



FEDERAL ELECTION COMMISSION

WASHINGTON D C 20463

MAR - 2 2004

Richard L. Robinson
Graydon Head & Ritchey LLP
2500 Chamber Center Drive, Suite 300
P.O. Box 17070
Ft. Mitchell, KY 41017

RE: MUR 5335R
Geoff Davis 2002 (a.k.a. Geoff
Davis for Congress Committee)
and Joe Green, Treasurer (a.k.a. Jody
Green)

Dear Mr. Robinson:

On November 26, 2002, the Federal Election Commission notified your clients, Geoff Davis 2002 ("the Committee") and Joe Green, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on February 12, 2004, found that there is reason to believe the Committee and Joe Green, as treasurer, violated 2 U.S.C. § 434(b)(3)(A), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, 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 General Counsel's Office, along with answers to the enclosed questions and document requests, within 15 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 and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

25044110324

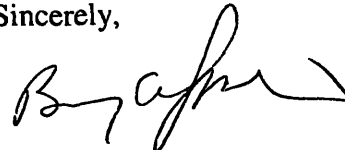
Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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 Ana Peña-Wallace, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bradley A. Smith', with a stylized flourish at the end.

Bradley A. Smith
Chairman

Enclosures
Questions
Factual and Legal Analysis

cc: Geoffrey C. Davis

25044110325

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Geoff Davis for Congress
Committee and Joe Green,
as treasurer¹

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Dennis Repenning. *See* 2 U.S.C. § 437g(a)(1).² The complaint alleged that the Geoff Davis for Congress Committee (“the Committee”) identified Georgia Shehan, alleged to be five or six years old, in its October 15, 2000 report as a “homemaker.” For the reasons set out below, the Commission finds reason to believe that the Committee’s reporting violated the Federal Election Campaign Act of 1971, as amended (“the Act”).

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

The Act requires that political committees disclose the identification information of each person whose contributions have an aggregate amount in excess of \$200 within the calendar year.

¹ In its original Statement of Organization, the Committee was named "Geoff Davis 2002 " The Committee originally designated its treasurer as Jody L. Green On January 25, 2003, the Committee filed an amended Statement of Organization changing its name to "Geoff Davis for Congress" and its treasurer to Joe Green However, the Committee's disclosure reports provide that the Committee's name is "Davis, Geoffrey C." For purposes of clarity, hereinafter the Committee is referred to as "the Geoff Davis for Congress Committee" or "the Committee "

² All of the relevant facts in these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act, codified at 2 U.S.C. §§ 431 *et seq.*, or statements of law regarding provisions of the Act contained herein refer to the Act as it existed prior to the effective date of BCRA. Further, unless specifically noted to the contrary, any reference to Title 11 of the Code of Federal Regulations refers to the regulation as it existed prior to the implementation of BCRA, and as it appears in the 2002 edition of the Code of Federal Regulations.

1 See 2 U.S.C. § 434(b)(3)(A). The Act defines “identification” as the name, the mailing address,
2 and the occupation of the contributor, as well as the name of his or her employer. 2 U.S.C.
3 § 431(13)(A). The Act also provides that a committee treasurer is in compliance with the Act
4 when he or she has used “best efforts” to obtain the required contributor information. 2 U.S.C.
5 § 432(i). Pursuant to the Commission’s regulations, a treasurer will not be deemed to have
6 exercised “best efforts” unless he or she has made at least one effort by a written request or by an
7 oral request documented in writing to obtain such information from the contributor. 11 C.F.R.
8 § 104.7(b).

9 ***B. Facts and Analysis***

10 According to the Committee’s disclosure reports, the Committee received a total of
11 \$3,000 in contributions from members of the Shehan family on July 8, 2002 for the 2002 general
12 election: \$1,000 from Bill Shehan, Jr.; \$1,000 from Georgia Shehan; and \$1,000 from Susan
13 Shehan.³ The complaint alleged that Georgia Shehan, who is “5 or 6 years” old, and Susan
14 Shehan, who is “age 4,” are both daughters of Bill Shehan. The complaint also referenced the
15 Committee’s apparent initial misreporting of Georgia Shehan’s occupation. In its October
16 Quarterly Report, filed October 14, 2002 and its first amendment, filed on October 15, 2002, the
17 Committee reported that Georgia Shehan’s occupation was “Homemaker” and that Susan
18 Shehan’s occupation was “Unavailable.” In the Committee’s second amendment to its October
19 Quarterly Report, filed on October 17, 2002, it reported each child’s occupation as
20 “Unemployed.”

21 In its response and the accompanying affidavit of its treasurer, the Committee stated that

³ The disclosure reports show the same address for the Shehan daughters, which is different from the address shown for the father

25044110327

25044110328

1 it “received two cashier’s checks, each in the amount of \$1,000, listing Georgia Shehan and
2 Susan Shehan, respectively, as the ‘remitter.’” *See* Green Aff., ¶ 5a. According to the
3 Committee, “the Shehan [c]ontributions were received along with numerous checks contributed
4 at a fundraising event,” and “a quick look at the checks presented no genuine question as to
5 whether or not they should be deposited pursuant to 11 CFR § 103.3(b)(1).” Davis Resp., at p. 2;
6 *see* Green Aff., ¶ 5b (Nothing “on the face of the check” suggested “that either remitter was a
7 minor.”). The Committee also stated that it “did not learn the ages of the Shehans until it
8 investigated press inquiries ” and that when Georgia and Susan Shehan’s “status as minors was
9 ascertained [the Committee] immediately refunded the contributions within . . . 30 days . . . and
10 amended [its] October 2002 Quarterly report.” Davis Resp., at p. 2; *see* Green Aff., ¶¶ 5c–5d.
11 The Committee’s response included copies of the two cashier’s checks, apparently executed by a
12 bank officer, that include the names Georgia Shehan and Susan Shehan as “Remitter.” Green
13 Aff., Ex. A. The response also included copies of refund checks to Georgia and Susan Shehan
14 dated October 17, 2002 (*see id.* , Ex. B), and corresponding refunds were reported in the
15 Committee’s 2002 Post-General Report, filed on December 5, 2002.

16 However, in its response, the Committee did not address the issue of the source of the
17 information, which appears in its original and first amended 2002 October Quarterly reports, that
18 Georgia Shehan’s occupation was that of “homemaker,” a status that is misleading when
19 describing a five or six year-old child. If the Committee, not Mr. Shehan, was the source of that
20 information, then the Committee may have speculated that Georgia Shehan was Mr. Shehan’s
21 wife, rather than his daughter. However, when a contributor has not furnished the occupational
22 information, it is incumbent upon the recipient committee to use “best efforts” to seek that
23 information in accordance with 11 C.F.R. § 104.7(b), rather than report the Committee’s best

1 speculation. At this time, the Commission does not know the circumstances surrounding the
2 Committee's reporting, three months after receiving the contribution, of Georgia Shehan's
3 occupation as "homemaker."⁴ It is possible the information may have emanated from the
4 Committee. Therefore, because it is the Committee's duty to use its best efforts to obtain the
5 missing identification information in order to properly report to the FEC, the Commission finds
6 reason to believe that the Geoff Davis for Congress Committee and Joe Green, as treasurer,
7 violated 2 U.S.C. § 434(b)(3)(A).

8 III. CONCLUSION

9 Accordingly, there is reason to believe that the Geoff Davis for Congress Committee and
10 Joe Green, as treasurer, violated 2 U.S.C. § 434(b)(3)(A).

⁴ The Committee's disclosure reports do not appear to have a pattern of noting females as "homemaker." Additionally, the Committee's reports initially reported Susan Shehan's occupation as "unavailable" and later amended it to "unemployed "

25044110329