



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

February 24, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William D. Powers
311 County Route 13
Chatham, New York 12136

RE: MUR 4648
William D. Powers

Dear Mr. Powers:

On February 18, 1998, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 432(h)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, 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. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers must be submitted within 15 days of your receipt of this order. Any additional materials or statements you wish to submit should accompany the response to the order. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In addition, the Commission has authorized that your deposition be taken. The enclosed Subpoena requires you to appear in our offices on March 26, 1998 for this purpose.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order, and be present at your deposition. If you intend to be represented by counsel, 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.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause

conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

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.

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 Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Joan D. Aikens
Chairman

Enclosures
Order
Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4648

ORDER TO SUBMIT WRITTEN ANSWERS

TO: William D. Powers
311 County Route 13
Chatham, New York 12136

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order. Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 15 days of receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her
hand in Washington, D.C. on this 24th day of February, 1998.

For the Commission,

Joan D. Aikens
Joan D. Aikens
Chairman

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions

INSTRUCTIONS

In answering these interrogatories, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any communications or other items about which information is requested by any of the following interrogatories, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1994 to the present.

The following interrogatories are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all employees, agents or attorneys thereof.

"Committee" shall mean the New York Republican Federal Campaign Committee.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS

1. Regarding the \$50,000 in cash delivered to you by Jeffrey T. Buley in New York City on November 7, 1994,

- a) state the time of day and your location when Mr. Buley delivered the \$50,000 to you;
- b) state the number of persons to whom you personally distributed any portion of that \$50,000;
- c) identify each person to whom you personally distributed any portion of that \$50,000 in amounts of \$100 or greater. Include in each identification the specific amount distributed, and the date and time of day and your location when the money was distributed; and
- d) with respect to the persons identified in response to 1.c. above, identify each person to whom they personally distributed any portion of the above-specified money. Include in each identification the specific amount distributed.

2. Regarding the \$22,500 in cash delivered to you by Jeffrey T. Buley in New York City on November 4, 1996,

- a) state the time of day and your location when Mr. Buley delivered the \$22,500 to you;
- b) state the number of persons to whom you personally distributed any portion of that \$22,500;
- c) identify each person to whom you personally distributed any portion of that \$22,500 in amounts of \$100 or greater. Include in each identification the specific amount distributed, and the date and time of day and your location when the money was distributed; and
- d) with respect to the persons identified in response to 2.c. above, identify each person to whom they personally distributed any portion of the above-specified money. Include in each identification the specific amount distributed.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4648

SUBPOENA

TO: William D. Powers
311 County Route 13
Chatham, New York 12136

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition. Notice is hereby given that the deposition is to be taken on Thursday, March 26, 1998, in Room 657 at 999 E Street, N.W., Washington, D.C., beginning at 10:00 a.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this day of , 1998.

For the Commission,

Joan D. Aikens
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: William D. Powers

MUR: 4648

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

A. Applicable Law

Pursuant to 2 U.S.C. § 432(h)(1), no disbursement may be made by a political committee in any form other than by check drawn on the committee's account at its designated campaign depository, except for disbursements of \$100 or less from a petty cash fund. The Commission has previously found reason to believe that individuals other than the treasurer of the committee in question have violated 2 U.S.C. § 432(h)(1).

B. Analysis

The New York Republican Federal Campaign Committee ("Committee") reported four disbursements totaling \$50,000 on its 1994 30-Day Post-General Report to Jeffrey T. Buley, David R. Dudley, Mary F. Obwald and Gregory V. Serio. Similarly, the Committee reported eight disbursements totaling \$22,500 on its 1996 30-Day Post-General Report to William D. Powers, Jason Powers, Kenneth Dippel, Mary Obwald, Lisa Herbst Ruggles, Jeffrey T. Buley, Darryl Fox and J. Brendan Quinn. According to information in the Commission's possession, Jeffrey T. Buley collected the cash resulting from these disbursements and delivered it to William D. Powers the day before the 1994 and 1996 general elections. Information in the Commission's possession further suggests that William D. Powers subsequently distributed this

cash on behalf of the Committee, and that he may have distributed it in amounts of \$100 or more.

It appears that the money was then distributed as "walking around money."

Therefore, as a result of his apparent role in distributing cash on behalf of the Committee, there is reason to believe that William D. Powers violated 2 U.S.C. § 432(h)(1).