

REPORTS ANALYSIS REFERRAL
TO
OFFICE OF GENERAL COUNSEL

DATE: September 26, 1997

ANALYST: JACQUES P. ANDRE', JR

- I. COMMITTEE: Randolph County (NC) Republican Party
Executive Committee (Unregistered)
Treasurer, c/o Alan V. Pugh, attorney
119 Worth Street
Asheboro, NC 27203
- II. RELEVANT STATUTE: 2 U.S.C. §433(a)
11 CFR §102.1(d)
- III. BACKGROUND:

Failure to Register and Report as a Political Committee

The Randolph County (NC) Republican Party Executive Committee ("Randolph County") made transfers to the Sixth Congressional District Republican Party ("Sixth District"), a federally registered committee, totalling \$32,425, and to the Buncombe County Republican Party ("Buncombe County"), a federally registered committee, totalling \$13,925 during calendar year 1996.

The 1996 30 Day Post-General Report filed by Sixth District disclosed the receipt of two (2) transfers totalling \$32,425 on October 15, and October 22, 1996 from Randolph County (Attachment 1). The 1996 30 Day Post-General Report filed by Buncombe County disclosed the receipt of one (1) transfer totalling \$13,925 on November 25, 1996 from Randolph County (Attachment 2).

On May 23, 1997, the Reports Analysis Division ("RAD") analyst sent Randolph County a Registration Notice regarding the Buncombe County activity. The Notice informed Randolph County that contributions in excess of \$1,000 a year qualified it as a "political committee", subject to the registration, reporting, and other requirements of the Act. Additionally, the Notice stated that the Act prohibits a political committee from receiving contributions in excess of \$5,000

99-04-391-4465

per year from a person or another committee. The Notice also included two options that would bring Randolph County into compliance with the Act: 1) submit a Statement of Organization, and obtain a contribution refund of the amount in excess of the limitations; or 2) receive a full contribution refund or direct the recipient committee to transfer the funds to an account not used to influence federal elections (Attachment 3). Because the funds were reported on Line 11(a) as a contribution, the Notice raised the possibility that the funds were also excessive.

On June 12, 1997, a Second Notice was sent to Randolph County for failure to respond (Attachment 4).

On June 20, 1997, a senior RAD analyst, Andrew Dodson, sent Randolph County a Registration Notice referencing the Sixth District activity. The Notice informed Randolph County of the same registration, reporting, and other requirements of the Act mentioned in the May 23, 1997 Notice (Attachment 5).

On July 7, 1997, Alan V. Pugh, an attorney with the firm Gavin, Cox, Pugh and Gavin, sent a letter to the Commission in response to the June 20, 1997, Registration Notice. The letter indicates that counsel believes Randolph County to be subject to North Carolina election law, and that federal election law does not apply in this situation. The letter further states that "...it is more likely that this reported contribution was for polling done for state legislative candidates on behalf of the 6th District Executive Committee" (Attachment 6).

On July 17, 1997, a Second Notice was sent to Randolph County. The Notice informed Randolph County that Sixth District is a federally registered political committee which does make contributions for the purpose of influencing Federal elections. Randolph County's transfers were the only transfers reported as being received by Sixth District during the Post-General Report time period (10/17/96-11/25/96). It therefore appears that Randolph County has indirectly made contributions to influence Federal elections. The Notice informed Randolph County that should it not want to register with the Commission it should request a full refund or direct Sixth District to transfer the funds to an account not used to influence federal elections (Attachment 7).

On July 24, 1997, Buncombe County filed an amended 1996 30 Day Post-General Report. The report included a cover letter which stated that it would repay \$8,925 to Randolph County. The amendment disclosed the debt on Schedule D as it has not yet been repaid. On the same date, Buncombe County filed its 1997

RANDOLPH COUNTY (NEW REPUBLICAN
PARTY EXECUTIVE COMMITTEE
REPORTS ANALYSIS OGC REFERRAL
PAGE 3

Mid-Year Report. This report included a Schedule D with the same debt; however, this schedule clarified the purpose as being to repay Randolph County for its October 1996 "contribution" (Attachment 8).

On August 21, 1997 the RAD analyst attempted to telephone Mr. Alan V. Pugh. The analyst left a message for Mr. Pugh to return the call as soon as possible (Attachment 9).

No further responses have been received.

SCHEDULE A

ITEMIZED RECEIPTS

Use separate schedule(s)
for each category of the
Detailed Summary PagePAGE 1 OF 1
FOR LINE NUMBER

Information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

6th District Republican Executive Committee

ADD

| | | | |
|---|--|--|--|
| A. Full Name, Mailing Address and ZIP Code Randolph County Republican Exec. Comm. 119 Worth St. Asheboro, NC 27203 | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) 10-15-96 | Amount of Each Receipt this Period 10,000.00 |
| Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| B. Full Name, Mailing Address and ZIP Code Randolph County REC 119 Worth St. Asheboro, NC 27203 | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) 10-22-96 | Amount of Each Receipt this Period 22,425.00 |
| Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| C. Full Name, Mailing Address and ZIP Code | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) | Amount of Each Receipt this Period |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| D. Full Name, Mailing Address and ZIP Code | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) | Amount of Each Receipt this Period |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| E. Full Name, Mailing Address and ZIP Code | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) | Amount of Each Receipt this Period |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| F. Full Name, Mailing Address and ZIP Code | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) | Amount of Each Receipt this Period |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| G. Full Name, Mailing Address and ZIP Code | Name of Employer Occupation Aggregate Year-to-Date > \$ | Date (month, day, year) | Amount of Each Receipt this Period |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): | | | |
| SUBTOTAL of Receipts This Page (optional) | 32,425.00 | | |
| TOTAL This Period (last page this line number only) | 32,425.00 | | |

SCHEDULE A

EXPENSE RECEIPTS

Separate schedule(s)
for each category of the
Detailed Summary Page

Attachment 2

FORM LINE NUMBER

12

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

Buncombe County (NC) Republican Party

A. Full Name, Mailing Address and ZIP Code

Randolph County (NC) Republican Party
Executive Committee
119 North Street
Asheboro NC 27203

Receipt For: ☐ Primary ☒ General
☐ Other (specify):

Name of Employer

N/A

Date (month,
day, year)

11/25/96

Amount of Each
Receipt this Period

13,925.00

Occupation

N/A

Aggregate Year-to-Date > \$

B. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

C. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

D. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

E. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

F. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

G. Full Name, Mailing Address and ZIP Code

Name of Employer

Date (month,
day, year)

Amount of Each
Receipt this Period

Occupation

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Aggregate Year-to-Date > \$

SUBTOTAL of Receipts This Page (optional)

TOTAL This Period (last page this line number only)

13,925.00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-F

MAY 23 1997

Treasurer
Randolph County (NC) Republican
Party Executive Committee
119 North Street
Asheboro, NC 27203

Dear Treasurer:

This letter is prompted by the Commission's interest in assisting committees which may be subject to the registration and reporting requirements of the Federal Election Campaign Act ("the Act") but are not registered with the Commission.

The Act defines a "political committee" to include any local committee of a political party committee which receives contributions aggregating in excess of \$5,000 during a calendar year or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of 2 U.S.C. §431 aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. §431(4)

A review of the receipts reported by the Buncombe County Republican Party indicates that your organization may have made expenditures in excess of \$1,000 during the calendar year 1996 to influence federal elections. The term "expenditures" includes contributions to federal candidates and committees supporting federal candidates. See 2 U.S.C. §431(9). This activity may qualify your organization as a "political committee" subject to the registration, reporting and other requirements of the Act. A copy of the receipt schedule(s) which list your organization's contribution(s) is enclosed for your review.

In order to be in compliance with the Act, your organization must either:

- 1) submit a Statement of Organization, file disclosure reports on FEC FORM 3X, and obtain a contribution refund of the amount in excess of the limitations (relevant informational materials and forms are enclosed); or

- 2) receive a full contribution refund or direct the recipient committee(s) to transfer the funds to an account not used to influence federal elections.

The second alternative noted above should be followed if your organization does not wish to register and file disclosure reports, or if the contributions or expenditures by your organization were from an account containing corporate or union funds.

If you believe that your organization is not a political committee, or the Commission is otherwise in error, please submit documentation which will clarify this matter. Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration.

Please notify the Commission within fifteen (15) days from the date of this letter of your decision on this matter. If you have any questions, please contact me on the agency's toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



J.P. Andre
Reports Analyst
Reports Analysis Division

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Enclosures



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 12, 1997

Treasurer
Randolph County (NC) Republican
Party Executive Committee
119 North Street
Asheboro, NC 27203

Dear Treasurer:

This is to inform you that as of this date, the Commission has not received your response to our letter dated May 23, 1997. Our letter notified you that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee. Enclosed is a copy of our original letter.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate legal action to ensure compliance with the Act.

If you should have any questions related to this matter, please contact J.P. Andre on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Gibson".

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-F

JUN 20 1997

Treasurer
Randolph County Republican
Executive Committee
119 Worth Street
Asheboro, NC 27203

Dear Treasurer:

This letter is prompted by the Commission's interest in assisting committees which may be subject to the registration and reporting requirements of the Federal Election Campaign Act ("the Act") but are not registered with the Commission.

The Act defines a "political committee" to include any local committee of a political party committee which receives contributions aggregating in excess of \$5,000 during a calendar year or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of 2 U.S.C. §431 aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. §431(4)

A review of the receipts reported by the Sixth Congressional District Republican Party indicates that your organization may have made expenditures in excess of \$1,000 during the calendar year 1996 to influence federal elections. The term "expenditures" includes contributions to federal candidates and committees supporting federal candidates. See 2 U.S.C. §431(9). This activity may qualify your organization as a "political committee" subject to the registration, reporting and other requirements of the Act. A copy of the receipt schedule(s) which list your organization's contribution(s) is enclosed for your review.

In order to be in compliance with the Act, your organization must either:

- 1) submit a Statement of Organization, file disclosure reports on FEC FORM 3X, and obtain a contribution refund of the amount in excess of the limitations (relevant informational materials and forms are enclosed); or

- 2) receive a full contribution refund or direct the recipient committee(s) to transfer the funds to an account not used to influence federal elections.

The second alternative noted above should be followed if your organization does not wish to register and file disclosure reports, or if the contributions or expenditures by your organization were from an account containing corporate or union funds.

If you believe that your organization is not a political committee, or the Commission is otherwise in error, please submit documentation which will clarify this matter. Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration.

Please notify the Commission within fifteen (15) days from the date of this letter of your decision on this matter. If you have any questions, please contact me on the agency's toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Andrew J. Dodson
Senior Reports Analyst
Reports Analysis Division

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Enclosures

LAW OFFICES
GAVIN, COX, PUGH AND GAVIN
119 WORTH STREET
ASHEBORO, NORTH CAROLINA 27203

W. ED GAVIN
RICHARD L. COX
ALAN V. PUGH
LEE W. GAVIN

July 7, 1997

TELEPHONE
(910) 829-2800
FACSIMILE
(910) 829-4734

Mr. Andrew J. Dodson
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20463

RE: Your letter of 20 June 1997
Randolph County (N.C.) Republican Executive Committee

Dear Mr. Dodson:

Our office acts as counsel to the Randolph County Republican Executive Committee. We have in hand your letter to the Treasurer of the Committee.

The Randolph County Republican Executive Committee is a county executive committee of a duly recognized political party under North Carolina law (N.C.G.S. §163-96). As such it is registered and files the various statements and reports required under North Carolina law (N.C.G.S. §163-278.7 et seq.).

Under N.C.G.S. §163-278.13(e) there is no limitation on the amount of contributions a county executive committee may receive from or contribute to another county executive committee in North Carolina. It is our opinion that the contribution made by the Randolph Committee to the 6th District Republican Executive Committee is covered by G.S. §163.278.13(e).

We are further of the opinion that should a recipient county executive committee make contributions in excess of \$1,000.00 in a calendar year to influence a Federal election that such a recipient committee is responsible for filing a federal report with the FEC, not the donor committee.

In order to respond within the time limits set out in your letter, we have not been able to determine if the contribution in question was an unrestricted contribution from the Randolph Committee to the 6th District Republican Executive Committee. Given the odd amount of the contribution it is more likely that this reported contribution was for polling done for State legislative candidates on behalf of the 6th District Executive Committee.

In any event, the Randolph Committee has made no contributions in excess of \$1,000.00 for the purpose either directly or indirectly of influencing Federal elections. If the Randolph Committee, given the above information, is in your opinion still required to send a notice to or direct a recipient county party committee to segregate a contribution, please forward the applicable statutory or regulatory citation and we will be glad to promptly do so.

Mr. Andrew J. Dodson
July 7, 1997
Page No. 2

Our complete reports are on file with the Campaign Reporting Office of the North Carolina Board of Elections. We stand ready to cooperate with your office in every way, but we would prefer, given the voluntary organization of the local committee, to avoid filing a Federal report in addition to filing State reports if possible.

With best regards,

Very truly yours,

GAVIN, COX, PUGH AND GAVIN

Alan V. Pugh
Counsel to the Randolph County
Republican Executive Committee

AVP:asg



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1997

Treasurer
Randolph County Republican
Executive Committee
119 Worth Street
Asheboro, NC 27203

Dear Treasurer:

On June 20, 1997 you were notified that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee.

Your July 10, 1997 response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-Your response states you are a recognized political party under North Carolina law, and as such, there is no limitation on the amount of contributions you may receive from or contribute to another county executive committee in North Carolina. You also state that a recipient committee should be responsible for filing a federal report with the FEC should it make contributions in excess of \$1,000 in a calendar year to influence a Federal election. You state you have been unable to determine, as of yet, if your contribution to the Sixth Congressional District Republican Party was an unrestricted contribution. You, however, believe the contribution was for state candidate polling. You further state you have made no contribution either directly or indirectly for the purpose of influencing Federal elections.

Please note that the Sixth Congressional District Republican Party is a federally registered political committee which does make contributions for the purpose of influencing Federal elections. Your committee's contributions were the only contributions reported as being received by the recipient committee during the Post-General Report time period (10/17/96 - 11/25/96). It therefore appears your committee has indirectly made contributions to influence Federal elections. Should you not want to

register with the FEC, you should request a full contribution refund or direct the Sixth Congressional District Republican Party to transfer the funds to an account not used to influence federal elections.

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Andrew Dodson on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Attachment 8

Page 1 of 3

J.D. Andue
Federal Elections Commission
999 E Street, NW
Washington, DC 20463

Fed ID: C00165803

Dear Mr Andae,

This letter is in response to your letter concerning the contribution from The Randolph County Republican Party to The Boncombe County Republican Party in the amount of \$13,925⁰⁰. This contribution was used solely for State Legislative races and should have gone into a State operating account and not the Federal account. In order to correct this error we are going to pay the State operating account. I have included in this letter a copy of our Mid Year report including schedule D. This loan will be repaid over the next reporting period. If you need further explanation or any additional information please call on me.

Very truly
Yours

16 JUL 57
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20535

RECEIVED
FEDERAL ELECTION
COMMISSION MAIL ROOM

704-251-5320 Home
704-257-5707 Work

Carol S M^{rs} Chune
609 Windsor Rd
Asheville, NC 28804

Blair County Republican
Party
P.O. Box 7363 Asheville, NC
28802

SCHEDULE D

(Revised 3/80)

DEBTS AND OBLIGATIONS

Excluding Loans

| Name of Committee (In Full) | Outstanding Balance Beginning This Period | Amount Incurred This Period | Payment This Period | Outstanding Balance at Close of This Period |
|--|---|-----------------------------------|---------------------------|---|
| Buncombe County Republican Party | | | | |
| A. Full Name, Mailing Address and ZIP Code of Debtor or Creditor Buncombe County Republican Party STATE OPERATING ACCT P.O. Box 7363 Asheville, NC 28802 | 8925.00 | 0 | 0 | 8925.00 |
| Nature of Debt (Purpose): | | | | |
| B. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| C. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| D. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| E. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| F. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| 1) SUBTOTALS This Period This Page (optional) | | | | |
| 2) TOTALS This Period (last page in this fine only) | | | | |
| 3) TOTAL OUTSTANDING LOANS from Schedule C (last page only) | | | | |
| 4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only) | | | | |

SCHEDULE D
 (Revised 3/80)

DEBTS AND OBLIGATIONS
Excluding Loans

Attachment 8

Page 3 of 3

 Page 1 of 1 for
 LINE NUMBER
 (Use separate schedules
 for each numbered line)

| Name of Committee (in Full) | Outstanding Balance Beginning This Period | Amount Incurred This Period | Payment This Period | Outstanding Balance at Close of This Period |
|---|---|-----------------------------------|---------------------------|---|
| Buncombe County Republican Party | | | | |
| A. Full Name, Mailing Address and ZIP Code of Debtor or Creditor Buncombe County Republican Party STATE Operating Acct. P.O. Box 7363 Asheville, NC 28802 | 8925.00 | - 0 - | - 0 - | 8925.00 |
| Nature of Debt (Purpose): Payment of contributions from Randolph Co. Republican Party 10/96 | | | | |
| B. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| C. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| D. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| E. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| F. Full Name, Mailing Address and ZIP Code of Debtor or Creditor | | | | |
| Nature of Debt (Purpose): | | | | |
| 1) SUBTOTALS This Period This Page (optional) | | | | |
| 2) TOTALS This Period (last page in this line only) | | | | |
| 3) TOTAL OUTSTANDING LOANS from Schedule C (last page only) | | | | |
| 4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only) | | | | |

TELECON:

COMMITTEE: Randolph County Republican Executive Committee

CONTACT: Alan V. Pugh

ANALYST: J.P. Andre'

DATE: August 21, 1997

The RAD analyst called Mr. Alan V. Pugh, counsel for Randolph County. Tha analyst was unable to talk to Mr. Pugh and left a message for Mr. Pugh to contact the analyst as soon as possible.