



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 28, 1998

Laverne A. Williams, Treasurer
Randolph County Republican Executive Committee
6012 Old Troy Road
Asheboro, NC 27203

RE: MUR 4798
Randolph County Republican Executive Committee
and Laverne A. Williams, as Treasurer

Dear Ms. Williams:

On August 18, 1998, the Federal Election Commission found that there is reason to believe that the Randolph County Republican Executive Committee ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 433, 434, 441a and 11 C.F.R. § 102.5(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations. The *Factual and Legal Analysis*, which formed a basis for the Commission's findings, 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. Please submit responses to the enclosed questions and documents' request within 30 days of receipt of this letter. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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, the Commission will not entertain requests for pre-probable cause conciliation 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.

If you intend to be represented by counsel in this matter, 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. This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier McDonnell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures

Factual and Legal Analysis
Questions and Documents Request
Procedures
Designation of Counsel Form

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Randolph County Republican Executive Committee MUR: 4798
and Laverne A. Williams, as treasurer

I. GENERATION OF MATTER

This matter was generated by the Commission in the normal course of carrying out its supervisory duties. See 2 U.S.C. § 437g(a)(2). It involves transfers totaling \$46,350 made by the Randolph County Republican Executive Committee ("Randolph County" or "Randolph County Committee"). The \$46,350 includes \$32,425 transferred to the Sixth Congressional District Republican Party (or "6th District") and \$13,925 transferred to the Buncombe County Republican Party ("Buncombe County Committee" or "Buncombe Committee").

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations provide that transfers of funds may be made without limit on amount between or among a state party committee and/or any subordinate party committee whether or not they are "political committees" and whether or not such committees are affiliated. 2 U.S.C. § 441a(a)(4), 11 C.F.R. §§ 102.6(a)(1)(ii) and 110.3(c)(1). However, the funds transferred must be in compliance with the Act. See 11 C.F.R. §§ 102.6(a)(1)(iv) and 102.5. In addition, such transfers shall count against the reporting thresholds of the Act for determining whether an organization is a "political committee." See 11 C.F.R. § 102.6(a)(2).

The Act requires local party organizations to register with the Commission if, *inter alia*, they make contributions or expenditures aggregating in excess of \$1000 during a calendar year.

2 U.S.C. §§ 431(4)(C) and 433(a). Each "political committee," including a party committee, which finances political activity in connection with both federal and non-federal elections, is required to either establish a separate federal account from which all disbursements, contributions, expenditures and transfers made in connection with any federal election shall be made, or establish a political committee which shall receive only contributions subject to the limitations and prohibitions of the Act regardless of whether such funds are used in connection with federal or non-federal elections. 11 C.F.R. § 102.5(a)(1).

A state or local party organization that makes contributions and expenditures must either establish a separate account into which only funds subject to the prohibitions and limitations of the Act shall be made and from which all contributions and expenditures shall be made or demonstrate through a reasonable accounting method that whenever such organization makes a contribution or expenditure, it has received sufficient funds subject to the prohibitions of and limitations of the Act to make such contributions or expenditures. 11 C.F.R. § 102.5(b)(1). These rules ensure compliance with the contribution limitations at 2 U.S.C. § 441a, which provides, *inter alia*, that no person or multicandidate committee shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits any political committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a)(1)(C) and (f). Under North Carolina law, individuals and non-party political committees may contribute up to \$4,000 per election. See General Statutes of North Carolina ("GSNC") §§ 163-278.

B. Factual Background

The Randolph County Committee, an unregistered organization, appears to have transferred \$10,000 to the 6th district on October 16, 1996, and \$22,425 on October 22, 1996. It also appears to have transferred \$13,925 to the Buncombe County Committee on or about October 23, 1996.

By letters dated May 23, June 12 and June 20, 1997, the Commission's Report Analysis Division ("RAD") questioned the Randolph County Committee about the amounts that it had transferred to the 6th District and the Buncombe County Committee. RAD informed Randolph County that it should either register with the Commission and file reports, receive a full refund of the transfers or direct the recipient committees to transfer the funds to accounts that are not used to influence federal elections.

In a response letter dated July 7, 1997, counsel for Randolph County claimed that his client acted in accordance with North Carolina law and that the Act does not apply to it. Counsel also stated that the Randolph County Committee has not been able to determine if the \$32,425 in transfers to the 6th District was "unrestricted" and surmised that the funds were used on polls for state candidates. RAD responded on July 17, 1997, informing the Randolph County Committee that the 6th District was a federally registered political committee and that the \$32,425 transferred was the only amount received by the 6th District from October 15 through November 25, 1996. Thus, RAD's letter concluded, the Randolph County Committee appears to have made transfers to influence federal elections. RAD reiterated that if the Randolph County Committee did not wish to register and file reports with the Commission, it should obtain a full refund or direct the recipient committee to seek a transfer of the funds out of its federal account.

III. ANALYSIS

The Randolph County Committee transferred funds totaling \$46,350 to other party committees; \$32,425 to the 6th District and \$13,925 to the Buncombe County Committee. Such transfers to registered political committees count towards the transferring committee's threshold as a "political committee." *See* 11 C.F.R. § 102.6(a)(2). The Randolph County Committee thus appears to have qualified as a "political committee" on or about October 16, 1996, when it first transferred \$10,000 to the 6th District. Accordingly, it appears that the Randolph County Committee and Laverne A. Williams, as treasurer, violated 2 U.S.C. §§ 433 and 434 by failing to register and file disclosure reports with the Commission.

After the Randolph County Committee became a "political committee" on or about October 16, 1996, it was required to either establish a separate federal account from which all disbursements, contributions, expenditures and transfers made in connection with any federal election were to be made, or to establish a political committee which would receive only contributions subject to the limitations and prohibitions of the Act, regardless of whether such funds were used in connection with federal or non-federal elections. 11 C.F.R. § 102.5(a)(1). There is no indication that the Randolph County Committee adhered to the requirements of Section 102.5(a). By accepting funds deemed impermissible under the Act and transferring impermissible funds to the federal accounts of the 6th District and the Buncombe County Committee, the Randolph County Committee and its treasurer appear to have violated 2 U.S.C. § 441a and 11 C.F.R. § 102.5(a). It thus appears that the Randolph County Committee and Laverne A. Williams, as treasurer, violated 2 U.S.C. § 441a and 11 C.F.R. § 102.5(a).

Within days of receiving the transfers from the Randolph County Committee, both the 6th District and the Buncombe County Committee reported making expenditures in the same or

nearly the same amounts, with most of the funds reportedly paid to the same vendor, Advantage Mailing. The dates, the amounts of the payments and the vendors are detailed below:

CONTRIBUTOR	RECIPIENT	VENDOR	REPORTED PURPOSE
Randolph Cnty \$10,000 to 6th District on 10-16-96	6th District \$10,000 rec'd from Randolph Cnty on 10-16-96 ¹	\$10,000 to Blackwater Comm on 10-17-96	radio ad
Randolph Cnty \$22,425 to 6th District on 10-22-96	6th District \$22,425 rec'd from Randolph County on 10-22-96	\$22,376 to Advantage Mailing on 10-23-96	voter mailings
Randolph Cnty \$13,925 to Buncombe Cnty on 10-23-96	Buncombe Cnty \$13,925 rec'd from Randolph County on 10-23-96 (?)	\$13,915 to Advantage Mailing on 10-24-96	ad -reportedly for local elections

Thus, after receiving \$10,000 from Randolph County on October 16th, the 6th District spent that precise amount for a radio ad on October 17th, after receiving two transfers totaling \$22,425 from Randolph County on October 22, the 6th District paid Advantage Mailing \$22,376 for "voter mailings" on October 23rd, and after reportedly receiving \$13,925 from Randolph County on October 23rd, on the next day the Buncombe County Committee paid Advantage Mailing \$13,915 for an advertisement. The facts at hand suggest that there may have been some prearrangement between the Randolph County Committee and the recipient committees regarding the making of these expenditures.

¹ The 6th District actually reported receiving the \$10,000 on October 15, 1996. However, the Randolph County Committee reported that it did not give the \$10,000 until October 16, 1996. The 6th District reported receiving another transfer, totaling \$22,425, the same day that the Randolph County Committee reported making it--October 22, 1996. Thus, at this point, the Commission assumes that the \$10,000, which was reportedly given on October 16, 1996, was received that same day.

In light of the above, there is reason to believe that the Randolph County Committee and Laverne A. Williams, as treasurer, violated 2 U.S.C. §§ 433, 434, 441a and 11 C.F.R. § 102.5(a).

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4798

**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

TO: Laverne A. Williams, Treasurer
Randolph County Republican Executive Committee
6012 Old Troy Road
Asheboro, NC 27203

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In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and 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 documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, 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, 1996 to present.

The following interrogatories and requests for production of documents 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 respondents in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"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 AND DOCUMENT REQUESTS

1. Disclosure reports indicate that during 1996 you contributed/transferred \$10,000 to the Sixth Congressional District Republican Party ("6th District"). With respect to such transfer/contribution:

- a. State the date on which you contributed/transferred such funds;
- b. State whether the funds were transferred pursuant to any request made by the 6th District;
- c. State the purpose of such transfer/contribution;
- d. Identify all persons involved in giving and receiving such funds;

e. Identify and produce all documents related to the transfer, including but not limited to checks, memos, correspondence, etc.

2. Disclosure reports indicate that you contributed/transferred \$22,425 to the 6th District on October 22, 1996. With respect to such transfer/contribution:

a. State whether the funds were transferred pursuant to any request made by the 6th District;

b. State the purpose of such transfer/contribution;

c. Identify all persons involved in giving and receiving such funds;

d. Identify and produce all documents related to the transfer, including but not limited to checks, memos, correspondence, etc.

3. Disclosure reports indicate that during 1996 you contributed/transferred \$13,925 to the Buncombe County Republican Party ("Buncombe County Committee"). With respect to such transfer/contribution:

a. State the date on which you contributed/transferred such funds;

b. State whether the funds were transferred pursuant to any request made by the Buncombe County Committee;

c. State the purpose of such transfer/contribution;

d. Identify all persons involved in giving and receiving such funds;

e. Identify and produce all documents related to the transfer, including but not limited to checks, memos, correspondence, etc.

4. State whether you had any discussion with the 6th District or the Buncombe County Committee regarding the use of any of the funds referenced above in questions 1-3. If so:

a. State when you had such discussions;

b. State the substance of such discussions, and specifically whether you provided either of the recipient committees with any instructions, or made any request or suggestion, about the use of the funds, i.e., whether to use the funds on state or federal elections, on advertising, voter mailings, get-out-the-vote activity;

- c. Identify all persons involved in such discussions;
- d. Identify and produce all documents related to such discussions, including but not limited to memos, correspondence, etc.
5. Disclosure reports indicate that the 6th District made a \$10,000 payment/expenditure to Blackwater Communications on October 17, 1996. With respect to such payment/expenditure:
- a. State whether you had any discussions with the 6th District about such payment/expenditure, and if so, state the substance of any such discussions;
- b. State whether you gave the 6th District any instructions, or made any request or suggestion, about the \$10,000 payment/expenditure, including but not limited to suggesting what vendor to use and the type of goods or services purchased, i.e., whether to use the funds on state or federal elections, on advertising, voter mailings, get-out-the-vote activity;
- c. Identify any persons from your committee involved in reviewing, approving or making suggestions regarding the goods or services purchased;
- d. Identify and produce all documents related to the payment/expenditure, including but not limited to scripts, tapes, memos, notes, correspondence, information stored on or created by computer.
6. Disclosure reports indicate that the 6th District made a \$22,376 payment/expenditure to Advantage Mailing on October 23, 1996. With respect to such payment/expenditure:
- a. State whether you had any discussions with the 6th District regarding such payment/expenditure and if so, state the substance of any such discussions;
- b. State whether you provided the 6th District with any instructions, or made any request or suggestion, about the \$22,376 payment, including but not limited to suggesting what vendor to use and the type of goods or services purchased, i.e., whether to use the funds on state or federal elections, on advertising, voter mailings, get-out-the-vote activity;
- c. Identify any persons from your committee involved in reviewing, approving or making suggestions regarding the goods or services purchased;
- d. Identify and produce all documents related to the payment/expenditure, including but not limited to scripts, tapes, memos, notes, correspondence, information stored on or created by computer.

7. Disclosure reports indicate that the Buncombe County Committee made a \$13,915 payment/expenditure to Advantage Mailing on October 24, 1996. With respect to such payment/expenditure:

a. State whether you had any discussions with the Buncombe County Committee regarding such payment/expenditure, and if so, state the substance of any such discussions;

b. State whether you provided the Buncombe County Committee with any instructions, or made any request or suggestion, about the \$13,915 payment, including but not limited to suggesting what vendor to use, the type of goods or services purchased, i.e., whether to use the funds on state or federal elections, on advertising, voter mailings, get-out-the-vote activity;

c. Identify all persons from your committee involved in reviewing, approving or making suggestions regarding the goods or services purchased;

d. Identify and produce all documents related to the payment, including but not limited to scripts, tapes, memos, notes, correspondence, information stored on or created by computer.

8. Identify the account from which you made the transfers/contributions referenced above in questions 1-3 (provide the name and address of the bank, and the account number and identify the account holder and owner). State whether you deposited into such account any donations or contributions from any persons that were in excess of \$1,000 per election.