

JUN 30 2000

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 99-12
DATE ACTIVATED: MAY 17, 2000

EXPIRATION OF STATUTE OF LIMITATIONS:
AUGUST 24, 2002¹

STAFF MEMBER: DUANE PUGH

SOURCE: AUDIT REFERRAL

RESPONDENTS: Texans for Rudy Izzard
Rudy Izzard, as treasurer
Sherrill Pettus
Vernon L. Ryan
Charles J. Wyly, Jr.

**RELEVANT STATUTES
AND REGULATIONS:** 2 U.S.C. § 432(b)(3)
2 U.S.C. § 432(h)(1)
2 U.S.C. § 441a
11 C.F.R. § 102.15
11 C.F.R. § 103.3(a)
11 C.F.R. § 110.1

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

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¹ The statute of limitations began running with the first deposit of Committee funds into the candidate's dental practice account, which occurred on August 24, 1997. The final deposit of Committee funds into the candidate's account occurred on April 22, 1998. The first excessive contribution was received on October 2, 1997, and the last excessive contribution was received on October 20, 1998.

22-04405-3473

I. GENERATION OF MATTER

This matter was generated by an audit of Texans for Rudy Izzard (the "Committee") and Rudy Izzard, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b). *See* Attachment 1. The audit covered the period from January 1, 1997 through December 31, 1998.

II. FACTUAL AND LEGAL ANALYSIS

The Audit Division found that Sherrill Pettus contributed a total of \$2,500 to the Committee for its general election campaign,⁴ that Vernon L. Ryan contributed \$2,500 to the Committee for its primary election campaign, and that Charles J. Wyly, Jr., contributed \$3,000 to the Committee for its general election campaign. Attachment 2.⁵ Therefore, based on the audit

⁴ Ms. Pettus also contributed \$500 to the Committee for the primary election campaign.

⁵ Copies of checks from Ms. Pettus and Mr. Wyly are included in Attachment 2. With respect to Dr. Ryan, a copy of the Committee's itemized deposit slip is included in Attachment 2, which reflects a single check for \$2,500 bearing the name "Ryan" was deposited in the Committee's account. However, a copy of the check from Dr. Ryan

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referral and the schedule of contributions, this Office recommends the Commission find reason to believe that Sherrill Pettus, Vernon L. Ryan, and Charles J. Wyly, Jr., violated 2 U.S.C.

§ 441a(a)(1)(A).⁶ Given the small size of these contributions and in an effort to conserve Commission resources, this Office also recommends that the Commission take no further action against them and send admonishment letters to Ms. Pettus, Dr. Ryan, and Mr. Wyly.

could not be located by Audit staff. Other Committee-produced documentation designated this contribution as \$1,000 from Dr. Ryan for the primary, \$1,000 from Dr. Ryan for the general, and \$500 from Mrs. Ryan, none of which would be excessive. The Committee did not challenge particularly the inclusion of the Ryan contribution; moreover, the Committee admits the excessive contribution by reporting a "refund payable excessive contributions" owed to Dr. Ryan of \$1,500. If the Committee produces documentation establishing that this contribution or any other was redesignated or reattributed in accordance with the requirements of 11 C.F.R. § 110.1, such information would be considered in the conciliation process.

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IV. RECOMMENDATIONS

1. Open a Matter Under Review;

3. Find reason to believe that Sherrill Pettus, Vernon L. Ryan, and Charles J. Wyly, Jr., made excessive contributions to Texans for Rudy Izzard in violation 2 U.S.C.

¹⁰ The Committee has reported the refunds of the excessive contributions as debts owed by the Committee. Texans for Rudy Izzard, January 31 Year End Report for 1997, Comprehensive Amendment (filed Aug. 10, 1999) and Texans for Rudy Izzard, January 31 Year End Report for 1998, Comprehensive Amendment (filed Aug. 10, 1999).

¹¹ There is no established guideline for calculating civil penalties related to commingling funds.

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§ 441a(a)(1)(A), but take no further action, send admonishment letters, and close the file as it pertains to these respondents;

7. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

22-04-405-3477
Date

6/29/00

BY:

Kim Leslie Bright
Kim Leslie Bright
Associate General Counsel

Attachments:

1. Audit Referral Materials
2. Audit Division's Schedule of Excessive Contributions and Pettus, Ryan, and Wyly documentation