

JAN 21 2004

**BEFORE THE FEDERAL ELECTION COMMISSION**

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COMMISSION  
SECRETARIAT

2004 JAN 21 P 4: 23

In the Matter of:

Democratic Party of Illinois and Michael  
J. Kasper, as treasurer, and Timothy  
Mapes, as executive director  
State of Illinois

MUR 5127

**SENSITIVE**

**GENERAL COUNSEL'S REPORT #2**

**I. ACTIONS RECOMMENDED**

Take no further action against all respondents and close the file.

**II. BACKGROUND**

The complaint in this matter alleged that the State of Illinois ("the State") made excessive contributions to the Democratic Party of Illinois ("the Party"). Specifically, the complaint asserted that a high-level employee of the state legislature provided services to the Party during his normal working hours. This employee, Timothy Mapes, serves as both chief of staff to the Illinois Speaker of the House and also as executive director of the Party. In their responses to the complaint, neither the State nor the Party provided a statement from Mapes addressing the allegations. As this Office stated in the First General Counsel's Report, "Mapes' silence evidences a critical factual void that requires further investigation." Consequently, on July 16, 2002, the Commission found reason to believe that the Party and Timothy Mapes violated the Act and issued subpoenas and interrogatories to them.<sup>1</sup>

In response to the Commission's findings, the Party and Mapes submitted sworn statements denying that Mapes performed services for the Party while he was working for the

<sup>1</sup> The Commission took no action at that time against the State.

1 State or that Mapes used State resources to benefit the Party. See Attachment 1. Additionally,  
2 Mapes provided this Office with his timesheets to the State, his electronic calendar, and  
3 documentation of his expenses and activities for the Party. Mapes also voluntarily submitted to a  
4 day-long telephone interview, in which he provided detailed answers to probing questions by this  
5 Office. Finally, the Party facilitated informal telephone interviews with two former employees.<sup>2</sup>  
6 Information developed from these interviews and from an analysis of the documents has not  
7 substantiated the allegation that Mapes performed Party activities while he was on-duty for the  
8 House. To the contrary, the evidence has shown that Mapes has a longstanding practice of  
9 carefully separating his House duties from his Party responsibilities. Accordingly, for the  
10 reasons set forth below, this Office recommends that the Commission take no further action in  
11 this matter.

12 **III. SUMMARY OF INVESTIGATION**

13 Timothy Mapes has worked for the Illinois House of Representatives ("the House") for  
14 over twenty-five years. From 1993 through the present, Mapes has served as chief of staff to the  
15 Speaker of the House, Michael J. Madigan. As chief of staff, Mapes supervises approximately  
16 90 employees, coordinates the legislative calendar, and schedules committee hearings and other  
17 House events. Although House employees are required to work only 35 hours per week, Mapes  
18 averages 40-45 hours per week as chief of staff. Mapes is a salaried employee, and his current  
19 compensation is \$129,000.

20 Since 1998, Mapes has also served as the executive director of the Democratic Party of  
21 Illinois. Mapes assumed that position at the request of Speaker Madigan, who also holds the

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<sup>2</sup> Both the Party and Mapes have cooperated fully with the investigation in this matter.

1 chairmanship of the Party. As executive director, Mapes supervises all operations of the Party,  
2 including the development of programs to support candidates and issues. The time Mapes  
3 devotes to the Party varies according to the time of year: during the three months preceding the  
4 1998 and 2000 general elections, for example, he averaged over 40 hours per week, while during  
5 other times he averaged only one to two hours per week. Mapes is not paid a salary for his  
6 services to the Party, although he has received compensation on two occasions: \$3,986.99 for  
7 consulting services in 1998, and \$20,000 for a bonus after the 2000 elections. Mapes also is  
8 reimbursed for out-of-pocket expenses.

9 Mapes's position in the Party occasionally requires him to attend meetings or perform  
10 activities during the workday. Mapes contends that he never performed such duties on House  
11 property and that he tracked his time away from the House on his official timecards. If Mapes  
12 needed to take extended time away from the House to perform Party activities, he states that he  
13 would use accrued vacation or compensatory time. Regardless of the time he spent on Party  
14 activities, Mapes's timesheets show that he either worked more than the minimum 35 hours per  
15 week that was required of House employees or took the appropriate leave to achieve the 35-hour  
16 minimum.

17 **A. Mapes's Calendar and Timesheets**

18 Mapes utilizes an electronic calendar to keep track of various events relating to his House  
19 duties, his Party responsibilities, and his personal obligations. This calendar was maintained on  
20 computers located in Mapes's home, his House office, and the Party office. Additionally, Mapes  
21 submits daily timesheets to the House detailing the hours he spends on House activities. This  
22 Office received copies of both Mapes's calendar and timesheets for the past five years. Mapes's  
23 electronic calendar, however, does not list his working hours; it only notes various meetings or  
24 special occasions. Likewise, Mapes's timesheets for the House do not record descriptions of his

1 activities during the day; only the specific times that he clocked in and out are listed. Thus,  
2 neither Mapes's calendar nor timesheets, standing alone, indicated whether he performed Party  
3 activities while he was on-duty for the House.

4 To better examine Mapes's activities, this Office combined the data in his calendar and  
5 his timesheets into a single computerized database. Ideally, this custom database would allow  
6 one to determine whether Mapes performed Party services when he was on-duty for the House.  
7 Nonetheless, Mapes did not designate calendar entries as either House, Party, or personal  
8 activity. Accordingly, this Office used available information to interpret or hypothesize which  
9 activities on his calendar most likely were related to his duties for the Party. Primarily, this  
10 Office identified likely Party activity by searching Mapes's calendar for names of individuals  
11 who appeared on the Party payroll or for keywords that likely indicated party activity, such as  
12 "DPT" or "fundraiser." Additionally, Mapes provided clarification of ambiguous entries during  
13 his interview with this Office.

14 Overall, calendar entries that appear to be Party related occurred while Mapes was off-  
15 duty for the House. For example, on August 9, 2000, when Mapes traveled to the Democratic  
16 National Convention in Los Angeles to represent the Party, his time records show that he used  
17 eight hours of accrued leave that day. Even when Mapes did not spend an entire day on Party  
18 activities, he still appears to have used leave to attend to his Party responsibilities. For example,  
19 on August 28, 2001, Mapes's calendar lists a 10:00am meeting at the Party office. According to  
20 House time records, Mapes began working at 7:45am that morning, but clocked out at 9:45am,  
21 returning at 1:15pm. This example typifies the frequent pattern of Mapes signing in and out of  
22 the House during the day, apparently to perform Party activities.

1           There are, however, some calendar entries that denote apparent Party events that occurred  
2 during Mapes's on-duty hours for the House. For example, on August 8, 2000, Mapes lists the  
3 names of two Party employees at 9:00am, apparently signifying a meeting, when his House time  
4 records show he was on-duty at the time. When asked about this specific entry, Mapes stated  
5 that he did not recollect what happened that day. He did explain, though, that just because his  
6 calendar may reflect a meeting does not mean that he actually attended. In fact, Mapes regularly  
7 lists Party activities in his calendar for informational purposes only, such as fundraisers. Mapes  
8 stated that because his House responsibilities included scheduling legislative events, he needs to  
9 ensure that those events do not conflict with Party activities.<sup>3</sup> Similarly, Mapes was only one of  
10 many House employees who held dual positions with the Party. Thus, just because Mapes met  
11 with a Party employee while he was on-duty does not mean that the meeting was Party-related.  
12 Overall, therefore, a detailed examination of Mapes's calendar does not support the claim that he  
13 performed Party activities while he was on-duty for the House.

14           **B. Expenses Submitted for Reimbursement**

15           Mapes often personally paid for Party expenses and later submitted requests for  
16 reimbursement to the Party. This Office received hundreds of pages of documentation of such  
17 expenses and reimbursements, including cancelled checks, assorted bills, credit card statements  
18 and receipts, copies of calculator tape and handwritten calculations, and communications  
19 between Mapes and the Party. These documents were then compared to Mapes's House  
20 timesheets to determine if he was on-duty at the time these Party transactions occurred.

21           Many transactions connected to Mapes occurred on days when he was on-duty for the  
22 House. Nonetheless, the lack of a specific time on a lot of the documentation prevents a

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<sup>3</sup> Indeed, Mapes also listed Republican Party events in his calendar to avoid scheduling conflicts with the Minority Leadership in the House.

1 definitive conclusion as to whether Mapes actually performed Party services while on-duty for  
2 the House. There are a number of credit card receipts, however, that contain a time stamp  
3 corresponding to when Mapes was on-duty for the House. These credit card receipts are for  
4 Mapes's personal credit card; the Party does not maintain its own. Mapes contends that he does  
5 not use his credit card to purchase items for the Party while he is on-duty for the House. Rather,  
6 Mapes explained that he has more than one credit card with the same number and he allows  
7 Party employees to make purchases using his credit card. This explanation is buttressed by  
8 documentary evidence. For example, a receipt from Enterprise Rent-A-Car lists Henry Harms, a  
9 Party employee, as the renter, but payment was made using Mapes's personal credit card  
10 number.

11 Other receipts and documentation of expenses, such as mileage receipts and statements of  
12 expenses, also fail to demonstrate that Mapes performed Party activities while he was on-duty  
13 for the House. Although some documents do in fact denote transactions that occurred while  
14 Mapes was on-duty, there are no facts to contradict Mapes's credible explanation that other Party  
15 employees performed these transactions. Additionally, although Mapes reimbursed the House  
16 for certain phone calls he made while on-duty, there are no facts to contradict Mapes's claim that  
17 these calls were personal in nature, not Party-related. Therefore, a detailed examination of the  
18 documents provided by Mapes and the House has not substantiated the allegation that Mapes  
19 performed his Party responsibilities while on-duty for the House.

20 **C. Statements from other House/Party Employees**

21 In addition to reviewing documents and speaking with Mapes, this Office interviewed  
22 two Party employees whose names appeared frequently on Mapes's calendar. Both of these  
23 individuals also worked for the House in Speaker Madigan's office, but took extended leaves of  
24 absences to work full-time for the Party during the months before the 2000 general election.

1 During the period that they worked for the Party, these individuals reported to both Mapes and  
2 one other senior Party official. One employee estimated that he spoke with Mapes a few times  
3 per week; the other estimated every other week. Both employees, however, maintained that they  
4 never met with Mapes at the House to discuss Party activities. Rather, the meetings occurred at  
5 Party headquarters or at other local party offices. Additionally, neither employee recalled  
6 telephoning Mapes at his House office to discuss Party activities. Therefore, although these  
7 interviews establish that Mapes actively participated in the administration of Party activities,  
8 there is insufficient evidence to conclude that he did so while he was on-duty for the House or  
9 that he used House resources for Party activities.

#### 10 IV. DISCUSSION

11 If Mapes performed Party activities while he was on-duty for the House, then his services  
12 may constitute a contribution from the State to the Party. *See* 2 U.S.C. § 431(8)(A).<sup>4</sup>  
13 Nonetheless, the Act and the regulations contain exceptions to the definition of contribution.  
14 First, if Mapes volunteered his services to the Party, no contribution would result. *See* 2 U.S.C.  
15 § 431(8)(B)(i). Second, no contribution would result if Mapes made up the time spent working  
16 on political activity within a reasonable amount of time. *See* 11 C.F.R. § 100.7(a)(3)(i). Finally,  
17 Mapes was permitted to perform Party services during his normal working hours if he used  
18 vacation time to render those services. 11 C.F.R. § 100.7(a)(3)(iii). Overall, an investigation has  
19 shown that Mapes availed himself of these exceptions and that his services thus did not  
20 constitute a contribution to the Party.

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<sup>4</sup> The Act defines contribution as "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 2 U.S.C. § 431(8)(A). As detailed in the First General Counsel's Report (pp. 5-7), the Commission has historically treated states as "persons" and thus subject to the Act's contribution limits. Therefore, in this particular case, because the State of Illinois paid Mapes's salary, the State would be liable for complying with the Act's limitations on contributions.

1 As detailed in the previous section, Mapes does not appear to have performed Party  
2 services while on-duty for the House. According to an analysis of his timesheets and calendar,  
3 Mapes appears to have clocked out of the House or used leave when he performed Party services  
4 during what would otherwise be his normal working hours. Indeed, over the entire five-year  
5 period for which this Office obtained Mapes's timesheets, Mapes clocked in and out of the  
6 House with scrupulous regularity. This pattern of conduct demonstrates that well before the  
7 allegations surfaced in this matter, Mapes endeavored to separate his duties for the House from  
8 other obligations. Moreover, even if Mapes did perform services for the Party while on-duty for  
9 the House, his timesheets indicate that he regularly worked in excess of the required 35-hour  
10 workweek. Consequently, these additional hours that Mapes worked for the House likely made  
11 up for any time he spent on political activities while on-duty. Therefore, because Mapes either  
12 used accrued leave or made up the time spent on political activities, no contribution resulted  
13 from his activities. *See* 11 C.F.R. § 100.7(a)(3)(i) and (iii).

14 Because the evidence has not supported the allegation that the State of Illinois made an  
15 excessive contribution to the Party through Mapes's activities, this Office recommends that the  
16 Commission take no further action against the State of Illinois, the Democratic Party of Illinois  
17 and Michael Kasper, as treasurer, and Timothy Mapes, as executive director. This Office further  
18 recommends that the Commission close the file.

## **V. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Take no further action against the Democratic Party of Illinois and Michael Kasper, as treasurer, and Timothy Mapes, as executive director;
2. Take no action against the State of Illinois;
3. Approve the appropriate letters; and
4. Close the file.



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1/21/29  
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