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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of:)
)
)
Democratic Party of Illinois and Michael)
J. Kasper, as treasurer, and Michael J.)
Madigan, as chairman)
)
Knox County Democratic Central)
Committee and Jeremy S. Karlin, as)
treasurer, and Janet K. Hill, as)
chairman)
)
Strategic Consulting Group, Inc.)

MUR 5031

GENERAL COUNSEL'S REPORT #6

I. ACTIONS RECOMMENDED

A. The Democratic Party of Illinois and its officers

- take no further action regarding the allegation that the Democratic Party of Illinois failed to report, and either accepted or made excessive contributions as a result of its affiliation with the Rock Island County Democratic Central Committee, the 17th District Victory Fund, or the Knox County Democratic Central Committee;
- take no further action on the allegation that the Democratic Party of Illinois made excessive, in-kind contributions to Friends of Lane Evans by failing to supervise and report Section 441a(d) spending;
- find no reason to believe that Michael Madigan, as chairman of the Democratic Party of Illinois, violated any provision of the Act in this matter; and
- close the file as it pertains to the Democratic Party of Illinois, Michael Kasper, as treasurer and Michael Madigan.

B. Knox County Democratic Central Committee and its officers

- take no action other than to admonish the Knox County Democratic Central Committee regarding the allegation that it failed to register and report as a political committee;
- take no action other than to admonish the Knox County Democratic Central Committee regarding the allegation that it used prohibited funds in connection with federal elections;

- take no action other than to admonish the Knox County Democratic Central Committee regarding the allegation that it made unreported in-kind contributions to the Evans Committee;
- find no reason to believe that Janet Hill, as chairman of the Knox County Democratic Central Committee, violated any provision of the Act in this matter, and
- close the file as it pertains to the Knox County Democratic Central Committee and Janet Hill.

C. **Strategic Consulting Group, Inc.**

- find no reason to believe that Strategic Consulting Group, Inc. violated any provision of the Act in this matter; and
- close the file as it pertains to Strategic Consulting Group, Inc.

II. BACKGROUND

In the 1998 and 2000 general elections, Rep. Lane Evans faced formidable reelection campaigns in the 17th Congressional District of Illinois. The complaint alleged that Rep. Evans and his principal campaign committee undertook extensive coordinated activities with various organizations throughout his district in those years. On August 27, 2002, the Commission found reason to believe that the Friends of Lane Evans ("the Evans Committee"), the 17th District Victory Fund ("the Victory Fund"), the Rock Island Democratic Central Committee ("the Rock Island Committee"), the Democratic Party of Illinois ("the State Party"), and each of their respective treasurers violated the Federal Election Campaign Act of 1971, as amended ("the Act").¹

See First General Counsel's Report, MUR 5031, dated August 5, 2002.

¹ All of the facts relevant to these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub L 107-155, 116 Stat 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act or statements of law regarding provisions of the Act contained in this Brief refer to the Act as it existed prior to the effective date of BCRA. Similarly, all citations to the Commission's regulations or statements of law regarding any specific regulation contained in this report refer to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

1 The extensive investigation conducted in this case included the review of thousands of
2 pages of documents submitted by the respondents and interviews or depositions of over a dozen
3 witnesses.² A summary of this investigation is provided in the General Counsel's Briefs to the
4 Evans Committee, the Victory Fund, and the Rock Island Committee, which are incorporated
5 herein by reference. *See, e.g.*, GC Br. to the Evans Comm. at 2-17. Based upon the information set
6 forth in those Briefs and in General Counsel's Report #4, the Commission found probable cause to
7 believe that the Evans Committee, the Victory Fund, and the Rock Island Committee each violated
8 various provisions the Act.

9 This Report discusses three other respondents in this matter: the Democratic Party of
10 Illinois ("the State Party"), the Knox County Democratic Central Committee ("Knox County
11 Committee"), and Strategic Consulting Group, Inc. ("Strategic Consulting"), a political consulting
12 firm that operated a "campaign school" in Rep. Evans's district. The Commission previously
13 found reason to believe that the State Party violated 2 U.S.C. §§ 433(b)(2), 434(b), 441a(f), and 11
14 C.F.R. § 110.7(c), but took no action against Michael J. Madigan, who has served as chairman of
15 the State Party since 1998. The Commission also previously took no action against the Knox
16 County Committee and Strategic Consulting.

17 Although the State Party, the Knox County Committee and Strategic Consulting each
18 undertook activities in Rep. Evans's district, their activities do not warrant any additional
19 enforcement proceedings. Accordingly, for the reasons set forth below, this Office recommends

² In response to the Commission's subpoenas, the respondents submitted thousands of pages of documents. Documents relied on in this Report are cited as Exhibits and are available for review in the Office of the Commission Secretary.

that the Commission find no reason to believe and/or take no further action against these respondents and close the file as it pertains to them.

III. DISCUSSION

The remaining allegations in this matter primarily deal with (1) whether the State Party is affiliated with the Victory Fund, the Rock Island Committee and/or the Knox County Committee and failed to report those affiliations, (2) whether the State Party made excessive, in-kind contributions to the Evans Committee, (3) whether the Knox County Committee should have registered and reported with the Commission as a political committee and whether it made in-kind contributions to the Evans Committee, and (4) whether Strategic Consulting violated any provisions of the Act. As explained in the following sections, an investigation has shown that these allegations are either without merit or are relatively insignificant.

A. The State Party

1. Affiliation with the Victory Fund, the Rock Island Committee, and the Knox County Committee

The Commission previously found reason to believe that the State Party had violated the Act based on its apparent unreported affiliations with the Victory Fund, the Rock Island Committee, and the Knox County Committee. The conclusions as to affiliation were based primarily on the regulatory presumption that exists between a State party committee and subordinate State party committees. *See* 11 C.F.R. § 110.3(b)(3). Each committee has the opportunity to rebut this presumption by demonstrating that it had not received funds from any other political committee established, financed, maintained, or controlled by any party unit, and did 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

1 controlled by another party unit. 11 C.F.R. § 110.3(b)(3)(i)–(ii). However, a subsequent
2 investigation has shown that the regulatory presumption of affiliation does not apply to one of these
3 committees and that there is little independent evidence to suggest there was affiliation for the
4 other two committees.³

5 First, the presumption does not apply to the Victory Fund because an investigation has
6 shown that it is not a bona-fide party committee. *See* GC Br. to the Victory Fund at 14-16.
7 Further, because the State Party had no role in establishing, financing, maintaining or controlling
8 the Victory Fund, the statutory factors required to establish affiliation are not fulfilled. *See*
9 2 U.S.C. § 441a(a)(5). Therefore, this Office recommends that the Commission take no further
10 action against the State Party regarding the allegation that it violated 2 U.S.C. § 433 by failing to
11 report its affiliation with the Victory Fund

12 Second, there is little evidence, other than the regulatory presumption, to establish
13 affiliation between the Rock Island Committee and the State Party. The Rock Island Committee
14 argues that the following mitigating factors are present in this case: the federal expenditures were
15 de minimus and inadvertent, it did not intend to become a federal political committee, and it has
16 taken corrective action to prevent future federal expenditures. *See* Exs. 48 and 51. In addition, the
17 State Party claims that it did not work with the Rock Island Committee regularly, or exercise any

³ This Office notes that the State Party fully cooperated with the investigation in this matter

control over the Committee or its activities ⁴ See State Party Irrog. Resp. #8.⁵ However, the State Party made a \$2,000 contribution to the Rock Island Committee in 1998 and a \$5,000 contribution in 2000, and the Rock Island Committee deposited that money into an account from which federal expenditures were made. Therefore, the presumption of affiliation is not rebutted. Although the presumption of affiliation has not been rebutted, because of the mitigating factors discussed above, and the lack of separate evidence of affiliation, this Office recommends that the Commission exercise its discretion and take no further action against the State Party regarding the allegation that it violated 2 U.S.C. § 433 by failing to report its affiliation with the Rock Island Committee

Finally, there is also little evidence, other than the regulatory presumption, to establish affiliation between the Knox County Committee and the State Party. See 11 C.F.R. § 110.3(b)(3)(i)–(ii); A.O. 1978-9. The limited information available indicates that the State Party did not contribute any money to the Knox County Committee during the period at issue, but it “did meet occasionally” with representatives of the Knox County Committee in 1998 and 2000. State Party Irrog. Resp. #8. However, the State Party states that it did not work with the Knox County

⁴ In Advisory Opinion (“A O”) 1978-9, the Commission analyzed the relationship between certain county and state party committees and concluded that they were not affiliated. The Commission pointed to the general lack of control by the state committee over the county committees and concluded that the contributions by the county committees to federal candidates were not made in cooperation, consultation or concert with, or at the request or suggestion of, the state committee. Accordingly, the Commission determined that the presumption at Section 110 3(b)(3) was overcome and the county committees were separate committees with their own contribution limits.

The Commission also noted that although many of the county committees sent funds to the state committee, these funds were not deposited in the state committee’s federal account. Similarly, in subsequent enforcement matters involving state and subordinate party committees, the Commission has found that the first condition at Section 110 3(b)(3) is satisfied only when the funds received by a party committee are deposited into that committee’s federal account. See, e.g., Matter Under Review (“MUR”) 2938 (deposit of funds received from a county party committee into a state party committee’s non-federal account does not prevent the presumption of affiliation from being overcome), see also MUR 3054 (presumption of affiliation does not apply because, *inter alia*, sole transfers between state party committee and county party committee were from state committee’s nonfederal account to county committee’s nonfederal account).

⁵ Interrogatory responses from all respondents are compiled in Exhibit 2.

1 Committee regularly, or exercise any control over the committee or its activities. *Id.* Accordingly,
2 because it appears that the presumption of affiliation may be rebutted in this case, and there is little
3 evidence available to establish affiliation, this Office recommends that the Commission take no
4 further action against the State Party regarding the allegation that it violated 2 U.S.C. § 433 by
5 failing to report its affiliation with the Knox County Committee.

6 **2. Excessive In-Kind Contributions to the Evans Committee**

7 The Commission also found reason to believe that the State Party, acting through its
8 affiliated local party committees, made excessive in-kind contributions to the Evans Committee by
9 failing to supervise Section 441a(d) expenditures by local party committees. *See* 11 C.F.R.
10 § 110.7(c). An investigation has shown, however, that the State Party undertook only minimal
11 activities in support of Rep. Evans and did not independently violate the Act's contribution limits.
12 Furthermore, the State Party did not delegate any authority to any local party committee to make
13 Section 441a(d) expenditures on behalf of Lane Evans, nor have any local party committees
14 claimed to have made Section 441a(d) expenditures.

15 Because the investigation has not substantiated the allegations that the State Party made
16 excessive, in-kind contributions to the Evans Committee, this Office recommends that the
17 Commission take no further action against the State Party regarding the allegation that it violated
18 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.7(c). Similarly, because there is no evidence that the State
19 Party's chairman was personally involved in any of the alleged activities, this Office further
20 recommends that the Commission find no reason to believe that Michael Madigan, as chairman of
21 the State Party, violated any provision of the Act in this matter. Finally, because there are no other

allegations pertaining to the State Party and its officers, this Office recommends that the Commission close the file as it pertains to them.

B. The Knox County Committee

1. Political Committee Status/In-Kind Contributions

The Knox County Committee has never registered as a political committee with the Federal Election Commission. The First General Counsel's Report in this matter recommended that the Commission find reason to believe that the Knox County Democratic Central Committee and Jeremy S. Karlin, as treasurer, violated 2 U.S.C. §§ 441a(f), 433(a), and 434 by failing to register and report as a political committee and by making excessive coordinated expenditures with the Evans Committee.⁶ First General Counsel's Report, MUR 5031 at 48. The Commission, however, determined to take no action at that time against the Knox County Committee. The discussion at the August 27, 2002 Executive Session focused on the small amount of money involved and the possibility that the Knox County Committee would fall below the \$1,000 threshold spending amount that would make it a political committee once it allocated its expenditures. As a result, the Commission determined not to devote its resources to an investigation of the Knox County Committee.

⁶ Pursuant to the Act, a political committee includes "any local committee of a political party which receives contributions 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)(C) Furthermore, a committee must file a statement of organization within 10 days after becoming a political committee within the meaning of section 431(4) See 2 U S C § 433(a) The Act defines a contribution as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office" 2 U S C § 431(8)(A)(i) Similarly, the Act defines an expenditure as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office" 2 U S C § 431(9)(A)(i) The term "anything of value" includes all "in-kind contributions" 11 C F R § 100.7(a)(1)(iii)(A)

1 However, the evidence gathered in the course of this Office's investigation of the Evans
2 Committee has revealed that the Knox County Committee made barely enough federal
3 contributions and expenditures to trigger the Act's registering and reporting requirements in 1998.
4 The Knox County Committee admits that it paid for a radio advertisement expressly advocating the
5 election Lane Evans in 1998. Knox County Committee Irrog. Resp. #10. This advertisement is
6 the same advertisement aired by the Rock Island Committee and discussed in the General
7 Counsel's Brief to the Rock Island Committee. *See* GC Br. to Rock Island Committee at 7. This
8 advertisement focuses almost exclusively on Lane Evans and his policy positions. *See* Ex. 10.
9 Additionally, the purchase order for this advertisement was signed by Kevin Gash, a Knox County
10 Committee volunteer who also served as the deputy campaign manager of the Evans Committee in
11 1998.

12 According to the Knox County Committee, it spent a total of \$1,046 to air the
13 advertisement. *See* Knox County Committee Resp. to Irrog. #14. Expenditures made on behalf of
14 more than one clearly identified candidate must be attributed to candidates based on the space and
15 time devoted to each candidate as compared to the total space and time devoted to all candidates.
16 *See* 11 C.F.R. § 106.1(a)(1). Accordingly, because the radio advertisement is almost exclusively
17 focused on Rep. Evans, with less than five seconds (8% of the total time) likely spent urging
18 listeners to vote for the entire Democratic ticket, approximately 92%, or \$962 of the advertisement

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1 constitutes an a federal expenditure.⁷ Additionally, because the purchase order was signed by an
2 employee of the Evans Committee, the expenditure may also constitute an in-kind contribution to
3 Rep. Evans.

4 In addition, the check register for the Knox County Committee's bank account shows that
5 the committee made a \$200 contribution to the Friends of Lane Evans Committee on February 14,
6 1998.⁸ See Ex 82. As a result, the Knox County Committee appears to have made at least \$1,162
7 in contributions to the Evans Committee in 1998, thereby surpassing the threshold requiring it to
8 register and report with the Commission.⁹ See 2 U.S.C. § 431(4)(C). However, because the

⁷ This allocation reflects the same methodology used by this Office (and approved by the Commission) to calculate the amount of the Rock Island Committee's in-kind contribution to Rep Evans when the Rock Island Committee produced and distributed the same radio advertisement. See GC Br to Rock Island Committee at 7. As argued in the Rock Island Brief, since the radio advertisement specifically mentions Lane Evans, it would not constitute generic party activity. See 11 C.F.R. § 106.5(a)(2)(iv). Moreover, general public political advertising, including radio advertisements, direct mail and newspaper advertisements, does not qualify as exempt activity. See 11 C.F.R. § 100.7(b)(15)(i). In its response to the complaint, the Knox County Committee admitted that it "the believed its efforts were part of a more general exempt GOTV drive in the area. We now understand that public political advertising cannot be a part of this exempt activity."

⁸ The check register logs a check to "Friends of Lane Evans." Ex 83 at KC-00605. Additional contextual documents demonstrate that the entry was made in 1998. See Ex 84.

⁹ There is also evidence that the Knox County Committee may have made additional federal expenditures in 1998. As discussed in the First General Counsel's Report, the Knox County Committee admits to making expenditures in the total amount of \$852 in 1998 for time buys to air additional radio advertisements. See First General Counsel's Report, MUR 5031 at 47-48. However, the committee, in response to discovery, provided no information about the content of the advertisement(s) or whether specific candidates were mentioned. Therefore, it is not possible to conclusively determine whether a portion of these payments constituted federal expenditures. Given the committee's failure to fully explain the payments, it is possible that at least a portion of this amount constituted further expenditures under the Act. See Knox County Committee Irrog Resp #10.

Furthermore, the Knox County Committee appears to have continued making expenditures in 2000. The Committee's state disclosure reports reveal that the committee made a \$220 disbursement to "Friends of Lane Evans" on June 7, 2000. The Committee admits that it produced a candidate guide and purchased a newspaper advertisement that mentioned Lane Evans in 2000. The Knox County Committee's candidate guide included positions taken by Lane Evans on health care, education, and other issues, and therefore part of its cost is an expenditure on behalf of the candidate. See 2 U.S.C. § 431(8)(b)(v), A.O. 1978-89 (explaining that the slate card exemption does not apply if the content includes the candidate's positions on the issues). Because the candidate guide featured 19 local candidates in addition to Lane Evans, at least five percent of the cost of the candidate guide can be attributed to Rep Evans. However, the total cost of the candidate guide is unknown because the Knox County Committee did not provide information regarding the design, printing, or distribution of the guide.

amount of expenditures is only slightly above the \$1,000 threshold, this Office recommends that the Commission send an admonishment letter to the Knox County Committee and Jeremy S. Karlin, as treasurer, but take no further action with regard to these apparent violations.

2. Use of Prohibited Funds

The Knox County Committee's state disclosure reports show that in 1998 and 2000, the committee received contributions from labor organizations. *See* Knox County Committee D-2 Illinois State Semi-Annual Report, filed 1/29/98; *see also* Knox County Committee Irrog. Resp. #20. Further, it is evident that the Knox County Committee did not segregate permissible funds from impermissible funds because it had only one bank account from which it conducted its activities at any given time. Therefore, the funds it used to make expenditures for the committee's federal activities came from the same source as those funds used for its local activities.¹⁰ Because this account contained impermissible funds, this Office recommends that the Commission send an admonishment letter to the Knox County Committee. However, because the amount of expenditures making the Knox County Committee a political committee, and thereby triggering the

¹⁰ Pursuant to 2 U S C § 441b(a), labor organizations are prohibited from making contributions or expenditures in connection with a federal election. "Contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value." 2 U S C § 441b(b)(2). Furthermore, pursuant to 2 U S C § 102 5(a)(1), "a party committee, which finances political activity in connection with both federal and non-federal elections and which qualifies as a political committee under 11 CFR 100.5 shall either" establish a separate federal account or establish a completely separate political committee. 2 U S C § 102 5(a)(1)(i) - (ii).

If a committee chooses to establish a separate federal account, "such account shall be treated as a separate federal political committee which shall comply with the requirement of the Act including the registration and reporting requirements. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made in its federal account." 2 U S C § 102 5(a)(1)(i). If the committee chooses to create a separate committee, that committee may only receive "contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections." 2 U S C § 102 5(a)(1)(ii). The evidence uncovered by the investigation demonstrates that the Knox County Committee did not comply with these requirements.

1 prohibition on receiving contributions from labor organizations, is only slightly above the \$1,000
2 threshold, *see* discussion *supra* at 7-10, this Office recommends that the Commission take no
3 further action with regard to this apparent violation. Furthermore, because there is no evidence of
4 personal involvement by the committee's chairwoman, this Office further recommends that the
5 Commission find no reason to believe that Janet K. Hill, as chairman of the Knox County
6 Committee, violated the Act in this matter.

7 **3. Affiliation with the State Party**

8 As already discussed above, *see* discussion *supra* at 6, there is little evidence, other than the
9 regulatory presumption of affiliation, to establish that the Knox County Committee is affiliated
10 with the State Party. *See* 11 C.F.R. § 110.3(b)(3)(i)-(ii); A.O. 1978-9. The Knox County
11 Committee did not receive any funds from the State Party during the period at issue and had a
12 limited relationship to the State Party. Further, although, the State Party met occasionally with
13 representatives of the Knox County Committee in 1998 and 2000, the Knox County Committee
14 states that it never made any contributions in connection with federal elections in cooperation,
15 consultation, or concert with, or at the request or suggestion of the State Party, or even discussed
16 any of its 1998 or 2000 campaign plans with the State Party. Knox County Committee Irrog. Resp.
17 #8, #9. Finally, as discussed above, the Knox County Committee barely appears to have crossed
18 the threshold to register and report as a political committee. Therefore, this Office recommends
19 that the Commission take no further action against the Knox County Committee regarding the
20 allegation that it violated 2 U.S.C. § 433 by failing to report its affiliation with the State Party.
21 Because there are no other allegations pertaining to the Knox County Committee and its officers,
22 this Office further recommends that the Commission close the file as it pertains to them.

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1 **C. Strategic Consulting Group's Campaign Schools**

2 In 1998 and 2000, the 17th District Victory Fund hired Strategic Consulting to organize
3 professional field operations in Rep. Evans's district, popularly known as the "campaign school."
4 *See* GC Br. to the Evans Comm. at 10-15, 35-37. The investigation has uncovered no evidence to
5 show any violation of the Act by Strategic Consulting or any of its employees in the Campaign
6 Schools that operated in the 17th Congressional District.¹¹ Strategic Consulting served as a political
7 consultant to the Victory Fund and received compensation that corresponded to its usual and
8 normal charges. Accordingly, Strategic Consulting did not make in-kind contributions to either the
9 Victory Fund or the campaigns it assisted. *See* 2 U.S.C. § 431(8)(A)(ii); 11 C.F.R.
10 § 100.7(a)(1)(iii). Therefore, this Office recommends that the Commission find no reason to
11 believe that Strategic Consulting violated any provision of the Act in this matter and close the file
12 as it pertains to Strategic Consulting.

13 **IV. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Take no further action against the Democratic Party of Illinois and Michael Kasper, as treasurer,
2. Find no reason to believe that Michael Madigan, as chairman of the Democratic Party of Illinois, violated any provision of the Act in this matter;
3. Take no action against the Knox County Democratic Central Committee and Jeremy Karlin, as treasurer, other than sending an admonishment letter;
4. Find no reason to believe that Janet Hill, as chairman of the Knox County Committee, violated any provision of the Act in this matter;
5. Find no reason to believe that the Strategic Consulting Group, Inc. violated any provision of the Act in this matter;

¹¹ This Office notes that Strategic Consulting fully cooperated with the investigation in this matter

6. Close the file as it pertains to: Strategic Consulting Group, Inc.; the Knox County Democratic Central Committee and Jeremy Karlin, as treasurer, and Janet Hill, as chairman; the Democratic Party of Illinois and Michael Kasper, as treasurer, and Michael Madigan, as chairman; and
7. Approve the appropriate letters.

DATE

1/17/04

BY:

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