



FEDERAL ELECTION COMMISSION  
WASHINGTON D C 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

OCT 20 2003

Dale A. Cooter, Esq.  
Cooter, Mangold, Tompert & Wayson, P.L.L.C.  
5301 Wisconsin Ave, NW  
Suite 500  
Washington, D.C. 20015

RE: MURs 5164 and 5182  
Reform Party 2000 Convention Committee and Gerald Moan, as Treasurer

Dear Mr. Cooter:

On January 12, 2001 (in MUR 5164) and March 26, 2001 (in MUR 5182), the Federal Election Commission ("Commission") notified your clients, the Reform Party 2000 Convention Committee and Gerald Moan, as treasurer, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("Act"), and the Presidential Election Campaign Fund Act ("Fund Act"). Copies of the complaints were forwarded to your clients on those dates.

Upon further review of the allegations contained in the complaints, and information supplied by your clients, the Commission, on October 7, 2003, found that there is reason to believe that your clients violated 26 U.S.C. §§ 9008(c) and 9012(c)(2), provisions of the Fund Act, and 11 C.F.R. §§ 9008.7(a) and 9012.3(b), Commission regulations. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Daniel E. Pollner, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

  
Ellen L. Weintraub  
Chair

Enclosures: Factual and Legal Analysis

cc: Lou Anne Jones, Chairman  
Reform Party of the United States of America

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

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Reform Party 2000 Convention Committee      MURs 5164 and 5182  
and Gerald Moan, as Treasurer

**I.      INTRODUCTION**

The Reform Party 2000 Convention Committee ("Committee") was established as a "convention committee" of the Reform Party of the United States of America ("RPUSA") pursuant to the Presidential Election Campaign Fund Act ("Fund Act"), which provides public financing for presidential election campaigns and nominating conventions.<sup>1</sup> To qualify for public funding for its presidential nominating convention, a party must establish a "convention committee" to be "responsible for conducting the day to day arrangements and operations of that party's presidential nominating convention." 11 C.F.R. § 9008.3(a)(2). Pursuant to the Fund Act, the Committee received \$2,522,690 in federal funding to pay for certain allowable convention expenses.

The Commission conducted the statutorily mandated audit of the Committee, which resulted in a final audit report ("FAR") that was approved by the Commission on September 26, 2002.<sup>2</sup> The FAR included a finding that approximately \$338,000 in expenditures by the Committee were not legitimate convention expenses under the Fund Act and, therefore, could not be paid with public money. Consequently, the Commission issued a repayment determination, which requires the RPUSA to repay to the U.S. Treasury the \$333,558 that was improperly used. The single largest component of the

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<sup>1</sup> See 26 U.S.C. § 9001, *et seq.* The Committee registered with the Commission as a national committee of the RPUSA by filing a statement of organization on October 9, 1999.

<sup>2</sup> See Report of the Audit Division on the Reform Party 2000 Convention Committee (September 26, 2002)

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repayment determination was a \$295,623 payment to the Performance Group (“TPG”) for consulting services.<sup>3</sup> The Commission determined that the Committee failed to provide documentation, as required by 11 C.F.R. § 9008.10, to show what services were provided by TPG and that those services were related to the convention. The documentation that was provided indicated that at least some of the services performed by TPG were related to an emergency convention held in Las Vegas in March 2000, which was not the Party’s official nominating convention.

III. II. THE LAW

Under the Fund Act, a political party that satisfies certain criteria is eligible to receive public financing for its presidential nominating convention. 26 U.S.C. § 9008. To qualify for public financing for its presidential nominating convention, a political party must “establish a convention committee which shall be responsible for conducting the day to day arrangements and operations of that party’s presidential nominating convention.” 11 C.F.R. § 9008.3(a)(2). The convention committee shall receive all public funds to which the party is entitled for its presidential nominating convention. *Id.*

A committee that receives public funds for its presidential nominating convention may use those funds only for the following purposes: (1) to defray convention expenses incurred by or on behalf of the national committee receiving the public funds; (2) to repay the principal and interest on loans used to defray convention expenses; and (3) to restore funds (including advances from the national committee to the convention committee), other than contributions to the committee for the purpose of defraying convention

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<sup>3</sup> The remainder of the repayment amount was comprised of several smaller expenditures that, for one reason or another, were determined by the Commission to have been improper.

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expenses, where such funds were used to defray convention expenses.

26 U.S.C. § 9008(c); 11 C.F.R. § 9008.7(a). Convention expenses include all expenses incurred by or on behalf of a political party's national committee or convention committee with respect to and for the purpose of conducting a presidential nominating convention or convention-related activities. 11 C.F.R. § 9008.7(a)(4).

It is unlawful for the national committee of a major or minor party which receives any payment of public money for its presidential nominating convention to use or authorize the use of such funds for impermissible purposes as set forth at 26 U.S.C. § 9008(c). 26 U.S.C. § 9012(c)(2); 11 C.F.R. § 9012.3(b). The Commission has the power to initiate, defend or appeal any civil action in the name of the Commission to enforce the provisions of the Fund Act. 2 U.S.C. § 437d(a)(6). Any person who believes that a violation of the Fund Act has occurred, may file a complaint with the Commission. 2 U.S.C. § 437g(a)(1).

### III. ANALYSIS

MURs 5164 and 5182 arise from nearly identical complaints alleging, *inter alia*, that the payment to TPG was impermissible because TPG is not a recognized stage design or public relations firm, was established just weeks before the expenditures were made, and the principals of TPG "have been identified to be professional lobbyists, not convention consultants."<sup>4</sup> The Committee filed identical responses in MURs 5164 and 5182, in which it agrees that the TPG payment was not a permissible convention expense.

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<sup>4</sup> MUR 5164 was filed on January 8, 2001, by Donna Donovan, purporting to be the Chairman of the Reform Party of Connecticut. MUR 5182 was filed on March 19, 2001, by Victor Good, who purports to be the Chairman of the Colorado Reform Party. The complaints in MURs 5164 and 5182 contain nearly identical wording and format.

The Committee explains that Mr. Moan's predecessor, Ronn Young, authorized the TPG payment, and that, after Mr. Moan replaced Mr. Young as Chairman, the Committee filed a lawsuit against TPG in an attempt to recover this money.

As stated above, the payment to TPG was identified in the FAR as an improper convention expense and was included in the Commission's repayment determination. Specifically, the Commission determined that the Committee failed to provide documentation to show what services were provided by TPG and that those services were related to the convention. Moreover, the documentation that was provided indicated that at least some of the services performed by TPG were related to an emergency convention held in Las Vegas in March 2000, which was not the Party's official nominating convention. Significantly, the Committee agrees that the TPG payment was not a permissible convention expense and, in fact, filed a lawsuit against TPG to recover those funds. For these reasons, the Commission found reason to believe that the payment to TPG was not a legitimate convention expense and that the Committee, by making the payment to TPG, violated 26 U.S.C. § 9008(c), 26 U.S.C. § 9012(c)(2), 11 C.F.R. § 9008.7(a), and 11 C.F.R. § 9012.3(b).

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