



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Skip Wolverton, Treasurer
4th Congressional District RPM
480 Cedar Street, Suite 580
St. Paul, MN 55101

RE: MUR 5188

Dear Mr. Wolverton:

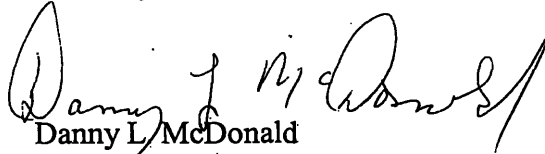
On March 27, 2001, the Federal Election Commission (the "Commission") found reason to believe that the 4th Congressional District Republican Party of Minnesota ("4th Congressional District RPM") and you, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), which is a provision of the Federal Election Campaign Act of 1971, as amended, by making excessive contributions to Newinski for Congress. The Commission also found reason to believe that the 4th Congressional District RPM and you, as treasurer, violated 2 U.S.C. § 434(a)(4) by failing to file disclosure reports. However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to the 4th Congressional District and you, as treasurer. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

The Commission reminds you that making excessive contributions and failing to file disclosure reports are violations of 2 U.S.C. § 441a(a)(2)(A) and 2 U.S.C. § 434(a)(4), respectively. The 4th Congressional District RPM and you, as treasurer, should take steps to ensure that this activity does not occur in the future.

The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12) remain in effect with respect to all respondents still involved in this matter.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,


Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

21-04-405-1235

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 5188

RESPONDENTS: 4th Congressional District RPM and Skip Wolverton, as treasurer

I. GENERATION OF MATTER

This matter was generated by an audit of Newinski for Congress and Richard Riener, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b).

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no multicandidate political committee shall make contributions to any candidate with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). If a contribution on its face or in the aggregate exceeds the contribution limitations for a multicandidate political committee, the committee may, within 60 days of receipt of the contribution, obtain a written redesignation of the contribution for a different election. 11 C.F.R. § 110.2(b)(5). If no written redesignation is obtained within 60 days, the committee must refund the contribution. 11 C.F.R. § 110.2(b)(5)(ii).

All contributions made by political committees established or financed or maintained or controlled by the same persons or group of persons shall be considered to have been made by a single committee, and are characterized as affiliated committees. 2 U.S.C. § 441a(a)(5); *see also* 11 C.F.R. §§ 100.5(g), 102.2(b)(1), and 110.3. Any local committee of a political party is a political committee if: it receives contributions aggregating in excess of \$5,000 during a calendar year; it makes payments exempted from the definition of contribution under 11 C.F.R.

21-04-405-1216

§§ 100.7(b)(9), (15) and (17), and expenditure, under 11 C.F.R. 100.8(b)(10), (16) and (18), which payments aggregate in excess of \$5,000 during a calendar year; or it 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. 11 C.F.R. § 100.5(c); *see also* 2 U.S.C. § 431(4)(C).

Finally, each treasurer of a political committee shall file reports of receipts and disbursements with the Commission pursuant to 2 U.S.C. § 434(a)(1), and such reports shall disclose the items set forth in 2 U.S.C. § 434(b). The reports shall include the amount and nature of outstanding debts and obligations. 2 U.S.C. § 434(b)(8). Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. 11 C.F.R. § 104.11(a).

B. Analysis

The Commission concluded in the Audit Report on Newinski for Congress, which was issued on December 9, 1999, that the 4th Congressional District RPM and local party committees, specifically 39A House District RPM, 52B House District RPM, 53A House District RPM, 53B House District RPM, 54A House District RPM, 55A House District RPM, 55B House District RPM, and 67B House District RPM made contributions totaling \$10,710 to Newinski for Congress, which is \$5,710 above the contribution limit set forth in 2 U.S.C. § 441a(a)(2)(A).

All contributions made by political committees established or financed or maintained or controlled by the same persons or group of persons shall be considered to have been made by a single committee, and are characterized as affiliated committees. 2 U.S.C. § 441a(a)(5). The local party committees which made contributions to Newinski for Congress are not registered with the Commission. Moreover, no contributions by any of the local party committees to Newinski for Congress exceeded \$1,000 during a calendar year. The local party committees did

21-04-405-1217

not receive contributions in excess of \$5,000 during a calendar year nor make payments exempted from the definition of contribution and expenditure set forth in 2 U.S.C. §§ 431(8) and (9) exceeding \$5,000 during a calendar year. The local party committees also did not make contributions or expenditures exceeding \$1,000 during a calendar year. Thus, it does not appear that the local party committees are political committees under the Act, which would require them to register as political committees with the Commission. In regard to affiliated committees, only contributions from political committees may be aggregated. 2 U.S.C. § 441a(a)(5) and 11 C.F.R. § 110.3(b)(3). Since the local party committees are not political committees under the Act, their contributions cannot be aggregated with contributions from the 4th Congressional District RPM to Newinski for Congress.

The 4th Congressional District RPM and Skip Wolverton, as treasurer, made contributions totaling \$6,015 to Newinski for Congress, which is \$1,015 in excess of the contribution limitation of 2 U.S.C. § 441a(a)(2)(A). Therefore, there is reason to believe that the 4th Congressional District RPM and Skip Wolverton, as treasurer, made an excessive contribution to Newinski for Congress in violation of 2 U.S.C. § 441a(a)(2)(A).

Furthermore, the 4th Congressional District RPM filed a Statement of Organization with the Commission on November 29, 1996. On June 7, 1997, the Commission sent the 4th Congressional District RPM a notice for failure to file reports through December 31, 1996. Subsequently, on December 19, 1997, the Commission sent the 4th Congressional District RPM a letter stating that the Commission intended to administratively terminate the reporting obligations of the committee, and if the committee did not submit a written objection within 30 days, the action would then become effective. The 4th Congressional District RPM did not object to the administrative termination. The letter also indicated that any receipt or

21-04-405-1218

disbursement of funds by the committee for the purpose of influencing a federal election or supporting a federal candidate would void the administrative termination, and the committee would be required to begin filing reports with the Commission. Thus, the 4th Congressional District RPM had an obligation to file disclosure reports with the Commission pursuant to 2 U.S.C. § 434(a)(1), and failed to file for calendar year 1998, the July Quarterly Report, Pre-Election Report, October Quarterly Report, and Post-General Election Report. Therefore, there is reason to believe that the 4th Congressional District RPM and Skip Wolverton, as treasurer, failed to file disclosure reports in violation of 2 U.S.C. § 434(a)(4).

201-04-405-1219