

BEFORE THE FEDERAL ELECTION COMMISSION

JAN 22 2002

**SENSITIVE**

In the Matter of )  
Buchanan for President, Inc., and ) MUR 4977  
Angela "Bay" Buchanan, as treasurer )  
Tanya Barnhart )  
Timothy Beall )  
Robin Hatfield )  
Christopher Kutt )  
Connie Mackey )  
Alicia Therrien )  
Philip White )

**GENERAL COUNSEL'S REPORT #2**

**I. ACTIONS RECOMMENDED**

Take no further action, and close the file with respect to all of the respondents.

**II. BACKGROUND**

On May 15, 2001, the Commission found reason to believe that eight respondents in this matter violated various provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), and the Commission's regulations. The respondents and violations are as follows:

Buchanan for President, Inc. and Angela "Bay" Buchanan, as treasurer ("the Committee") - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iv); Tanya Barnhart - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i); Timothy Beall - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(ii); Robin Hatfield - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i); Christopher Kutt - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii); Connie Mackey - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(iii); Alicia Therrien - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(ii); and Philip White - 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i).<sup>1</sup>

<sup>1</sup> In addition, the Commission found no reason to believe that Elise Frechette violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1)(i); found no reason to believe that any of the named respondents in Appendix A, as outlined in the May 4, 2001 Addendum to the General Counsel Report dated May 2, 2001, violated 2 U.S.C. § 441a(a)(1)(A) or § 441f; and voted to take no further action and close the files.

1 In summary, the main allegation involved the Committee directing campaign staffers to  
2 convert cash contributions made to the Committee from various individuals into checks and  
3 money orders. These contributions were then credited as contributions by the staffers. Based on  
4 the Commission's discussion on May 15, 2001, the Office of the General Counsel conducted a  
5 limited review of the allegations. The Commission did not approve any subpoenas or  
6 interrogatories related to this investigation. However, reason to believe notification letters sent  
7 to respondents contained specific questions. Respondents were asked to provide information  
8 concerning instances where they were asked by Committee officials to write checks or money  
9 orders in exchange for cash. Respondents were also asked to state any circumstances they were  
10 aware of where other individuals had been asked to do the same.

### 11 III. RESPONSES TO REASON TO BELIEVE FINDINGS AND QUESTIONS

12 Of the eight respondents the Commission made reason to believe findings against, only  
13 four submitted a written response to the Commission's findings. Tanya Barnhart,<sup>2</sup> Robin  
14 Hatfield, Philip White and the Committee did not respond to this Office's notification letter.<sup>3</sup>

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<sup>2</sup> Respondent Tanya Barnhart was sent a reason to believe notice, however it was returned to this Office stamped "no such number/street." During the course of the investigation, the Office of the General Counsel discovered Ms. Barnhart was never notified of the complaint. The Act requires the Commission to notify, in writing and within 5 days of receipt of a complaint, any person alleged to have committed a violation. 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.5. Furthermore, before the Commission takes any action or makes any finding other than dismissal, it must give the person an opportunity to demonstrate that no action should be taken against them. 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.6(a)-(b). The complaint specifically alleged Ms. Barnhart was involved in a transaction that violated the Act.

Compliance with the Act would require that the Commission rescind its previous finding of reason to believe against Ms. Barnhart, notify Ms. Barnhart of the original complaint, and provide her an opportunity to respond to the complaint. However, given the totality of circumstances (the statute of limitations has expired and this Office is recommending no further action against the remaining respondents), this Office recommends the Commission proceed no further in its investigation of Ms. Barnhart.

<sup>3</sup> This Office notified Bay Buchanan, the treasurer of the Committee, of the Commission's reason to believe finding by phone. However no response was ever submitted to the Commission's reason to believe finding. All of the other respondents signed return receipts confirming their receipt of the reason to believe notification.

1 However, Timothy Beall, Connie Mackey, Christopher Kutt, and Alicia Therrien responded to  
2 the reason to believe notification.

3 In a response received on July 13, 2001, Timothy Beall states that "[b]ecause the  
4 charge ... is plainly barred by the statute of limitations and a reason to believe finding should  
5 never have been made in the first place, the complaint must be dismissed."<sup>4</sup> Attachment 1, at 2.  
6 Mr. Beall did not present any substantive discussion of the issue in his response.

7 Connie Mackey also noted the expiration of the statute of limitations, and therefore  
8 argued that she did not need to respond to the Commission's findings that she made a  
9 contribution in the name of another. Ms. Mackey also stated that she never intended to violate  
10 any federal regulation or federal law, and therefore she did not believe that there was reason to  
11 believe she committed a violation. Attachment 2. Ms. Mackey requested that the Commission  
12 dismiss the portions of this matter that relate to her.<sup>5</sup>

13 In addition to noting the five-year statute of limitations, other respondents denied the  
14 allegations set forth by the Complainant. In response to the complaint, Alicia Therrien stated that  
15 Christopher Kutt asked her to write a check to the Committee in exchange for cash. Based on  
16 this and other information contained in the complaint, the Commission found reason to believe  
17 that Mr. Kutt knowingly helped or assisted someone in making a contribution in the name of

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<sup>4</sup> Mr. Beall acknowledged in his response to the complaint that on November 27, 1995 he wrote a check to the Committee in exchange for cash after being asked by a member of the Committee's treasury department to enter into the transaction. This means that the statute of limitations expired on November 27, 2000.

<sup>5</sup> Upon Ms. Mackey's receipt of the Commission's reason to believe finding, Ms. Mackey contacted the Office of General Counsel requesting a meeting to discuss the allegations against her. Upon learning of the five-year statute of limitations, she subsequently withdrew her request to meet with this Office and declined the opportunity to meet or discuss the issue further.

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1 another. 11 C.F.R. § 110.4(b)(1)(iii). In his response to the reason to believe finding, Mr. Kutt  
2 stated that he did not have any recollection of Alicia Therrien, and did not have any recollection  
3 of having a conversation with her regarding making a contribution to the campaign. Attachment  
4 3, at 2.

5 In Alicia Therrien's response to the reason to believe finding, she states she is willing to  
6 cooperate with the Commission's investigation of the matter. However, she indicated that she  
7 did not have "any further information to provide other than what [she] presented in [her] letter to  
8 [the Commission] on 20 March 2000."<sup>6</sup>

9 Another respondent in this matter, Amee Dedrick, called this Office and reluctantly stated  
10 that she may be willing to discuss some of the things that she witnessed at the Committee.<sup>7</sup>  
11 However, after several attempts to follow-up with Ms. Dedrick, she expressed her discomfort  
12 with discussing the matter as she did not want any of the information she relayed to be used  
13 against her. After expressing her concern, Ms. Dedrick did not return any of our subsequent  
14 telephone calls.

<sup>6</sup> Ms. Therrien submitted a response to the Complaint on March 20, 2000. In the response, Ms. Therrien stated that she was approached by Mr. Kutt and asked to write a check to the Committee in the amount of \$250 in exchange for \$250 cash. Attachment 4. Ms. Therrien also stated that she witnessed four or five other staff members make the same transaction with Mr. Kutt that day. *Id.* Ms. Therrien stated that she could not recall who those individuals were or for how much they wrote checks. Attachment 5.

<sup>7</sup> The Commission found there was no reason to believe that Amee Dedrick violated the Act or the regulations.

**IV. DISCUSSION OF RECOMMENDATIONS**

This Office acknowledges the serious allegations set forth in the Complaint. Nevertheless, the Office of the General Counsel's limited investigation did not uncover any additional information. It appears that there may be some additional information known by Ms. Therrien, Ms. Dedrick and possibly other former Committee staffers. However, in order to determine the knowledge of these individuals, depositions and interrogatories would be necessary. Therefore, significant resources would be required to investigate the actions of this 1996 presidential committee and its former staffers. Given the time that has elapsed in this matter, there is a question as to whether the individuals would be able to recollect specific monetary transactions to a degree and manner necessary to warrant proceeding with this investigation. Furthermore, the statute of limitations for these allegations, which ranged from September 19, 2000 through April 20, 2001, has expired.

Due to the expired statute of limitations, the resource intensive nature of a continued investigation, and the fact that no information was uncovered following the limited review, the Office of General Counsel recommends that the Commission take no further action against the remaining respondents and close the file.

**V. RECOMMENDATIONS**

1. Take no further action against Buchanan for President, Inc., and Angela "Bay" Buchanan, as treasurer; Tanya Barnhart; Timothy Beall; Robin Hatfield; Christopher Kutt; Connie Mackey; Alicia Therrien; Philip White;
2. Close the file; and
3. Approve the appropriate letters.

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4  
5 Date

1/22/02

  
Lawrence H. Norton  
General Counsel

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7 Attachments

- 8 1. Beall Response to RTB finding  
9 2. Mackey Response to RTB finding  
10 3. Kutt Response to RTB finding  
11 4. Therrien Response to Complaint  
12 5. Therrien Response to RTB finding  
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14 Staff assigned:

15 Michelle E. Abellera

62-504-40-22