

**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

**SEP 21 2001**  
**RECEIVED**  
**FEDERAL ELECTION**  
**COMMISSION**  
**SECRETARIAT**

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**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5111  
DATE COMPLAINT FILED: October 5, 2000  
DATE OF NOTIFICATION: October 12, 2000  
DATE ACTIVATED: July 6, 2001

EXPIRATION OF STATUTE OF  
LIMITATIONS: February 10, 2004  
STAFF MEMBER: Tony Buckley

COMPLAINANTS: Marge Herrmann Sexton, Chair  
Abington-Rockledge Democratic Committee

RESPONDENTS: Stewart J. Greenleaf  
Citizens for Stewart Greenleaf  
Greenleaf for Congress and James H. Shacklett, III, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(2)  
2 U.S.C. § 431(2)(A)  
2 U.S.C. § 432(e)(1)  
2 U.S.C. § 434(a)(1)  
11 C.F.R. § 101.1(a)  
11 C.F.R. § 105.1  
11 C.F.R. § 110.3(d)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed by Marge Herrmann Sexton, Chair of the Abington-Rockledge (Pennsylvania) Democratic Committee on October 5, 2000, against Stewart Greenleaf, Greenleaf for Congress ("the Committee"), the principal campaign committee of Stewart Greenleaf for the 2000 race for the House of Representatives seat from Pennsylvania's 13th District, and Citizens for Stewart Greenleaf ("Citizens"), Stewart Greenleaf's committee for

his state senate election. Complainant alleges that Stewart Greenleaf failed to timely file his Statement of Candidacy and failed to timely register his principal campaign committee with the Commission, that Citizens for Greenleaf improperly expended state campaign funds for the federal race, and that the Committee failed to properly report its receipt of contributions.

Respondents were notified of the complaint by letters dated October 12, 2000. A response was received from Greenleaf for Congress and James H. Shacklett, III, as treasurer, on November 15, 2000. A response was received from Citizens for Greenleaf on November 14, 2000, and an amendment to this response was received on January 5, 2001.

Stewart Greenleaf lost the 2000 general election for the House of Representatives seat from Pennsylvania's 13<sup>th</sup> Congressional District with 46 percent of the vote.<sup>1</sup>

## **II. FACTUAL AND LEGAL ANALYSIS**

### **A. Applicable Law**

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office shall designate in writing a principal campaign committee within 15 days after becoming a candidate. The term "candidate" means, *inter alia*, an individual who seeks nomination for election to Federal office. 2 U.S.C. § 431(2). An individual is deemed to seek nomination to Federal office if he has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000. *See* 2 U.S.C. § 431(2)(A). A candidate for the House of Representatives must designate his or her principal campaign committee by either filing a Statement of Candidacy with

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<sup>1</sup> On July 24, 2001, Greenleaf for Congress filed a request for termination with the Commission. In that request, Mr. Shacklett informed the Commission that the remaining cash balance in Greenleaf for Congress's account was \$2,504.25, and that that money would be transferred to Citizens. Mr. Shacklett further informed the Commission that Greenleaf for Congress has no debts or obligations, and that no non-cash assets will be converted to personal use. Because of the pendency of this matter, the request for termination has not yet been acted upon.

1 the Commission on FEC Form 2, or by filing the appropriate information with the Clerk of the  
2 House of Representatives. *See* 11 C.F.R. §§ 101.1(a) and 105.1.

3 Pursuant to 11 C.F.R. § 110.3(d), it is illegal to transfer funds or assets from a  
4 candidate's campaign committee or account for a non-Federal election to his or her principal  
5 campaign committee or other authorized committee for a Federal election.

6 The treasurer of each political committee must regularly file reports of receipts and  
7 contributions with the Commission. 2 U.S.C. § 434(a)(1).

### 8 **B. The Complaint**

9 Complainant states that "[w]e believe that Greenleaf for Congress has violated the Code  
10 of Federal Regulations, 11,CFR 1.100.3(a) [sic] and 11,CFR 1.100.3(d) [sic]."<sup>2</sup> Complainant  
11 asserts that "Stewart Greenleaf's state committee, Citizens for Stewart Greenleaf, has made  
12 illegal expenditures to support his Federal campaign prior to notification of the Commission and  
13 which have not been consistent with expenditures of former campaigns [by Stewart Greenleaf]  
14 for state office."

15 Complainant asserts that Stewart Greenleaf filed a Statement of Candidacy on March 8,  
16 1999, when he was in fact required to file his Statement of Candidacy no later than February 10,  
17 1999, "when Citizens for Stewart Greenleaf contributed \$25,000 to the Republican State  
18 Committee."<sup>3</sup> Complainant alleges that this \$25,000 contribution "is completely foreign to  
19 Citizens for Stewart Greenleaf's past records of contributions," and alleges that Citizens made no  
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<sup>2</sup> Complainant appears to intend to cite 11 C.F.R. § 110.3(a), (d).

<sup>3</sup> Mr. Greenleaf's Statement of Candidacy was signed on March 8, 1999; it was received at the Commission on March 10, 1999.

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1 contributions of any amount to the Republican State Committee from 1991 through 1998.  
2 Complainant further points out that during the period 1991 through 1998, Citizens made  
3 contributions to the Senate (Pennsylvania) Majority Fund (\$5,000 in 1994 and \$500 in 1996) and  
4 the Senate (Pennsylvania) Republican Campaign Fund (\$13,000 in 1994 and \$9,500 in 1998).  
5 Complainant points out that all of the contributions to the Senate Majority Fund and the Senate  
6 Republican Campaign Committee mentioned above were made immediately prior to or after the  
7 general election in those years. Complainant concludes that Stewart Greenleaf "failed to file as  
8 required and expended funds from his state campaign fund for federal election purposes."

9 Complainant next notes that Citizens for Stewart Greenleaf "contributed \$25,000 to the  
10 Montgomery County Republican Committee on April 4, 1999."<sup>4</sup> Complainant describes this  
11 contribution as "significantly different from his past contributions to the committee while a  
12 candidate for state senator." Complainant provides a chart which show that , between the years  
13 1991 through 1998, Citizens for Greenleaf made three contributions (\$1,000 in 1993, \$4,000 in  
14 1994, and \$2,800 in 1998). Complainant concludes that "Citizens for Stewart Greenleaf  
15 expended state campaign funds for the purpose of Stewart Greenleaf's election to the Congress  
16 which is illegal."

17 Complainant next states that Citizens for Stewart Greenleaf "expended funds for  
18 campaign meetings in Plymouth Meeting, Pottstown and Blue Bell, Pennsylvania after March 8,  
19 1999. These locations are part of the 13<sup>th</sup> Congressional District, but not within the boundaries  
20 of his 12<sup>th</sup> state senatorial district." The total cost of the three meetings is alleged to be \$99.39.  
21 Complainant asserts that these expenditures were illegal.

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<sup>4</sup> Although Complainant states that this contribution was made on April 4, 1999, the state disclosure report for Citizens shows that the contribution was made on May 4, 1999. This Office has no information which would suggest that the two \$25,000 contributions were intended to be used, or were in fact used, to affect any federal election.

Finally, Complainant states that "Citizens for Stewart Greenleaf expended \$741.90 between May 28, 1999 and June 2, 1999 on a party to thank contributors. We believe these individuals had or were expected to contribute to his Federal campaign. Prior to this party, Greenleaf for Congress raised \$13,900 from 16 individuals and \$5,000 from 5 on June 1. There is no comparable expenditure in the report of Greenleaf for Congress."

## **C. The Responses**

### **1. Greenleaf for Congress**

The Committee has filed a one-paragraph response to the complaint, signed by its treasurer, James H. Shacklett, III. Mr. Shacklett states that, "to our knowledge, the activities referenced in the complaint related solely to [Senator Greenleaf's] campaign for state office. In addition, there have been no improper interactions between Citizens for Greenleaf and Greenleaf for Congress." Mr. Shacklett finishes by asking "the Commission to find no reason to believe that Greenleaf for Congress violated the law and dismiss the complaint."

### **2. Citizens for Greenleaf**

The response from Citizens has been signed, but not sworn to, by P. Richard Stauffer, its then-treasurer.<sup>5</sup> Mr. Stauffer states that "Citizens is a campaign committee established in Pennsylvania for the purpose of re-electing Stewart J. Greenleaf to the Pennsylvania Senate." Regarding the donations of \$25,000 to the State Republican Committee and the Montgomery County Republican Committee, Mr. Stauffer states that these constituted permissible contributions from one state committee to other state committees, and that they are not regulated by federal law. According to Mr. Stauffer, the donation to the State Republican Party "did not

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<sup>5</sup> The amendment to the response is signed by Joseph F. Morgan, who is identified as Citizens' current treasurer.

1 make Senator Greenleaf a candidate in February 1999 and, therefore, did not trigger a federal  
2 filing requirement."

3 Regarding the three meetings for which costs totaled \$99.39, Mr. Stauffer states that all  
4 three meetings were between Senator Greenleaf and staff members of the state committee.  
5 Mr. Stauffer states that the first meeting occurred with Peter Marinari, the campaign manager of  
6 the state committee, and that he was "told that the two men chose this location based upon its  
7 convenience to Mr. Marinari, and that the substance of the meeting was to discuss a recent fund-  
8 raiser for the state senatorial campaign."

9 Mr. Stauffer states that the second meeting occurred on May 18, 1999 at a restaurant in  
10 Pottstown, again with Mr. Marinari, and that he has been told that this meeting concerned issues  
11 relating to the state senatorial campaign. Mr. Stauffer further states that the third meeting  
12 occurred on June 2, 1999 at the Double Tree Hunt Club in Plymouth Meeting with Eleanor M.  
13 Martin, the finance director of the state campaign committee. Again, Mr. Stauffer states that he  
14 has been told that the meeting concerned issue relating to the state senatorial campaign.

15 Regarding the three meetings, Mr. Stauffer states that "state law does not prohibit a campaign  
16 from making expenditures outside of a candidate's senatorial district and that these expenses are  
17 not regulated by federal law." Mr. Stauffer points out that "[n]owhere does the complainant  
18 include any other evidence pointing to any wrongdoing. The meetings simply were for state  
19 senatorial campaign purposes and did not involve federal campaign activity."

20 As for the \$742 expended for a party for supporters, Mr. Stauffer states that on May 31,  
21 1999, "Citizens hosted an outdoor party for supporters, contributors and friends of Senator  
22 Stewart Greenleaf. For this event, Citizens spent \$367.03 renting outdoor equipment. In

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1 addition, Citizens spent \$374.82 on food and supplies. . . . These expenses related to the state  
2 campaign committee and are not regulated by federal law.”<sup>6</sup>

3 Mr. Stauffer further states that

4 [t]his was a party for contributors to Senator Greenleaf's state senate  
5 campaign. Senator Greenleaf won his 1998 election to the Pennsylvania  
6 state senate in November 1998. He wished to have an outdoor party to  
7 thank the contributors to this successful campaign. Given the nature of the  
8 weather in Pennsylvania, an outdoor party was not practical until the warm  
9 summer months. Accordingly, Senator Greenleaf held his party on May  
10 31, 1999.

11  
12 Mr. Stauffer goes on to assert that “Citizens only issued invitations to the party to contributors to  
13 the state senatorial campaign. That some of the invitees and attendees might have also been past  
14 or future contributors to Senator Greenleaf's congressional campaign, as the Complaint suggests,  
15 is immaterial, for such overlap is inherent in campaigning for federal office while holding a state  
16 office.”<sup>7</sup> He further states that the party “was not connected to the campaign for the U.S. House  
17 of Representatives. As such, the payment by Citizens of the expenses for the party was not an  
18 improper transfer of funds from a nonfederal committee to a federal committee.”

19 **D. Analysis**

20 While the Complainant highlights certain activities, Complainant never explains how  
21 these activities resulted in violations of the Act. Certainly, there is nothing in the Act which  
22 prevents a state committee from giving money to another state committee. Complainant's mere  
23 assertion that these actions constituted activity which violated the Act is insufficient, without

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<sup>6</sup> The statement regarding this last event was made in an amendment to Respondents' initial response to the complaint. In amending their response, Respondents omitted a sentence which stated: “Citizens only invited to this party individuals who had made contributions to the state senatorial campaign.”

<sup>7</sup> Citizens did not revise this portion of its response, which appears to conflict with the amended language it submitted. See footnote 6.

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1 some explanation of how it was intended to assist in the federal election. Moreover,  
2 Respondents have denied any connection between these payments and Stewart Greenleaf's  
3 federal campaign. Thus, there does not appear to be reason to believe that the payments were  
4 related to Stewart Greenleaf's federal candidacy, or that, as a result, Stewart Greenleaf failed to  
5 timely file his Statement of Candidacy.

6 With regard to the three meetings occurring outside the state senatorial district but within  
7 the sought-after congressional district, again Complainant presents no evidence as to the  
8 substance of the meetings or how they were related to the federal campaign. As Respondents  
9 have denied that the meetings were connected to the federal campaign, and have given a  
10 plausible explanation for the meetings and their locations, absent more, there does not appear to  
11 be a sufficient basis to find that a violation occurred.

12 Finally, regarding the May 31, 1999 gathering, again Complainant provides no evidence  
13 as to why a violation occurred, merely proffering a belief that the invitees had or were expected  
14 to contribute to Senator Greenleaf's Federal campaign. Indeed, the complaint acknowledges that  
15 the party was to "thank contributors." Citizens denies that the party was intended to affect the  
16 Federal campaign and, while the amended response does raise a question as to who exactly was  
17 invited to the party, see footnotes 5 and 6, there is insufficient evidence to rebut Citizens'  
18 contention that the primary purpose of the gathering was to thank contributors to Senator  
19 Greenleaf's 1998 election to the Pennsylvania State Senate.<sup>8</sup>

20 Thus, none of the situations presented by Complainant appear to involve transfers of  
21 funds from Mr. Greenleaf's state committee to his principal campaign committee, or the failure

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<sup>8</sup> Even if some of the invitees, in addition to having contributed to Senator Greenleaf's state campaign, had or were expected to contribute to Senator Greenleaf's Congressional campaign, this, without more, would not change the essential nature of the party as one to thank state contributors.

of the principal campaign committee to report its receipt of such transfers. Accordingly, this Office recommends that the Commission find no reason to believe that Stewart J. Greenleaf violated 2 U.S.C. § 432(e)(1); that Citizens for Stewart Greenleaf violated 11 C.F.R. § 110.3(d); or that Greenleaf for Congress and James H. Sacklett, III, as treasurer, violated 2 U.S.C. § 434(a)(1). This Office further recommends that the Commission close the file.

**III. RECOMMENDATIONS**

1. Find no reason to believe that Stewart J. Greenleaf violated 2 U.S.C. § 432(e)(1).
2. Find no reason to believe that Citizens for Stewart Greenleaf violated 11 C.F.R. § 110.3(d).
3. Find no reason to believe that Greenleaf for Congress and James H. Sacklett, III, as treasurer, violated 2 U.S.C. § 434(a)(1).
4. Approve the appropriate letters.
5. Close the file.

Lawrence H. Norton  
General Counsel

9/21/01  
Date

BY: Abigail A. Shaine  
Abigail A. Shaine  
Acting Associate General Counsel



# FEDERAL ELECTION COMMISSION

Washington, DC 20463

## MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel *Pa*

DATE: September 21, 2001

SUBJECT: MUR 5111- First General Counsel's Rpt.

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

### CIRCULATIONS

SENSITIVE ☒  
NON-SENSITIVE ☐

72 Hour TALLY VOTE ☒

24 Hour TALLY VOTE ☐

24 Hour NO OBJECTION ☐

INFORMATION ☐

96 Hour TALLY VOTE ☐

### DISTRIBUTION

COMPLIANCE ☒

Open/Closed Letters ☐

MUR ☐

DSP ☐

STATUS SHEETS ☐

Enforcement ☐

Litigation ☐

PFESP ☐

RATING SHEETS ☐

AUDIT MATTERS ☐

LITIGATION ☐

ADVISORY OPINIONS ☐

REGULATIONS ☐

OTHER ☐

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