



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 14, 2007

MEMORANDUM

TO: Deborah Kant
Alternate Dispute Resolution Office

FROM: Leroy C. Rhinehart *LR*
Complaints Examination Legal Administration

SUBJECT: Transferred Cases

The following enforcement case is being permanently transferred to the Alternative Dispute Resolution Office, effective September 14, 2007.

MUR 5929

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National Republican Congressional Committee

Tom Cole, M.C.

Chairman

Pete Kirkham

Executive Director

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2007 JUL 30 P 3:00

July 30, 2007

Ms. Thomasenia P. Duncan
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR # 5929

Re: Complaint Against Larry Kissell for Congress Committee

Dear Ms. Duncan:

The National Republican Congressional Committee (“NRCC”), by and through its Chief Counsel, hereby brings this complaint pursuant to 2 U.S.C. § 437g(a)(1) against the Larry Kissell for Congress Committee. The NRCC is located at 320 First Street, SE, Washington, DC 20003.

Congressional candidate Kissell’s reports clearly show a pattern of inaccuracies and misrepresentations. Most notably, Kissell’s debt magically disappears then reappears with no rhyme or reason as to how debt was paid or created. At a time when voters demand transparency of elected officials, Kissell’s reports reflect a candidate who either (a) is hiding something from the public, or (b) is clearly incapable of filing accurate FEC reports. Either way, this type of erratic reporting and lack of transparency warrants a Commission investigation into Kissell’s campaign activities.

320 First Street, S.E.
Washington, D.C. 20003
(202) 479-7000

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Authorized by any Candidate or Candidate's Committee.
www.nrcc.org

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I. Factual Background

Larry Kissell was a candidate for the United States Congress from the 8th Congressional District of North Carolina for the 2006 general election. The Larry Kissell for Congress Committee was Kissell's authorized committee for the 2006 election cycle. Kissell is currently a candidate from the 8th Congressional District for the 2008 election cycle having filed his Statement of Candidacy on March 8, 2007. He established a separate authorized committee, Kissell for Congress, in connection with the 2008 election.

The Democratic Congressional Campaign Committee ("DCCC") is hosting a fundraiser on August 1, 2007 for Kissell to help retire debt from the 2006 election. Specifically, this fundraiser is to help pay "\$35,000 in credit card debt." DCCC to help Kissell pay off credit card debt, The Hill (07/21/07).

Interestingly, however, the amount of debt Kissell reports and the sources of those debts keep changing. Loans that had supposedly been repaid suddenly reappear with outstanding balances, loans with outstanding balances disappear, and loans that never before existed show up on the 2007 July Quarterly report. Moreover, the apparent \$35,000 in credit card debt appears no where on Kissell's reports. While he did loan his campaign \$35,000, these loans were from "personal funds" and all but \$2,500 was reportedly repaid.

A. Loans From Kissell's Personal Funds

During the 2006 election cycle, Kissell reportedly loaned his campaign a total of \$35,000 from personal funds: \$10,000 for the primary and \$25,000 for the general. The \$10,000 loan was incurred on February 11, 2006 and was supposedly repaid in two separate payments of \$5,000 on July 3, 2006 and July 12, 2006 as reported on his 2006 October Quarterly report. Remarkably, this \$10,000 loan suddenly reappears on Kissell's 2007 July Quarterly report.

Moreover, the \$25,000 loan incurred on April 20, 2006 appears to have been partially repaid on several different dates from November 2006 through February 2007. Schedule C of Kissell's 2007 April Quarterly report shows that the outstanding balance on this loan was \$2,500. This loan and the outstanding balance do not appear on Kissell's 2007 July Quarterly report. There is no indication that Kissell forgave the outstanding balance on this loan.

The source of both of these loans is reported as "personal funds." He did not report using a credit card to obtain these funds, nor does he report receiving a bank loan or line of credit.

B. Schedule D Debts and Obligations Owed to Kissell

Beginning with the 2006 October Quarterly report, Kissell continually reported various amounts of debt owed to him for purchase of supplies, expenses, signs, etc. For example, the 2006 October report discloses debts and obligations in the following amounts:

- \$7,222.50 for signs—to be reimbursed
- \$2,150 for supplies—to be reimbursed

Likewise, the Post-General Report discloses debts and obligations incurred during the period for the following amounts:

- 19,922.37 for supplies/expenses—to be reimbursed

These payments were never itemized on Schedule A as in-kind contributions from the candidate. In addition, these contributions do not appear on line 11(d) of the Detailed Summary Page as contributions from the candidate.

According to Kissell's 2007 April Quarterly report, the campaign still owed him \$25,294.87 in Schedule D debts and obligation, as well as \$2,500 outstanding on a loan. Total debts and obligations, including loans, totaled **\$51,495.65** as reported on the 2007 April Quarterly Report Summary Page.

C. 2007 July Quarterly Report Discrepancies

Kissell's 2007 July Quarterly Report contains several discrepancies when compared to his prior reports. The \$2,500 remaining on the \$25,000 loan drops off completely. The \$10,000 loan that was supposedly repaid the year before suddenly reappears. And the \$25,294.87 in Schedule D debts and obligations owed to Kissell are no where to be found.

Instead, there is a new loan from Kissell's personal funds supposedly incurred on May 28, 2006 (more than a year ago) in the amount of \$19,938.85. Of course this "loan" was not disclosed in Kissell's 2006 July Quarterly report, and has not been continuously reported on Schedule C as required by FEC regulations.

Conveniently, all loans, debts and obligations listed on the 2007 July Quarterly report still add up to a total of **\$51,495.65**, the same amount reported on the 2007 April Quarterly report.

II. Potential Violations

A. Failure to Correctly Report Loans and Debts Owed to Kissell

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The discrepancies between the 2007 April Quarterly report and July Quarterly report make it impossible to determine how much debt the Kissell campaign actually incurred and what has been paid back. Although both reports disclose a total of \$51,495.65 in debts and obligations (see line 10 of Summary Page), the sources and amounts of those debts completely change from the April report to the July report.

The April report showed \$25,294.87 in debts owed to Kissell and \$2,500 remaining on a loan. Added to the amounts owed to other vendors (\$23,700), the campaign owed \$51,495.65 in total debts and obligations.

The July report discloses a loan from Kissell's "personal funds" in the amount of \$19,938.85 and no Schedule D debt. The \$2,500 remaining on the loan mentioned above does not appear. Instead, the \$10,000 loan from February 2006 (that had reportedly been repaid in full) reappears with an outstanding balance of the full \$10,000. Added to the \$21,559.80 owed to other vendors, the campaign still owes debts and obligations of \$51,495.65.

The amounts and sources of debt completely changed from April to July yet the campaign still shows a total of \$51,495.65 in total debts and obligations. The Kissell campaign seems to be making this up as it goes along. Loans that have been paid off reappear and the total debt numbers magically remain the same. This is not a coincidence and we respectfully request that the Commission begin an investigation to determine exactly how much is owed by the campaign and to whom.

B. Failure to Report Schedule D Debt as In-kind Contributions from Candidate and Apparent Attempt to Convert Into Loan From Candidate

During the 2006 October Quarterly reporting period and through the rest of the campaign, Kissell purchased signs, supplies and incurred other expenses totaling \$29,294.87 of which a balance of \$25,294.87 remained to be paid as of the 2007 April Quarterly report.

None of these payments were reported on Schedule A as in-kind contributions. While a candidate is permitted to expend an unlimited amount of personal funds, those payments must be reported as in-kind contributions. 11 C.F.R. § 116.5(b). See Also, FEC AO 1991-9, 1990-9. In addition, contributions from the candidate must be reported on line 11(d) of the Detailed Summary Page.

Moreover, it appears that Kissell may be attempting to convert the \$25,294.87 in debts and obligations into a loan from "personal funds" in the amount of \$19,938.85. Under FEC regulations, all loans received by the committee must be itemized on Schedule A as a receipt and then continuously reported on Schedule C until repaid. 11 C.F.R. § 104.3(a)(4)(iv) and (d).

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Maybe this is the "credit card debt" the DCCC is helping Kissell repay. But if so, it does not total \$35,000. Again, it is impossible to determine how much Kissell actually loaned and/or advanced his campaign and how much debt he actually incurred.

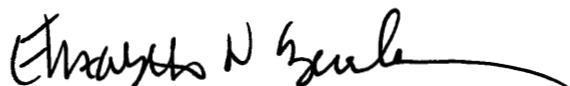
Kissell has a history of filing incomplete and questionable reports with the Commission as can be noted by the number of letters he has received questioning his reports and asking for additional information. Even if Kissell attempts to cure these issues, these attempts do not cure the existing violations.

3. Conclusion

For these reasons, we respectfully request that the Commission find reason to believe that Federal law has been violated and take the appropriate legal action.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully,



Elizabeth N. Beacham

District of Columbia
Signed and sworn before me this
30 day of July, 2007.

Hannah B. Thrush
Notary Public
My Commission expires

HANNAH B. THRUSH
NOTARY PUBLIC DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES JULY 31, 2007

LAST SIX ISSUES**DCCC to help Kissell pay off credit card debt**

By Chris Good

July 21, 2007

Democratic Congressional Campaign Committee (DCCC) Chairman Rep. Chris Van Hollen (Md.) is asking supporters to come to the aid of Larry Kissell, the high school teacher and former mill worker who ran up \$35,000 in credit card debt campaigning for North Carolina's 8th district Congressional seat in the November midterm.

Van Hollen and House Speaker Nancy Pelosi (D-Calif.) will host a reception at the DCCC headquarters Wednesday, Aug. 1, aimed at paying off the personal debt Kissell accrued. The DCCC will match donated funds 2-1.



Kissell came within 329 votes out of 121,523 cast of unseating Robin Hayes, the now-5th-term Republican who outspent Kissell \$2,475,169 to \$779,341 according to the Center for Responsive Politics.

"Now [Kissell] needs our help more than ever," Van Hollen said in a letter to supporters. "That's why I want you to meet Larry for yourself and help him continue his fight."

As a relatively low-profile candidate, Kissell missed out on early invites to Washington from the DCCC during his campaign. The committee had initially backed Tim Dunn, an Iraq War veteran who would eventually drop out of the primary, and lent much of its focus in North Carolina to former NFL quarterback Heath

Shuler, who now represents the state's 11th district in Congress.

Since the November election, Kissell has seen support from former DCCC Chairman Rahm Emanuel (Ill.) and Recruitment Chairman Artur Davis (Ala.), who have both made fundraising appearances on Kissell's behalf.

"North Carolina's 8th district is one of our best opportunities to expand our Democratic Majority," Van Hollen said. "This year, Larry has picked up right where he left off by running a strong campaign."

Until November, Hayes had retained his seat with at least 54% of the vote since after his first victory in 1998. During the fall campaign the Charlotte News-Observer noted that, despite one 8th-district county voting 68% in favor of President George W. Bush in 2004, the majority of the district's voters had registered as Democrats.

Though the DCCC has lent top-level support to Kissell, the 2006 long-shot may face a primary in the next cycle, as Democratic state Rep. Rick Glazier is reportedly considering a bid for the 8th-district seat. The DCCC has said it plans to stay with Kissell as its choice to oppose Hayes.

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