**BEFORE THE FEDERAL ELECTION COMMISSION**

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|---|---|---|
| In the Matter of | ) | |
| | ) | MURs 4761, 4762, 4763, 4764 |
| Texas Democratic Party, *et al.* | ) | |
| Association of Trial Lawyers of America Political Action Committee and Dan Cohen, as treasurer | ) | **SENSITIVE** |
| American Federation of State, County & Municipal Employees-PEOPLE and William Lucy, as treasurer | ) | |
| American Federation of State, County & Municipal Employees | ) | |

# GENERAL COUNSEL'S REPORT

## I. ACTIONS RECOMMENDED

In MUR 4763, accept the attached signed conciliation agreement and close the file; in MUR 4761, take no further action against the respondents and close the file; in MUR 4762, enter into preprobable cause conciliation with the respondents and approve a proposed conciliation agreement; in MUR 4764, enter into preprobable cause conciliation with the respondents and approve a proposed conciliation agreement.

## II. BACKGROUND

In MUR 4763, the Commission found reason to believe that the Texas Democratic Party ("State Committee") and seven Democratic county committees in Texas violated 2 U.S.C. § 441a(f) by accepting excessive contributions totaling $109,666 from various political committees in 1996. These findings were premised on the fact that the respondent party committees appeared to be affiliated and, hence, subject to a common contribution limit of $5,000 per calendar year.

More than half ($60,000) of the excessive contributions to the party committees were made by two contributors, the Association of Trial Lawyers of America Political Action Committee ("ATLA-PAC") and the American Federation of State, County & Municipal Employees-PEOPLE ("AFSCME-PEOPLE").[1] In MUR 4761, the Commission found reason to believe that ATLA-PAC violated 2 U.S.C. § 441a(a)(2)(C) by making excessive contributions totaling $35,000 to affiliated Texas Democratic committees in 1996.

In MUR 4762, the Commission found reason to believe that AFSCME-PEOPLE violated 2 U.S.C. § 441a(a)(2)(C) by making excessive contributions totaling $25,000 to affiliated Texas Democratic committees in 1996. In connection with other 1996 activities referred by the Reports Analysis Division ("RAD") and covered in MUR 4762, the Commission also found reason to believe that AFSCME-PEOPLE violated 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution of $2,500 to a federal candidate, and 2 U.S.C. §§ 441b(a) and 434(b) by knowingly accepting in-kind contributions totaling $15,995 from AFSCME and by failing to timely report them. AFSCME, the connected labor organization of AFSCME-PEOPLE, was found to have violated 2 U.S.C. § 441b(a) by making the in-kind contributions.

In MUR 4764, the Commission found reason to believe that one of the party committee respondents in MUR 4763, the Harris County Democratic Party ("Harris Committee"), also violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a)(1)(i) by improperly transferring a total of

[1] The excessive contributions received by the Texas Democratic committee respondents came from a total of 11 political committees; however, only ATLA-PAC and AFSCME-PEOPLE met the Reports Analysis Division's threshold criteria for referral to this Office.

$49,451 from its non-federal account to its federal account for 100% non-federal activity during 1996.

*In light of the overlapping issues and respondents, this Office investigated these matters* together, initially focusing on the party committee respondents in MUR 4763. In order to further investigate the affiliation issue, the Commission approved subpoenas to produce documents and orders to submit written answers for each of the eight party committee respondents.

On December 1, 1998, following the respondents' request in MUR 4763 to enter into preprobable cause conciliation, but prior to the receipt of any discovery responses, the Commission approved a joint conciliation agreement

Counsel have requested this Office to present the attached signed counterproposed conciliation agreement for the Commission's consideration. Attachment 1.

Commission, this Office recommends its acceptance for the reasons discussed *infra*.

## III. DISCUSSION

### A. MUR 4763: State and County Party Committees

#### 1. Summary of Investigation

The conclusion that the party committee respondents are affiliated is primarily based on the large intra-party transfers disclosed in the committees' reports. The consequences of such transfers is governed by 11 C.F.R. § 110.3(b)(3), which implements the provisions against the proliferation of political committees set forth in 2 U.S.C. § 441a(a)(5):

> All contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee. This presumption of affiliation shall not apply if –
> (i) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and
> (ii) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.

11 C.F.R. § 110.3(b)(3).[3]

[3] While the regulation speaks of the presumption of one political committee in terms of *making* contributions rather than *receiving* them, the legislative history of 2 U.S.C. § 441a appears to treat affiliated committees other than national/state combinations as single committees for both purposes. Consequently, the affiliated committees would be governed by section 441a(a)(1) or (2) as to the amounts they may collectively give and, by extension, section 441a(f) as to the amounts they may jointly receive. *See* H.R. Rep. No. 94-917, 94th Cong., 2d Sess. 6 (1976); S. Rep. No. 94-677, 94th Cong., 2d Sess. 9-10 (1976); H.R. Conf. Rep. No. 94-1057, 94th Cong., 2d Sess. 55, 58 (1976). In addition, the Commission has historically interpreted the limitations of the Act to cover contributions received by affiliated committees. *See* General Counsel's Report in this matter dated November 25, 1998.

The regulation requires that both (i) and (ii) be satisfied to avoid the presumption of affiliation. Here, neither is satisfied. First, there is abundant evidence of intra-party transfers. A more accurate picture of these transfers was gleaned through discovery, and is summarized in Attachment 2. Between 1993 and 1996, the State Committee transferred at least $338,530.71 in federal funds to the respondent county committees, and the county committees transferred at least $113,475.90 in such funds to the State Committee.[4] In considering the affiliated status of political committees, 2 U.S.C. § 441a(a)(5)(A) effectively exempts such transfers that are raised through joint fundraising efforts. The disclosure reports do not indicate that any of the transferred funds qualify for this exemption, and the responses appear to confirm that the transfers did not consist of joint fundraising proceeds.[5] See Attachment 3 at 11, 19 (responses to Question 5). Accordingly, the large transfers of funds among the state and county party

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[4] These amounts were listed in the First General Counsel's Report as $365,543 and $108,563, respectively, and were based on this Office's examination of the respondent committees' disclosure reports. These figures were adjusted after reviewing further documentation and explanations provided by the respondents during the course of discovery.

[5] Aside from transfers resulting from the distribution of joint fundraising proceeds, the Act and regulations do not consider the purposes of intra-party transfers in relation to the issue of affiliation. *See* 2 U.S.C. § 441a(a)(5)(A) and 11 C.F.R. § 110.3(b)(3). However, in order to present a more complete picture of the circumstances surrounding the transfers, this Office has attempted to ascertain the purposes of various transfers beyond the sparse information contained in the respondents' disclosure reports. The majority of the transfers from the State Committee to the county committees appear to have been for GOTV activities conducted by the county committees. For example, the responses indicate that a $30,500 transfer from the State Committee to the Galveston County Democratic Party on December 2, 1996 was for "efforts to get-out-the-vote in the December 10, 1996 Run-Off Election." Attachment 3 at 22 (Response to Question 6). Other transfers include such items as a "birthday distribution," which the State Committee explained as "relat[ing] to an agreement between the DNC and the local county party committees regarding a satellite broadcast event held in conjunction with the President's birthday. It is the understanding of the [State Committee] that funds raised in connection with this event were raised for the DNC. The DNC then distributed some portion of these funds to the local county committees via the [State Committee]. The [State Committee] was not a participant in this fundraising effort." Attachment 3 at 12 (Response to Question 9b).

committees prevent them from avoiding the presumption of affiliation. 11 C.F.R. § 110.3(b)(3)(i).

The evidence also indicates that the party committees cannot meet the second condition for avoiding the presumption, as it appears that the county committees are bound to act in concert with the State Committee. The Rules of the Texas Democratic Party (Jan. 1996 and Jan. 1998 editions) ("Rules") set forth the extent to which the State Committee limits the autonomy of the county committees. Article I of the Rules states that "[e]very person who accepts a Party office *at any level* . . . must agree to support all of the Party's nominees or shall be removed" (emphasis added). Attachment 4 at 1.[6] Article III, which pertains to committees and officers at both the state and county level, states at section A.12 that "[a] Party Officer shall be removed from office if during the current term of office such Officer publicly supports or endorses an opposing Party or nominee of an opposing Party, a person seeking the nomination of an opposing Party, or a non-Democratic candidate seeking an office in an election in which candidates may file by Party affiliation and a Democrat is seeking the office in question." Attachment 4 at 4. Section A.13 defines the terms "publicly supports" and "endorses" as, *inter alia*, "giving financial support, including *contributing money or its equivalent*, such as equipment loans, services, or supplies . . . ." (emphasis added). *Id.* The procedures governing the enforcement of the above rules is covered in section A.14, which invests the chairman of the State Committee with ultimate authority to remove officers at the county level. *Id.* at 4-5.

The specific sections of the Rules cited above are directly relevant to the second condition of the presumption: that each of the respondent committees not make contributions in

[6] Complete copies of the 1996 and 1998 editions of the Rules are contained in the MUR 4763 Bulk File in the Office of the General Counsel, Bates # FEC4763-TDP-0010 through 0087.

cooperation, consultation or concert with, or at the request or suggestion of another party unit or its political committees. 11 C.F.R. § 110.3(b)(3)(ii). The Rules constrain independent action on the part of the county committees and ensure that the State Committee exercises substantial control over them. Most significantly, the Rules appear to limit a county committee's ability to contribute to candidates not supported by the State Committee, acting as a continuous prior restraint imposed on each county committee. That a committee may choose not to make contributions to an opposition candidate is of little consequence, as the Rules serve as a compelling deterrent at the outset. Accordingly, the county committees may be said to make their contributions in cooperation or concert with the State Committee.

In response to inquiries as to the scope of the above-cited sections of the Rules, the respondents have claimed that the State Party "is not in a position to characterize or to interpret state law." See Attachment 3 at 12, 19-20. While the Texas Election Code provides detailed procedures governing the conduct of elections and the composition of party executive committees, *see, e.g.* Tex. Elec. Code Ann. § 171.022 (West 1999), this Office's examination of Texas law reveals no provisions addressing the control of the state party over persons holding party offices. In fact, Texas case law has affirmed that courts have no power to interfere in the judgments of constituted authorities of established political parties in matters involving party government and discipline, including the removal of party officers. *See, e.g., Carter v. Tomlinson* (Sup. 1950) 149 Tex. 7, 14; 227 S.W.2d 795, 798.

Finally, in Statements of Organizations filed with the Commission prior to the activity at issue, six of the seven county committees have listed the State Committee as an affiliated committee (the Harris Committee left the applicable section blank). None of these committees has ever filed any subsequent amendments claiming disafilliation with the State Committee. In

sum, all the available evidence demonstrates that the committees are affiliated. As affiliated committees, the respondents were limited to jointly receiving a maximum of $5,000 in 1996 from any one person or multicandidate political committee.

2. Counterproposed Agreement

The attached agreement, which has been signed on behalf of the State Committee

Accordingly, this Office recommends that the Commission accept the attached agreement and close the file in MUR 4763.

**B. MUR 4761: ATLA-PAC**

Between September 30 and October 1, 1996, ATLA-PAC made a contribution of $5,000 to the State Committee and also contributed $5,000 to each of seven Democratic county party respondents. Because the State Committee and the county party committees are affiliated, ATLA-PAC exceeded its $5,000 contribution limit and made excessive contributions totaling $35,000. ATLA-PAC's response states that "[p]rior to making these contributions, it was represented to ATLA-PAC that the Texas local party committees were not 'affiliated' with the Texas state party under federal election law." Attachment 6 at 2. This is consistent with the State Committee's Statement of Organization filed with the Commission, which lists no affiliated committees, and in fact includes an attachment claiming that the county committees "are neither established, controlled or financed" by the State Committee.

After receiving a second notice from RAD advising it to request refunds of the excessive contributions from the affiliated committees, ATLA-PAC provided the Commission with copies of letters assertedly sent to the county committees requesting refunds of the contributions. The dates on these letters indicate that they were sent approximately one month after ATLA-PAC was first notified by RAD of the apparent violation. ATLA-PAC then received responses from four of these committees, each stating that ATLA-PAC's request for a refund had been received but that that no refund was required, as the committees claimed that they were not affiliated. To date, the State Committee and the county party recipients have not refunded any of the excessive contributions.

ATLA-PAC's response claims that the actions of ATLA-PAC demonstrate "good faith" and "best efforts" to comply with the remedial actions requested by the Commission. By refusing to refund the contributions, "the local party committees left ATLA-PAC exposed to legal liability for excessive contributions with no possibility of remedying such alleged violation." Attachment 6 at 5. This Office's investigation has uncovered no evidence that would contradict ATLA-PAC's characterization of the events or its belief that the party committees were not affiliated when it made the contributions.

In light of ATLA-PAC's belief that the party committees were independent when it made contributions to them (supported by information to that same effect in the State Committee's Statement of Organization), as well as its requests for refunds of the excessive contributions as advised by RAD, this Office recommends that the Commission take no further action against the Association of Trial Lawyers of America Political Action Committee and Dan Cohen, as treasurer, send an admonishment letter and close the file in MUR 4761.

### C. MUR 4762: AFSCME-PEOPLE

1. Excessive Contributions to Texas Democratic Party Committees

During the 1996 30 Day Post-General and Year End reporting periods, AFSCME-PEOPLE made a $5,000 contribution to the State Committee and also contributed $5,000 to each of five Democratic county party respondents. Because the State Committee and the county party committees are affiliated, AFSCME-PEOPLE exceeded its $5,000 contribution limit and made excessive contributions totaling $25,000.

AFSCME-PEOPLE responds that when it made these contributions, "[i]t was AFSCME's understanding that these organizations were not affiliated . . . ." Attachment 7 at 4. After RAD

notified it of the excessive contributions, AFSCME-PEOPLE "wrote to all of the county political committees requesting a refund or proof of non-affiliation." *Id.* AFSCME attached copies of these letters to its response. The dates on these letters indicate that they were sent approximately two weeks after receiving notices from RAD of the apparent violation. AFSCME-PEOPLE then received responses from the committees, each stating that the request for a refund had been received but that that no refund was required, as the committees claimed that they were not affiliated. As noted, the State Committee and the county party recipients have not refunded any of the excessive contributions. AFSCME-PEOPLE asserts that, since the recipient committees "refused to refund" the excessive contributions, its conduct was "that of an innocent donor and no liability should attach." Attachment 7 at 4. This Office's investigation has uncovered no evidence contradicting AFSCME-PEOPLE's characterization of the events or its belief that the party committees were not affiliated when it made the contributions.

In light of AFSCME-PEOPLE's belief that the party committees were independent in 1996 (supported by information to that same effect in the State Committee's Statement of Organization), as well as its requests for refunds of the excessive contributions as advised by RAD, this Office recommends that the Commission take no further action against AFSCME-PEOPLE with regard to the Commission's reason to believe finding that it violated 2 U.S.C. § 441a(a)(2)(C), and send an admonishment letter.

2. Improper Reimbursements

The Commission also found reason to believe that AFSCME made prohibited in-kind contributions, and AFSCME-PEOPLE improperly accepted the prohibited contributions, in violation of 2 U.S.C. § 441b(a). The contributions occurred when AFSCME provided phone

bank services in support of federal candidates prior to receiving payment from AFSCME-PEOPLE, its separate segregated fund ("SSF"). These contributions are summarized below:

| Candidate/Election | Date of Activity[10] | Date of Reimbursement | Amount |
|---|---|---|---|
| Glen Browder<br>1996 Primary (AL Sen.) | 06/01/96 to<br>06/04/96 | 06/27/96 | $4,871 |
| Leslie Byrne<br>1996 Primary (VA Sen.) | 04/09/96 to<br>04/12/96 | 06/27/96 | $3,124 |
| Glen Browder<br>1996 Runoff (AL Sen.) | 06/22/96 to<br>06/25/96 | 07/11/96 | $5,000 |
| Tom Strickland<br>1996 Primary (CO Sen.) | 08/13/96 to<br>08/19/96 | 08/21/96 | $3,000 |
| | | **TOTAL:** | **$15,995** |

Further, the Commission found reason to believe that AFSCME-PEOPLE improperly reported the activity according to the date that it reimbursed AFSCME, rather than the date that the in-kind contributions were made (*i.e.*, when the services were provided on behalf of the candidates), in violation of 2 U.S.C. § 434(b).

In their response, Respondents AFSCME and AFSCME-PEOPLE admit that that the phone bank services "were not paid for prior to the calls being made." Attachment 7 at 1-2. However, they raise three points in support of their position that such payment did not violate the Act.[11] First, Respondents claim that the Commission's regulations permit a union to lease or rent its facilities and telephones to "any person" on a reasonable basis. *Id.* at 2. Respondents are correct that 11 C.F.R. § 114.9(d) allows persons to make use of "corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in

[10] These dates were provided in the response to the reason to believe findings. Attachment 7 at 2, fn. 1.

[11] *It appears that Respondents' contentions focus on the Commission's reason to believe finding that* Respondents violated 2 U.S.C. § 441b(a), but do not address the Commission's reason to believe finding that AFSCME-PEOPLE violated 2 U.S.C. § 434(b) with regard to its late reporting of the phone bank payments.

connection with a Federal election," so long as the corporation or labor organization is reimbursed "within a commercially reasonable time in the amount of the normal and usual rental charge . . . ."[12] The Commission's regulations also permit reimbursement to a corporation or labor organization in other specific instances. *See, e.g.*, 11 C.F.R. § 114.9(a)(2), 114.9(b)(2), 114.9(c) and 114.9(e)(2). These regulations, however, do not support or authorize reimbursement by an SSF of corporate treasury or union funds expended by its connected organization for services provided to federal candidates by the corporation or union. *Accord* AO 1984-24 (the use of a connected organization's employees and facilities to make in-kind contributions to Federal candidates would violate 2 U.S.C. § 441b(a), because each of the payment methods proposed by the SSF would have involved the initial disbursement of corporate treasury funds for such services); AO 1984-37 (an SSF may purchase consulting services from employees of its connected organization, which the organization proposed to make available to federal candidates, so long as the purchase does not involve the initial disbursement of corporate funds from the connected organization's treasury).[13]

Second, Respondents argue that transactions between political committees and their connected organizations should not be treated any differently under the Act and regulations than

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[12] Section 114.9(d) by its own terms does not apply to "any person" but rather to persons "other than those specifically mentioned in paragraphs (a) and (b)," which cover, *inter alia*, the use of union facilities by the "officials, members, and employees of a labor organization." Such use must be "occasional, isolated or incidental," defined as not exceeding "one hour per week or four hours per month." 11 C.F.R. § 114.9(b).

[13] *See also* Statement of Reasons in MUR 4131 (NARAL PAC, *et al.*), dated August 6, 1996 (when goods or services are purchased by an SSF from its connected organization, "the requirements for such transactions set forth in AOs 1984-24 and 1984-37 must be met. In particular, all goods and services must be paid for by the [SSF] *in advance*; if services purchased involve the performance of work by the connected organization's employees, the *advance* payment must be not less than the usual and normal charge for such services by similarly situated independent vendors." (emphasis added)).

similar transactions between other entities. See Attachment 7 at 3. Respondents claim that, in terms of reimbursement for services rendered, it is "illogical and unsupported by law to distinguish between a contract between a connected organization and its political committee (which [reimbursement] is banned) and a contract between the candidate and the connected organization (which [reimbursement] is permitted so long as the terms do not constitute a loan or a gift) or a contract between the political committee and a corporation or another union (which [reimbursement] is permitted so long as commercially reasonable)." *Id.*

The distinction drawn by Respondents, however, is neither illogical nor unsupported by law. The rationale for treating transactions between an SSF and its connected organization (either a corporation or labor organization) in a special manner rests upon the unique relationship between the two entities. For example, with certain exceptions not applicable here, the Act requires the connected organization to direct and finance its political activities solely through its SSF. *See* AO 1984-37 (Commission focused on the relationship between such entities in discussing the need to avoid an initial disbursement of corporate treasury funds). *See also FEC v. American Federation of Labor and Congress of Industrial Organizations*, 628 F.2d 97 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 982 (1980) (no part of the monies of a union's segregated political fund should be commingled with regular dues money, *even temporarily*).

Finally, Respondents contend that the price of the goods or services purchased are difficult to determine in advance. Attachment 7 at 3-4. The Commission's regulations, however, specifically require advance payment for certain corporate or union fundraising activities, *e.g.*, using a corporate or labor organization list of customers, clients, vendors or others outside the restricted class to solicit contributions or distribute invitations to the fundraiser; or providing catering or other food services for the fundraiser. 11 C.F.R. § 114.2(f)(2)(i)(C), (E). In these

advance payment situations, the regulations provide that the corporation or labor organization receive the "fair market value" of the goods or services. It would not appear to be any more burdensome to calculate the fair market value in advance of phone bank services provided by AFSCME in support of federal candidates.[14]

3. Excessive Contribution

The Commission further found reason to believe that AFSCME-PEOPLE violated 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution to a federal candidate in the amount of $2,500. In its response, AFSCME-PEOPLE acknowledges that it made two general election contributions to Cummings for Congress in 1996. The first, in the maximum contribution amount of $5,000, occurred on May 13, 1996; the second, in the excessive amount of $2,500, occurred on October 15, 1996. Cummings for Congress reported the latter contribution as being received on October 29, 1996.

AFSCME-PEOPLE states that, after receiving a letter from RAD dated April 16, 1997 informing it of the excessive contribution, it "attempted to redesignate the contribution by means of a letter to the treasurer of the Cummings for Congress committee dated June 5, 1997 . . . ." See Attachment 7 at 5. AFSCME-PEOPLE admits that it sought to redesignate its contribution more than 60 days after making the contribution, *see* 11 C.F.R. §§ 103.3(b)(3) and 110.2(b), but points out in mitigation that "the individual who redesignated the contribution was not aware that it had to occur within 60 days of the contribution having been made and the letter from the FEC listed redesignation as one of two choices available to the respondent even though the

[14] This Office notes that, in response to inquiries by RAD, AFSCME stated that it "provides phone bank services to organizations other than PEOPLE . . . ." To the extent that AFSCME regularly charges other customers for such services, the calculation of their fair market value in advance would not appear to pose any great difficulty.

Commission now takes the position that selection of that option constituted a violation of the Act." *Id.*

The RAD letter to which AFSCME-PEOPLE refers advised its treasurer to "notify the recipient and request a refund of the amount in excess of $5,000 and/or notify the recipient in writing of your redesignation of the contribution. In the best interests of your committee, all refunds and redesignations should be made within sixty days of . . . receipt of the contribution." The RAD letter also stated that the Commission "may take further legal action" unless AFSCME-PEOPLE took prompt action in obtaining a refund or redesignation. Three weeks later RAD sent a letter to AFSCME-PEOPLE stating that "the Commission may choose to initiate . . . legal enforcement action" if no response was received within 15 days; the matter was thereafter referred for enforcement action.[15]

4. Conciliation Agreement

Along with their response, AFSCME and AFSCME-PEOPLE have requested to enter into preprobable cause conciliation. Because this Office has completed its investigation in MUR 4763, conciliation is now appropriate. Pursuant to the above discussion, the attached proposed conciliation agreement

This Office recommends that the Commission approve the attached joint agreement

[15] AFSCME-PEOPLE ultimately redesignated the $2,500 contribution and notified RAD by letter dated June 17, 1997.

**D. MUR 4764: Harris Committee**

As noted previously, in MUR 4764 the Commission found reason to believe that the Harris Committee violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a)(1)(i) in connection with improper transfers totaling $49,451 from the Harris Committee's non-federal account to its federal account for 100% non-federal activity during 1996. While the activity in MUR 4764 does not overlap with the issues in the matters discussed above, it is being handled along with the others because the Harris Committee is also a respondent in MUR 4763, which was simultaneously referred to this Office by RAD. Although the violations in MUR 4764 are

relatively straightforward, this Office postponed recommending conciliation in MUR 4764 so as not to impede or interfere with the investigation of MUR 4763, and in view of our efforts to conciliate that matter. Consistent with the discussion and recommendations concerning MUR 4763, there would appear to be no bar to proceeding with conciliation in MUR 4764 at this time.[17]

Attached for the Commission's approval is a proposed conciliation agreement

[17] In their responses to the Commission's other reason to believe findings in these matters, counsel for the party committee respondents did not address the allocation-related reason to believe findings against the Harris Committee.

## IV. RECOMMENDATIONS[18]

1. In MUR 4763, accept the attached counterproposed conciliation agreement and close the file with regard to all of the respondents:

   Texas Democratic Party
   and Jane Hedgepeth, as treasurer
   Bexar County Democratic Party
   and Eddie Rodriguez, as treasurer
   Dallas County Democratic Party
   and David A. Parnell, as treasurer
   Galveston County Democratic Party
   and Mary Ellen Brennan, as treasurer
   Harris County Democratic Party
   and Sue Schechter, as treasurer
   Jefferson County Democratic Party
   and Gilbert T. Adams Jr., as treasurer
   Travis County Democratic Party
   and Mina Clark, as treasurer
   21st Century Political Action Committee
   and Art Brender, as treasurer

2. In MUR 4761, take no further action against the Association of Trial Lawyers of America Political Action Committee and Dan Cohen, as treasurer, close the file and send an admonishment letter.

3. In MUR 4762, take no further action against the American Federation of State, County & Municipal Employees-PEOPLE and William Lucy, as treasurer, with respect to contributions made to the Texas Democratic Party and affiliated committees in 1996, and send an admonishment letter.

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[18] Two of the committees have new treasurers: Eddie Rodriguez replaced John J. Murnin as treasurer of the Bexar County Democratic Party on February 2, 1999, and Sue Schechter replaced Charlie Gerhardt as treasurer of the Harris County Democratic Party on July 1, 1999. Pursuant to Commission practice, the new treasurers are named in these recommendations.

4. In MUR 4762, enter into conciliation with the American Federation of State, County & Municipal Employees and the American Federation of State, County & Municipal Employees-PEOPLE and William Lucy, as treasurer, prior to a finding of probable cause to believe, and approve the attached proposed conciliation agreement.

5. In MUR 4764, enter into conciliation with the Harris County Democratic Party and Sue Schechter, as treasurer, prior to a finding of probable cause to believe, and approve the attached proposed conciliation agreement.

6. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

3/28/00
Date

BY:
Lois G. Lerner
Associate General Counsel

Attachments
1. Counterproposed agreement in MUR 4763
2. Charts of intra-party transfers in MUR 4763
3. Discovery-related correspondence in MUR 4763
4. Rules of the Democratic Party of Texas (excerpts)
5. Letter from counsel in MUR 4763 dated January 20, 2000
6. Response to reason-to-believe findings in MUR 4761
7. Response to reason-to-believe findings in MUR 4762
8. Proposed conciliation agreement in MUR 4762
9. Proposed conciliation agreement in MUR 4764

Staff Assigned: Thomas J. Andersen

FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel MCS

DATE: February 29, 2000

SUBJECT: MUR 4761,4762,4763,4764-General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____ Closed Session _____

| CIRCULATIONS | | DISTRIBUTION | |
|---|---|---|---|
| SENSITIVE | ☒ | | |
| NON-SENSITIVE | ☐ | COMPLIANCE | ☒ |
| 72 Hour TALLY VOTE | ☒ | Open/Closed Letters | ☐ |
| | | MUR | ☐ |
| 24 Hour TALLY VOTE | ☐ | DSP | ☐ |
| 24 Hour NO OBJECTION | ☐ | STATUS SHEETS | ☐ |
| | | Enforcement | ☐ |
| INFORMATION | ☐ | Litigation | ☐ |
| | | PFESP | ☐ |
| | | RATING SHEETS | ☐ |
| | | AUDIT MATTERS | ☐ |
| | | LITIGATION | ☐ |
| | | ADVISORY OPINIONS | ☐ |
| | | REGULATIONS | ☐ |
| | | OTHER | ☐ |