

November 19, 2012

Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

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Roseville, MN 55113

MUR # 6700

OFFICE OF GENERAL
COUNSEL

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RECEIVED
FEDERAL ELECTION
COMMISSION

To whom it may concern,

The purpose of this letter is to file a formal complaint with the Federal Election Commission concerning what may be several violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The committee I am asking the Commission to investigate is the "4th Congressional District Republican Party of Minnesota". Their Committee ID is C00359208.

I believe the Committee in question may have violated the Act in four basic areas:

1. Failure to file disclosure reports.
2. Improperly obtaining administration termination.
3. Fundraising without using proper disclaimers.
4. Failure to proportion event costs between federal and non-federal accounts.

The attached affidavit and exhibits will recite the facts that show where there may be specific violations that fall under the Commission's jurisdiction.

I ask that the Commission act on my complaint and take whatever action is necessary to promptly resolve this issue.

Sincerely,



John M. Kysylyczyn

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FAILURE TO FILE DISCLOSURE REPORTS

5. I discovered that the Committee had failed to file reports for 2009, 2010, 2011, and 2012. The Committee continued to use its account throughout this time and failed to file at least ten disclosure reports. During this timeframe, it appears that the Committee raised and spent a cumulative total of approximately \$50,000. It wasn't until I took office that reports for all of these years were finally filed. The Committee failed to report significant receipts from the Republican Party of Minnesota and significant disbursements to the Teresa Collett for Congress campaign.
6. In reviewing the fine schedule set by the Commission, it appears that the violation for failure to file reports with \$50,000 of activity is approximately a \$5000 fine.
7. The Commission's website documents the failure to file notices. (See Attachment A) The report received by the Commission on May 11, 2012, appears to contain all of the missed filings from 2009, 2010, 2011, 2012. (See Attachment B)
8. Due to record keeping issues with the previous treasurer, the accuracy of any of the reports from 2009-2012 is unknown, including the May 11, 2012 report that appears to cover the years 2009-2012. The new treasurer has indicated to me that an audit should be conducted.
9. The previous treasurer has no excuse as to why he failed to file all of these reports that would meet acceptable standards set by the Commission. When I asked the previous treasurer, Skip Wolverton, about this issue, he replied to me by email. He stated that he had personal issues to deal with that caused him to get behind in reporting. (See Attachment C)
10. Since we appointed a new treasurer, Bev Aplikowski, two late reports have been filed with the Commission. The July Quarterly report was filed late due to paperwork problems that carried forward from the previous treasurer. The new treasurer estimated that the late filing violation would be approximately \$650. The October Quarterly report was also filed late due to electronic filing problems. Our new treasurer has been doing her best to get up to speed and deal with the problems of the past four years.

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IMPROPERLY OBTAINING ADMINISTRATIVE TERMINATION

11. The Committee received a letter from the Commission dated April 25, 2011 advising them that Committee reporting was being administratively terminated and the Committee would no longer be required to file reports. (See Attachment D)
12. I have no records as to why the Committee received this report. I do not know if anyone on the Committee communicated with the Commission and requested this letter. I do not know if someone on the Committee received this letter from the Commission under false pretences.
13. What I do know is that the Committee continued to receive and disburse funds before and after this letter was received. This is documented in the filing the Commission received May 11, 2012, which encompassed the years 2009-2012. This April 25, 2011 letter specifically states that "any receipt of disbursement of funds by the committee for the purpose of influencing a Federal election or supporting a federal candidate will void the administrative termination." This letter was incorrectly received, but regardless, it was never complied with.
14. I could find no information on the Commission's website as to how a situation like this would be resolved.

FUNDRAISING WITHOUT USING PROPER DISCLAIMERS

15. The Act states that only contributions solicited and received according to certain conditions may be deposited in a federal account. Those conditions require that either the contributor must designate or the solicitation must state that contributions may be used wholly or in part in connection with a federal election.
16. On April 21, 2012, the 4th Congressional District Republican Party of Minnesota held a convention event in Vadnais Heights, MN. The previous chairman of the district, Jim Carson, was the organizer of the convention. He directed that a registration fee be charged to delegates and guests that was several times higher than what would be required to pay for the actual cost of the event. According to the September 2012 Budget finance report of the Committee, expenses for the convention were \$3107.58, while the convention raised \$10,178.00 in revenue. (See attachment E) The revenue from the event was so significantly higher than the cost that one could only come to the conclusion

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that one of the primary functions of the event was to raise funds. This is not a case of a well run event that raised a substantial amount of money by accident.

17. The fact that this event was a fundraiser was indicated as much by the previous chairman in an email to me. He stated that "we would clear enough to pay the pre-primary \$5000. As it turns out, we cleared more than enough to make both the pre- and post-primary donations..." (See Attachment F) The previous chairman is referencing proceeds from the convention that shortly after the event would be given by the Committee to the Hernandez for Congress campaign. This is in fact where the funds were donated to shortly after the event. This event was the largest fundraiser for the Committee in 2012 and the only fundraiser up to the dinner held after the elections in November 2012.
18. The convention event/fundraiser addressed approximately 75% non-federal, and 25% federal business based upon my time analysis. Committee executive officers such as me were elected. State party resolutions were debated. A congressional candidate was endorsed. National party delegates were elected. A presidential elector was selected. Numerous non-federal candidates gave speeches.
19. Nowhere was it stated that funds raised from this event/fundraiser would be deposited into a federal account. There was no notation on the registration form or the convention agenda distributed prior to the event or at the event. No statements were made either in writing or verbally. No one was informed that their contribution would be placed into a federal account and that the funds would be solely donated to a federal candidate. Since a substantial number of the attendees were new to the convention, there was no expectation that this would occur. (See Attachment G)
20. Based upon my reading of the campaign guide, the \$10,130 reported as receipts in the 2012 July Quarterly report and in the September 2012 Budget finance report of the Committee, funds raised at this convention/fundraiser event, were improperly placed in the federal account and should have been placed in the non-federal account.
21. Unfortunately though, there are no funds left in the federal account that can be transferred to a non-federal account. The Committee voted to donate \$10,000 to the Hernandez for Congress campaign account, therefore draining the federal account to almost \$0.
22. I could find no information on the Coremiazian's website as to how a situation like this would be resolved.

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**FAILURE TO PROPORTION EVENT COSTS BETWEEN
FEDERAL AND NON-FEDERAL ACCOUNTS**

23. In reviewing the campaign guide for political party committees, there appears to be a requirement that the cost of an event should be proportionally distributed between federal and non-federal accounts when the event is a combination federal and non-federal event.
24. In August 2012, when I discovered that the Committee had failed to file campaign disclosure documents with the Commission for several years, I started reviewing our district's budget documents going back five years.
25. I discovered that prior to the April 21, 2012 convention event/fundraiser, the Committee's federal account had \$254.15 and the Committee's non-federal account had \$4,528.36. (See Attachment H) After the convention, the Committee's federal account had substantially increased to \$10,222.15 and the non-federal fund was drained to \$917.33. (See Attachment E, \$5,222.15 balance plus the \$5000 pre-primary contribution given to the Hernandez for Congress campaign shortly after the convention event/fundraiser for a total of \$10,222.15)
26. I immediately questioned the previous treasurer as to why there was such a substantial change in the account balances. I asked how the event/fundraiser was paid for. There were room rental costs, general event costs, and box lunches that were ordered upon the request of attendees. The Committee's previous treasurer stated to me in an email, 'The decision was made to pay for all convention expenses out of state funds and to deposit all convention receipts into the federal fund thus allowing a contribution to the endorsed candidate.' (See Attachment C) The endorsed candidate's campaign he was referencing was the Hernandez for Congress campaign. The documentation filed with the Commission and our internal budget documents confirm this.
27. The previous chairman also confirmed to me that using the convention event/fundraiser to shift funds from the non-federal account to the federal account was done solely for the purpose of providing the maximum \$10,000 donation to the Hernandez for Congress campaign. Without this shift, the federal account would not have had \$10,000 available for the donation.
28. As I stated previously, the convention event/fundraiser addressed approximately 75% non-federal, and 25% federal business in my estimation. Based upon my review of the campaign guide, it appears that the costs of the convention should have been allocated between federal and non-federal accounts. At the very least, it appears that the non-federal account should not have been drained for expenses in order to place all revenue

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into the federal account. Several thousand dollars in reimbursements should have been returned to the non-federal account.

29. To highlight my concerns further, let me shed light on one aspect of this shift.. Delegates and guests had the opportunity to order a box lunch prior to the event/fundraiser. The cost was \$10. The Committee took funds from the non-federal account to pay the caterer for the box lunches. The Committee then took receipts received from attendees for the box lunches and placed those funds in the federal account. It reasons to believe that the funds received from the sale of box lunches should have been reimbursed to the account in which the funds were taken from for their purchase.
30. Prior to the convention, the federal account only had \$254.15. If costs had to be allocated between the two accounts, and in light of the failure of the Committee to provide the proper federal disclaimer, it appears that the federal account should not have been used at all for this event/fundraiser unless it was strictly to pay for the federal portion of the event. It appears from my reading of the campaign guide that most of the funds at this convention/event should have been spent from and deposited back into the non-federal account. So instead of the federal account being flush with funds after this event and the non-federal account being emptied, it should have been the other way around.
31. I could find no information on the Commission's website as to how a situation like this would be resolved.

ADDITIONAL INFORMATION FOR THE COMMISSION

32. I would like the Commission to know that I have brought forward this issue at great cost to me personally. On September 10, 2012, the Committee held a meeting where I brought forward much of this information to the membership and informed them that it appeared that the Committee was in violation of several portions of the Act. Both the new treasurer and I independently estimated that the Committee could be liable for a fine in the four-digits. Specifically we estimated the fine to be around \$5,000.
33. At this meeting, it was my recommendation to the Committee that they should not make a second donation to the Hernandez for Congress campaign in the sum of \$5000, which would have depleted the Committee's accounts to near zero. In response to my report, I was met with great hostility from the membership. I was the target of a significant amount of hollering and screaming from members for suggesting this. Some members got so far out of hand that law enforcement was almost called to restore order.

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34. At this meeting, a small handful of members such as me were concerned about the potential implications of a fine being levied from the Commission that the Committee would not be able to immediately pay. Unfortunately a sizable number of members advocated that we either break the law or attempt to sidestep the requirements of the Act.
 35. At this meeting, some members suggested that we empty the Committee's bank accounts so the Commission would be unable to collect a fine. Other members suggested that we close the account and reopen it under a different name. Others suggested that we hide and maybe no one would notice.
 36. At this meeting, I put forward a motion that the Committee immediately self-report all potential violations of the Act. The motion was defeated by the Committee. Instead, the members made a motion and voted to donate \$5,000 to the Hernandez for Congress campaign, essentially emptying out the Committee's accounts.
 37. I personally believe that as Chair of the Committee, I have an ethical obligation to report all potential violations of the Act to the Commission. I always have believed that it is better for a Committee to be in a position of self-reporting, rather than responding to complaints. If self-reporting leads to a response from the Commission that there are no violations of the Act, that is a welcomed response that allows the Committee to move forward with a clean conscience. With all of the problems that the Republican Party of Minnesota has had concerning fines being levied against them by the Commission, it was not my desire to repeat their mistakes.
 38. Due to my decision to bring forward these concerns and share my findings with all of the members of the organization, not just core members of the Committee, I now find myself the subject of a removal effort. At our next Committee meeting of November 20, 2012, members will be voting to remove me from the position of Chair because they believe that I have put the Committee in a bad light. The bottom line is that my removal as Chair is primarily due to my position on the Committee's compliance with the Act and insistence that these violations be reported.
 39. I suspect that after my removal, the Commission will receive communications from the Committee making numerous accusations about me personally and will deny that any of the information I have provided is true. I hope that is not the case, but I suspect that it will be.
 40. If members of the Committee wish to work with the Commission to resolve this complaint, then I would encourage the commission to consider this a sua sponte

submission. If members of the Committee continue to be in denial, continue to take no responsibility for any of their actions, or continue to discuss ways to evade enforcement of the Act, then I would encourage the Commission to consider this a general complaint.

41. I would ask that regardless of whether the Commission considers this a sua sponte or general complaint that the Commission makes a formal finding if violations of the Act are believed to have occurred. If violations of the Act have occurred, and a formal finding is not made, and I fear that in short time the Committee will continue its actions as if nothing has occurred. There is a strong belief by many members of the Committee that the actions I have outlined above are not important, not illegal, and not unethical.
42. The situation saddens me in that the delegates in the Fourth Congressional District as a whole are good people who would like to be in compliance with the Act. Unfortunately though, we have a few members in leadership positions who are making risky decisions and apparently have learned nothing from the problems that the State Republican Party has had concerning compliance with the Act.

FURTHER AFFIANT SAYETH NAUGHT.

Date: November 19, 2012



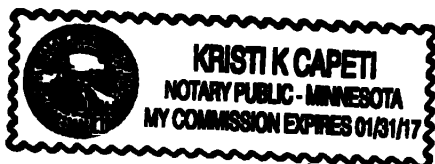
John Michael Kysylyczyn

Subscribed and sworn to before me

this 19th day of November, 2012



Notary Public



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