

BEFORE THE FEDERAL ELECTION COMMISSION

SEP 19 1 08 PM '97

IN RE: Faith, Family, and Freedom PAC )

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MUR 4633:

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Response to Complaint

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In accordance with 2 U.S.C. § 437g (a) (1), Faith, Family and Freedom PAC hereby files this response to the complaint identified by the Federal Election Commission ("FEC") as MUR 4633. This Complaint was generated as a result of a letter to the FEC dated April 25, 1997 from James Anderson and attached articles from the Wall Street Journal and an A.P. wire story ("Complaint").

Factual summary:

As the Complaint pertains to FFF-PAC, it alleges that on May 23, 1996 Robert Riley, Jr. the son of Congressman Robert Riley, who was seeking election to Congress, made a one thousand dollar (\$1,000) contribution to FFF-PAC ("Riley Contribution"). The Complaint also states FFF-PAC made a contribution to the Riley for Congress Committee ("Committee") on May 24, 1996 in the amount of five hundred dollars (\$500) ("Committee Contribution"). The Complaint alleges that the Riley Contribution was first delivered to Triad Management Services ("Triad") who in turn delivered the contribution check to FFF-PAC.

The Complaint alleges that Riley Jr. exceeded his one thousand dollar \$1,000 contribution limit (11CFR § 110.1) to the Committee however, the Complaint does not allege that Riley exceeded his five thousand dollar \$5,000 per year contribution limit to FFF-PAC nor is it alleged that FFF-PAC exceeded contribution limits by making the contribution to the Committee. The Complaint proceeds to allege that Triad, by serving as a conduit for contributions to the FFF- PACs used corporate facilities, which it alleges, is in violation of the FECA.

Discussion and Legal Analysis:

It is apparent that the allegations contained in this Complaint are targeted toward excessive contributions by Riley Jr. and the receipt of excessive contributions by the Committee. Neither of those issues impact upon FFF-PAC. The receipt by FFF-PAC of the Riley Contribution and FFF-PAC's Committee Contribution, are permitted under the provisions of the FECA. Both come within the permissible contribution limits of the FECA. (See 11 CFR §110.1 d) (1) and § 110.2 (b) (1)

Neither FFF-PAC, nor its treasurer Mr. Devin Anderson, solicited or requested contributions from Riley Jr. nor did they request any earmarked contributions from Riley Jr., or from Triad. (See Affidavit of Devin Anderson ¶ 7 attached hereto at exhibit "A" hereinafter

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"Aff.") FAA did not receive any communication from Riley Jr. either verbally or in writing stating that Riley Contribution was in whole or in part "earmarked" as that term is defined at 11CFR 110.6 (b) for the Committee or for any other candidate committee. (Aff.: ¶ 7) When Mr. Anderson received the Riley Contribution, transmitted by Triad to FFF-PAC, there were no instructions, encumbrances or requests that the check was to be used, in whole or in part, for any specific candidate. In fact to the contrary. The Triad transmittal letter affirmatively stated that the contribution was "not earmarked in any manner expressed or implied for any specific candidate or committee." (Aff.: ¶ 5) The evidence indisputably shows an absence of any verbal or written designation, instruction or encumbrance by Riley or any of Riley's agents to FFF-PAC, FFF-PAC was not informed or noticed in any fashion that the Riley Contribution was earmarked for any candidate, and therefore, it was not treated as such by FFF-PAC.

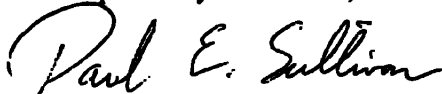
The cashflow statements for FFF-PAC for the 90 day period surrounding the FFF-PAC Committee Contribution clearly indicates there were ample funds available to make the Committee Contribution whether or not FFF-PAC received the Riley Contribution (AFF ¶ 4). Mr. Anderson, who had the authority to make the decisions regarding the selection of candidates to whom FFF-PAC would contribute (AFF ¶ 6) testifies that based upon his research of the 1996 campaigns (AFF ¶ 6) he would have made the Committee Contribution whether or not the Riley Contribution was received.

FFF-PAC did not contract, request, nor in any fashion authorize Triad to act on its behalf to solicit contributions for FFF-PAC or to have FFF-PAC act as a conduit for contributions from clients of Triad (AFF ¶ 5). The only allegation contained in the Complaint which remotely touches upon FFF-PAC is the acceptance of the checks delivered by Triad to FFF-PAC. In this capacity, FFF-PAC had no prior notices that the checks were to be delivered. By any standards, this clearly falls within a *de minimuse* category, even if the Commission were to determine that Triad improperly utilized corporate facilities for the solicitation and transmittal of contributions.

#### Conclusion

Based upon the clear cut and compelling testimony provided in the accompanied Affidavit by the FFF-PAC treasurer, and the failure of the Complaint to state any violations by FFF-PAC, FFF-PAC respectfully request that the Commission make a finding of no reason to believe and close the file on this matter.

Respectfully submitted,



Paul E. Sullivan  
Counsel for FFF-PAC

enclosures

**AFFIDAVIT**  
**OF**  
**DEVIN ANDERSON**  
In The Matter Of FEC MUR 4633.

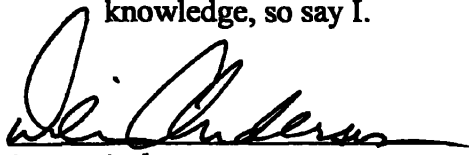
The undersigned affiant, being duly sworn and of majority age, does declare and testify as follows:

1. I am Devin Anderson and I have personal knowledge of the testimony set forth in this affidavit.
2. Since its inception and up until the date set forth below, I have served as the treasurer of the Faith, Family and Freedom PAC ("FFF-PAC"), a non-connected political committee, registered with the Federal Election Commission ("FEC") as required by the Federal Election Campaign Act of 1971, as amended. ("FECA") In that capacity, I have reviewed the content of a letter from one James Anderson dated April 25, 1997 addressed to the FEC and which letter the FEC has deemed a complaint as that term is used in the FECA and has identified it as MUR 4633.
3. As MUR 4633 pertains to FFF-PAC, it is my understanding of the complaint that it alleges one Robert Riley, Jr., contributed one thousand dollars (\$1,000) to FFF-PAC on May 23, 1996 ("Riley Jr. contribution") and that FFF-PAC contributed five hundred dollars (\$500) to the Riley for Congress Committee on May 24, 1996. ("Riley Committee contribution") The allegation appears to state that Robert Riley Jr., "earmarked" as that term is used in the FECA, the one thousand dollar (\$1,000) contribution to be used and contributed by FFF-PAC to the Riley for Congress Committee.
4. FFF-PAC cash flows during April, May and June of 1996 clearly reflect an ability to make the contribution to the Riley Committee regardless of whether or not the Riley Jr. contribution was received. As treasurer, I have overseen and prepared the cash flows for the months of April, May and June of 1996 and a true and complete copy of those cash flow schedule which I prepared are attached hereto and fully incorporated herein.
5. The Riley Jr. contribution was not solicited by FFF-PAC but rather was transmitted to FFF-PAC by Triad Management Services with a letter from its director, Carolyn S. Malenick, a true and complete copy of which is attached hereto and fully incorporated herein. FFF-PAC is not now nor has it ever been a client of Triad, nor did FFF-PAC request or authorize Triad to solicit contributions for FFF-PAC or to solicit earmarked contributions for any candidate.
6. In my capacity as treasurer of FFF-PAC, I had the authority to select which candidates FFF-PAC would support with contributions and the amount which would be contributed to such selected candidates. I gathered information and followed the campaigns of more than eighty (80) candidates for the House of Representatives. It was my responsibility to assess the strengths and weaknesses of the campaigns, their need for contributions, and

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the amount of the contribution which should be considered to come from FFF-PAC. During the 1996 election cycle, FFF-PAC contributed to 80 candidates in the primary and general election. Therefore FFF-PAC was very active and diversified with respect to the number of candidates which they contributed to during the 1996 election cycle. The majority of contributions were between five hundred (\$500) and two thousand (\$2,000) dollars per candidate.

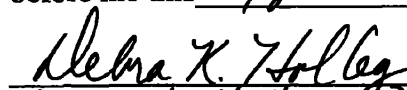
7. The Riley Jr. contribution was made on Mr. Riley's personal check payable to FFF-PAC and it contained no notations, encumbrances, comments, or instructions whatsoever. I was not informed in writing or verbally by any person or entity that acceptance of the check was conditioned upon using those or any other funds of FFF-PAC as a contribution to the Riley committee. In addition I was not directed, requested, encouraged, or solicited in writing or verbally by any person or entity that the check from Riley Jr. was to be used for any particular candidate or committee including the Riley committee. There was no written or verbal statements, conditions, or similar types of encumbrances which suggested or required that all or a portion of the Riley Jr. contribution be contributed to the Riley Committee. Correspondingly, I did not pledge, nor did I consider myself or FFF-PAC committed, in any fashion, to make a contribution to the Riley Committee by virtue of accepting the Riley Jr. contribution.
8. Based upon my knowledge of the Riley campaign, I would have made the same decision to contribute the five hundred dollars (\$500) to the committee regardless of whether or not the Riley Jr. contribution was received by FFF-PAC. The Riley Jr. contribution had no influence at all my decision of whether or not to contribute to the Riley Committee, nor did it influence the amount that was contributed.
9. I swear that the testimony provided herein is true and correct to the best of my knowledge, so say I.

  
Devin Anderson  
Affiant

9/18/97  
Date

**SWORN to and SUBSCRIBED**

before me this 18th day of September, 1997.

  
Debra K. Holley, Resident of Hamilton County  
My Commission Expires 9-5-00  
NOTARY PUBLIC

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**Cash Flow Report**  
**4/1/96 through 4/30/96**

CASH ON HAND	\$	47,632.19
INFLOWS		
Gift Received	\$	<u>-</u>
TOTAL INFLOWS	\$	-
OUTFLOWS		
Contribution	\$	<u>3,000.00</u>
TOTAL OUTFLOWS	\$	3,000.00
<i>MONTHLY NET</i>	\$	<i>(3,000.00)</i>
OVERALL TOTAL	\$	44,632.19

**Cash Flow Report**  
**5/1/96 through 5/31/96**

CASH ON HAND	\$	44,632.19
INFLOWS		
Gift Received	\$	<u>3,500.00</u>
TOTAL INFLOWS	\$	3,500.00
OUTFLOWS		
Contribution	\$	<u>2,000.00</u>
TOTAL OUTFLOWS	\$	2,000.00
<i>MONTHLY NET</i>	\$	<i>1,500.00</i>
OVERALL TOTAL	\$	46,132.19

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Cash Flow Report  
6/1/96 through 6/30/96

CASH ON HAND \$ 46,132.19

INFLOWS

Gift Received \$ 2,080.00

TOTAL INFLOWS \$ 2,080.00

OUTFLOWS

Bank Charge \$ 18.81

Supplies \$ 364.00

Contribution \$ 11,000.00

TOTAL OUTFLOWS \$ 11,382.81

MONTHLY NET \$ (9,302.81)

OVERALL TOTAL \$ 36,829.38

Cash Flow Report  
7/1/96 through 7/31/96

CASH ON HAND \$ 36,829.38

INFLOWS

Gift Received \$ 2,080.00

TOTAL INFLOWS \$ 2,080.00

OUTFLOWS

Consultant \$ 2,500.00

Supplies \$ 771.28

Contribution \$ 19,500.00

TOTAL OUTFLOWS \$ 22,771.28

MONTHLY NET \$ (20,691.28)

OVERALL TOTAL \$ 16,138.10

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**Cash Flow Report**  
**8/1/96 through 8/31/96**

**CASH ON HAND**                      \$    16,138.10

**INFLOWS**

                    Gift Received    \$    19,250.00

**TOTAL INFLOWS**                      \$    19,250.00

**OUTFLOWS**

                    Contribution    \$    2,000.00

**TOTAL OUTFLOWS**                      \$    2,000.00

***MONTHLY NET***                      \$    17,250.00

**OVERALL TOTAL**                      \$    33,388.10

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May 10, 1996

Mr. Devin Anderson  
Faith, Family and Freedom  
P.O. Box 76766  
Washington, DC 20002

Dear Devin:

Enclosed is a check to your committee from one of *TRIAD*'s participants. Please contact them directly with the appropriate acknowledgment. If you should have any questions regarding this check, please contact *TRIAD* directly.

These contributions are not earmarked in any manner expressed or implied for any specific candidate or committee.

It is your committee's discretion to use this contribution in a manner you deem most appropriate. Once again, please do not hesitate to contact *TRIAD* if you have any additional questions.

Sincerely,



Carolyn S. Malenick  
Director

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