010 district convention. During the convention, Jennifer Lee and her supporters had cited Chairman Wade's ineffective fundraising and challenged his veracity and leadership skills. Please refer to the May 23, 2010 e-mail from 3rd District's Chairman Wade to Jim Hewitt with the stated subject: "yesterday and future". Chairman Wade demands Jim Hewitt's resignation; however, has to accept Mr. Hewitt's continued role as Treasurer until the third District's "next meeting" which did not occur until December 2, 2010.

Chairman Wade exclusively organized a July 30, 2010 fundraiser for the Chuck Smith campaign. He repeatedly refused assistance from members of the campaign. He assured the campaign that 400 guests would attend the event featuring Gov. George Allen as the guest speaker. Due to his apparent poor organization, only 40 guests attended and the "fund raiser" was actually a financial loss. Consequently, Chairman Wade agreed to have the Republican party of Virginia (RPV) pay for the event. In late August 2010 a number of individuals advised the Chuck Smith campaign that the \$1800 expense Chairman

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Wade had agreed to pay on July 30, 2010, remained unpaid. The enclosed September 9, 2010 e-mail from Michael Wade to Jim Hewitt with the subject "two things I need done" documents Chairman Wade's attempt to have the third Congressional District pay for an event for which it had no relationship. This appears to violate several FEC regulations.

Treasurer Hewitt initially refused to pay these bills, due to the 3rd District bylaws, which required executive committee approval for any disbursement to a political campaign. Bryan Meals, Esq., Chairman of Portsmouth Republican Party (PRP) and legal counsel for the third Congressional District subsequently advised Treasurer Hewitt that it was permissible to pay these expenses. The enclosed "Periodic Treasurer's report (April 17, 2010-December 2, 2010)" shows that these disbursements were made on September 14, 2010.

It is notable that Treasurer Hewitt submitted this Treasurer's report on December 2, 2010, as 3rd District Treasurer, prior to being voted out of office on the same date. Treasurer Hewitt was replaced by Arthur Lee Talley; however, no mention of Mr. Talley's apparently fraudulent submission of the October 20, 2010 FEC "Statement of Organization" as "Treasurer" (41 days before his election) was made at this meeting. At this meeting, Mr. Talley's actions remained unknown to the members of the 3rd District Executive Committee.

The discovery of the allegedly fraudulent October 20, 2010 FEC "Statement of Organization" was made in January 2011 by Lori Carlson, a member of the 3rd District Congressional executive committee. Ms. Carlson is also the leader of a group of concerned 3rd Congressional District Republican party members who have initiated a "Removal Petition" requesting the removal of Chairman Wade due to numerous other alleged violations of RPV Party Plan Rules, Third Congressional Republican District Bylaws and Virginia and Federal Criminal statutes.

The FEC appeared to partially detect flaws in the alleged fraudulent October 20, 2010 "Statement of Organization" document when Rosa Lewis contacted Arthur Lee Talley in an enclosed November 3, 2010 letter. The FEC had noted that this "Statement of Organization" had failed to identify what, if any affiliation the organization had with other committees or organizations. Obviously, the FEC had no practical way of ascertaining the veracity of Arthur Lee Talley's signature or whether he indeed was the "Treasurer". Seemingly, when the subsequent December 4, 2010 amended "Statement of Organization" was submitted, the noticeably different style of printing and distinctively different signatures should have been apparent to the FEC report analyst. Unfortunately, FEC personnel did not detect the apparent fraud.

The FEC did note that the 3rd District Republican Congressional Committee had failed to submit required reports. Please refer to the enclosed December 20, 2010 letter

from Debbie Chacona, Assistant Staff Director-Reports Analysis Division (RAD).

The FEC electronic publication of these aforementioned documents, coupled with the apparent discrepancy between the handwriting and signatures of these two FEC "Statement of Organization" led to questioning of newly elected Treasurer Arthur Lee Talley. Please refer to the enclosed January 17, 2011 e-mail from Mr. Talley sent to members of the 3rd Congressional Executive Committee pertaining to the "Subject: Re: 3rd District Petition, revised". In this e-mail, 3rd District Treasurer Lee Talley appears to engage in further attempts to conceal or cover-up his knowing and willful false submission of a federal document. In paragraph 1 he asserts: "I signed both forms." The enclosed expert handwriting analysis shows that this is not true.

Arthur Lee Talley in paragraph 2 of the January 17, 2011 e-mail implicates "Committee Legal Counsel Bryan Meals." In addition, Arthur Lee Talley also asserts that "Chairman Wade" asked me to step into that roll [sic (role)] and I accepted". His acceptance was without the knowledge or approval of the 3rd District Executive Committee.

Arthur Lee Talley's January 30, 2011 (please note: the FEC printed report states: "Date Signed: 01/30/2010") Filing FEC-710286 appears to contain numerous apparent false or fraudulent statements. They are:

- 1). "... This event occurred on July 31 where we supported Chuck Smith for Virginia Congressional campaign (actually a Federal Campaign) with in-kind donations totaling \$1800." The aforementioned payments made by Treas. Jim Hewitt on September 14, 2010 were paid by check and therefore were not "in-kind donations". This appears to establish further apparent FEC violations.
- 2). "The committee chairman [Michael Wade] discovered this on October 20th and asked me to step up and get us registered with the FEC on that day. Upon my immediate election to the office of committee treasurer we sent the committee books out to be reviewed and audited and I awaited their return with the report from the review and audit person."

There appear be several false statements within the above statement by Treasurer Talley. First, Chairman Wade clearly knew of the committee "exceeding the \$1000 contribution limit". The previously discussed "two things I need" e-mail from Chairman Wade to Treasurer Jim Hewitt dated September 9, 2010 clearly challenge

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Arthur Lee Talley's attempt to suggest that Chairman Wade "Discovered this on October 20..."

Arthur Lee Talley's statement "Upon my immediate election..." following the previous sentence Mr. Talley appears to attempt to advise the FEC that he immediately became Treasurer, on or about October 20, 2010. In reality, Mr. Talley was not elected to this position for another 41 days (December 2, 2010).

Mr. Talley's assertion to the FEC: "upon my immediate election to the office of committee treasurer we sent the committee books out to be reviewed and audited..." suggests that the books were sent out on December 2, 2010 and therefore were unavailable to him.

On December 2, 2010 chairman Wade proposed to the executive committee that an "internal audit" of the Treasurer's books would be preferable to an "external" or "independent" audit. This issue is not settled until the next 3rd District Committee Meeting. At this time, it was determined that an "independent audit" would be prepared by Brian Plum, Treasurer of RPV and former participant in an FEC audit of RPV and Jeff Frederick.

Mr. Plum however, made it very clear in an enclosed December 15, 2010 email that he was not performing "an audit", but rather a review. (Please refer to Brian Plum's enclosed 'disclaimer') It is notable that although the Executive Committee was advised that they would initially receive the "audit" upon its completion, to date it has only been reportedly released to Mr. Talley.

Mr. Talley's assertion that "I awaited their return with the report from the review and audit person" prior to the submission of the three overdue FEC reports, "(which were submitted on January 31, 2011) also appears to be a false statement. In the February 7, 2011 3rd District Meeting Mr. Talley asserted he was still awaiting receipt of Brian Plum's report. In addition, the enclosed February 23 and 24, 2011 email exchange between Lori Carlson and Brian Plum document that the "letter" (note: not audit or independent review) would be mailed on February 25, 2011. Consequently, Mr. Talley clearly submitted on January 31, 2011 his reports (or possibly someone else fraudulently submitted the reports under his electronically submitted signature on that date), following his reported January 29, 2011 contact with FEC Report Analyst Rosa Lewis, even though the review or "audit" had not yet been completed at this January date.

We have included the Point of Contact Information for the three concerned members of the 3rd Congressional Executive committee to assist the FEC in further investigating what was actually said in the 3 different executive sessions. In addition, other individuals have also been included who may assist in the investigation.

We understand that these concerned Executive members of the 3rd Congressional District are preparing a more wide-ranging "self-report" of potential FEC violations, which they

have become aware of since Election Day, November 2, 2010. We encourage your agency to also examine these more diverse concerns.

We would like to propose the following recommendations:

- 1). **We are unclear whether the FEC conducts actual criminal investigations.** It appears essential that Arthur Lee Talley be investigated and subsequently prosecuted for the alleged criminal conduct he appears to have engaged in by the appropriate authorities. Specifically, he has apparently engaged in submitting and then covering up a false document to the Federal Government when he submitted the October 20, 2010 FEC "Statement of Organization".
- 2). **It would appear that an actual external audit of the 3rd District Treasurer documents be performed under FEC supervision.** The December 15, 2010 email from RPV Treasurer Brian Plum pointedly suggests that his "informal review" is not adequate to uncover any possible wrongdoing or violations of FEC regulations. In addition, Mr. Plum's dilatory and possible effort at covering up wrongdoing, by not releasing his findings to Executive Committee members as promised is questionable. He knew the above concerns regarding Mr. Talley's conduct regarding the October 20, 2010 alleged fraudulent FEC submission. Nevertheless, he now insists on only releasing his findings to an alleged wrongdoer, Arthur Lee Talley.
- 3). **Correspondence included in this complaint, coupled with personal reports from the three concerned members of the 3rd Congressional District Executive Committee suggest that an apparent conspiracy occurred to submit false documents to the FEC and then suppress the truth finding efforts of those who were concerned with these apparent illegal activities.** It is clear that Arthur Lee Talley did not act alone in these alleged crimes. For example, it was reported to the writers of this complaint that Mr. Talley on February 7, 2011 in Executive session attempted to justify that his actions were justified and authorized by FEC Advisory Opinion (AO 1977-59). This AO has been enclosed for readers' convenience. Neither of the writers of this complaint are attorneys; however, we can read. It is apparent that Mr. Talley did not comply with this Advisory Letter. Neither, Mr. Talley or Mr. Hewitt attempted to create an "assistant treasurer", as required by this Advisory Letter. In addition, Mr. Talley did not generate an amended Statement of Organization listing an assistant treasurer. In addition, Mr. Talley's notably challenged writing and communication skills, which are demonstrated in the enclosed documents he created, suggest that it is very doubtful that he independently researched the existence of AO 1977-59 and opined on it as being "on point" in justifying his allegedly criminal conduct. **It appears Mr. Talley had considerable assistance in committing these alleged crimes.** Someone other than he signed the October 20, 2010 FEC "Statement of Organization", as clearly determined by Mr. Liebman's enclosed handwriting report. Obviously, a thorough investigation of those responsible for assisting in the apparent fraud and subsequent cover-up should also occur so those individuals involved may be brought to justice.

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In closing, some may look upon the above-alleged crimes as relatively petty and not of great harm. The forthcoming "self-report" from the three concerned members of the 3rd Congressional Executive committee will show that the above is literally "the tip of the iceberg" of apparent FEC and state and federal violations. Our understanding of the role of the FEC is to ensure that the election of our Federal leadership is done fairly and according to the rule of law. It is essential that apparent violators of Benjamin Franklin's famous observation:

Tricks and treachery are the practice of fools, that don't have brains enough to be honest.

Corrupt individuals who attempt to use such tricks and treachery in election matters must not be allowed to continue to be leaders of a political organization when they appear to blatantly violate the law and then continue to cover-up or trick individuals who are concerned about their conduct. We sincerely request that you attend vigorously to our above recommendations.

Please feel free to contact us for further information. In addition, we have provided contact information for the concerned citizens who were referenced in this FEC complaint.

Thank you for considering the above information.

Sincerely, and as a sworn statement we submit and attest that the above statements are truthful and contain nothing but the truth, consequently we affix our notarized signatures:


Michael J. Buxton

Virginia Beach, VA 23455

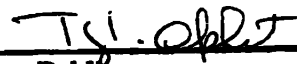
Commonwealth of Virginia
City of Virginia Beach

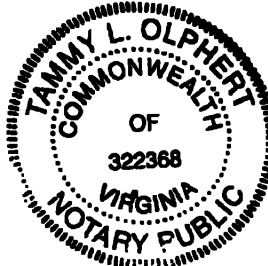
Subscribed and sworn in my presence
On this date 4-2-11

By Michael J. Buxton + Sean V. Devlin


Sean V. Devlin

Newport News, VA


Notary Public
My Commission expires 2-28-14



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Enclosures:

David S. Liebman's March 26, 2011 Question Document Opinion Letter

"Mayday Mayday" E-Mail dated October 20", 2010

"yesterday and future" E-Mail dated May 23, 2010

"two things I need" E-Mail dated September 9, 2010

"Periodic Treasurer's Report" (April 17, 2010-December 2, 2010) produced and by Treasurer Jim Hewitt on December 2, 2010

FEC November 3, 2010 letter to Arthur Lee Talley from Rosa Lewis

FEC December 20, 2010 letter to Arthur Lee Talley from Debbie Chacona

January 17, 2011 email from Arthur Lee Talley to 3rd District Executive Committee

Filing FEC-710286-Arthur Lee Talley Letter to the FEC

December 15, 2010 Brian Plum 'informal review' email and Chairman Mike Wade's December 21, 2010 cover email

Lori Carlson and Brian Plum's Feb 23 and Feb 24, 2011 email exchange

December 8, 1977 FEC AO 1977-59 letter regarding "Assistant Treasurer" issues

Point of Contact Information sheet

Respondents:

Arthur Lee Talley

Michael D Wade

Bryan Meals, Esquire 3rd District Legal Council

Brian Plum, RPV Treasurer

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-1

November 3, 2010

ARTHUR LEE TALLEY, TREASURER
VIRGINIA 3RD DISTRICT REPUBLICAN
COMMITTEE
5807 PLEASANT WOODS COURT
PORTSMOUTH, VA 23703-1550

Response Due Date
12/08/2010

IDENTIFICATION NUMBER: C00490946

REFERENCE: STATEMENT OF ORGANIZATION, DATED 10/20/10

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 1 item(s):

1. Any affiliated or connected organization must be identified on your Statement of Organization. For further guidance on affiliated committees and connected organizations, please refer to 11 CFR §§100.5(g) and 100.6. If there are no other committees or organizations with which you share control or financing, please indicate "None" on Line 6. If you do share control or financing with other committees or organizations, please indicate their names, addresses, and relationships on Line 6. 11 CFR §102.2

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1152.

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VIRGINIA 3RD DISTRICT REPUBLICAN COMMITTEE

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Sincerely,

A handwritten signature in black ink that reads "Rosa Lewis". The signature is written in a cursive, flowing style.

Rosa Lewis
Senior Campaign Finance Analyst
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 2010

RQ-7

ARTHUR LEE TALLEY, TREASURER
VIRGINIA 3RD DISTRICT REPUBLICAN COMMITTEE
5807 PLEASANT WOODS COURT
PORTSMOUTH, VA 237031550

IDENTIFICATION NUMBER: C00490946

REFERENCE: POST-GENERAL REPORT 10/27/2010 - 11/22/2010

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT OR RELEVANT PORTIONS MUST ALSO BE FILED WITH THE SECRETARY OF THE STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT WWW.FEC.GOV.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT IAN WANDNER AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

Debbie Chacona

DEBBIE CHACONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

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FEC FORM 99

MISCELLANEOUS DOCUMENT

FILING FEC-710286

1. VIRGINIA 3RD DISTRICT REPUBLICAN COMMITTEE

5807 PLEASANT WOODS COURT
PORTSMOUTH, VA 23703

2. Treasurer Info

Treasurer Name: Mr. Arthur Lee Talley

4. FEC Committee ID #: C00490946

VIEW MISCELLANEOUS DOCUMENT

Date Signed: 01/30/2010

(End FEC FORM 99)



Generated Wed Mar 30 01:17:05 2011

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 8, 1977

AO 1977-59

John D. Fitzsimmons, Esquire
Willkie Fair & Gallagher
One Chase Manhattan Plaza
New York, New York 10005

Dear Mr. Fitzsimmons:

This refers to your letter of October 27, 1977, requesting an advisory opinion on behalf of the AICPA Effective Legislation Committee ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Your letter states that the treasurer of the Committee, because of other professional responsibilities, is frequently out of town and may be unable to sign reports when they are due. You ask whether the treasurer may execute a power of attorney authorizing the assistant treasurer to sign required reports in the absence of the treasurer.

Under 2 U.S.C. 434(a) and the Commission's regulations at 11 CFR 104.12(a), reports of receipts and expenditures filed by a political committee must be signed by its treasurer. It is the opinion of the Commission that an assistant treasurer may be designated to serve in the absence of a treasurer. See 11 CFR 102.7(b)(2). The Commission notes, however, that the Committee has not identified an assistant treasurer in its Statement of Organization. Therefore, in order for an assistant treasurer to assume the duties and responsibilities of a treasurer by signing the required reports, the Committee must first file an amendment to its Statement of Organization identifying such a person.

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This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Thomas E. Harris

Chairman for the

Federal Election Commission

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