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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of:)
)
Geoff Davis for Congress and)
Joe Green, as treasurer¹)
Bill Shehan, Jr.)
Georgia Shehan)
Susan Shehan)

GENERAL COUNSEL'S REPORT # 2

I. ACTIONS RECOMMENDED

Enter into pre-probable cause conciliation with Respondent Bill Shehan, Jr., take no further action and close the file as it pertains to Geoff Davis for Congress and Joe Green, as treasurer, approve the attached conciliation agreement, and close the file as it pertains to Georgia and Susan Shehan.

II. BACKGROUND²

This matter involves campaign contributions made on behalf of minor children. On February 12, 2004, the Commission found reason to believe that Bill Shehan, Jr. knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f, and that Geoff Davis for Congress and Joe Green, as treasurer ("the Committee"), violated 2 U.S.C. § 434(b)(3)(A). The Commission also

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 (a/k/a Jody Green). However, some of the committee's disclosure reports provide that the committee's name is "Davis, Geoffrey C." For purposes of clarity, hereinafter this Office refers to the committee as "Geoff Davis for Congress" or "the Committee."

² The events that are the subject of this complaint occurred prior to November 6, 2002, the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Therefore, unless noted to the contrary, all references to statutes and regulations in this report pertain to those that were in effect prior to the implementation of BCRA.

1 found no reason to believe that Charles DeLadurantey violated 2 U.S.C. §§ 441a(a)(1)(A) or 441f
2 and closed the file as it pertained to him, found no reason to believe the Committee violated
3 2 U.S.C. §§ 441a(f) and 441f, and decided to take no action as to Georgia and Susan Shehan at
4 that time.

5 The Commission's reason to believe findings were based on information that Mr. Shehan
6 made contributions to the Committee on behalf of his daughters, Susan and Georgia, who were
7 four and five years old at the time. *See* First General Counsel's Report ("FGCR") dated
8 February 06, 2004. Mr. Shehan exceeded his individual contribution limits when he contributed
9 a total of \$3000 to the Committee on or about July 8, 2002, which included \$1000 on his own
10 behalf, \$1000 on behalf of Susan Shehan and \$1000 on behalf of Georgia Shehan. Based on the
11 manner in which the contributions were made to the Committee (i.e. all three contributions were
12 made toward the 2002 general election, on the same date, to the same committee, using separate
13 cashier's checks each made out in the amount of \$1000), it appeared that Mr. Shehan knowingly
14 and willfully exceeded contribution limits and knowingly and willfully made contributions in the
15 name of another. *See* 2 U.S.C. §§ 441a(a)(1)(A), 441f.

16 The Commission also found reason to believe that the Committee violated the Federal
17 Election Campaign Act's, as amended ("the Act"), reporting requirements by failing to use best
18 efforts to obtain and submit missing contributor identification information. 2 U.S.C. §
19 434(b)(3)(A); 11 C.F.R. § 104.7(b). At the time of the reason to believe finding, there was no
20 information available to explain how the Committee decided to report five-year-old Georgia

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1 Shehan's occupation as "homemaker" and there was no evidence that the Committee used its
2 best efforts to ascertain her occupation information at all.³

3 Attached to the Respondents' notification letters were sets of interrogatories and
4 document requests concerning the Shehan contributions. Those requests sought details regarding
5 the ages of Mr. Shehan's daughters and of the circumstances surrounding their contributions,
6 including the source of the funds for those contributions, whether the Committee tried to
7 ascertain any missing identification information, and the origination of the "homemaker"
8 designation with regard to Georgia Shehan's occupation.

9 As discussed below, this Office believes that it has obtained sufficient information from
10 the Respondents to confirm that violations of the Act took place and recommends that the
11 Commission authorize entering into pre-probable cause conciliation with Mr. Shehan.

12 III. RESULTS OF INVESTIGATION

13 Both Mr. Shehan and the Committee have been cooperative with providing the
14 information we requested and have each expressed a willingness to settle this matter quickly.
15 Attachments 1-4. The information we gathered during the investigation has answered many of
16 the questions we had in the FGCR and confirms that violations of the Act did take place.

17 In reply to our written discovery requests and telephone communications with his
18 counsel, Mr. Shehan supplied us with information regarding his contributions and the extent of
19 his interaction with the Committee. Attachment 1. He provided his daughters' dates of birth as

20 [redacted] for Susan⁴ and [redacted] for Georgia, and admitted to making the

³ The Committee had designated Susan's occupation as "Unavailable" and Georgia's as "Homemaker" on its original October 2002 Quarterly Report. The report was later amended to reflect both girls' occupation as "N/A."

⁴ In his affidavit, Mr. Shehan spells Susan's name as "Suzannah." For the purpose of clarity, this report will use the spelling "Susan" as was used in the FGCR and as was indicated on the cashier's check used to make the contribution to the Committee.

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1 contributions on behalf of his daughters, explaining that he made the contributions at a campaign
2 fundraiser for Geoff Davis from his own cash funds. He also clarified that other than indicating
3 his and his daughters' names on the checks, he never provided any identification information to
4 the Committee and never told anyone that Georgia Shehan was a homemaker. *Id.* Both girls
5 lived with Mr. Shehan at the time the contributions were made, and still live with him at their
6 home located at Riva Ridge Court, Union, Kentucky, 40031. The Union address is the same
7 address indicated in the Committee's entries for Georgia and Susan Shehan on its disclosure
8 reports. The address in Florence, Kentucky that the Committee reported as Mr. Shehan's address
9 was actually Mr. Shehan's business address. Further, Mr. Shehan explained the Committee
10 never contacted him for any of their addresses or occupation information.

11 It appears that Mr. Shehan may have relied on statements by the Committee in making the
12 contributions on behalf of his daughters. In a sworn affidavit, Mr. Shehan claimed that he spoke
13 to Marc Wilson, whom he believed was the Committee's campaign manager, prior to making the
14 contributions and that during that conversation he inquired whether "it was acceptable to make
15 donations to Davis' campaign in [his] children's names." Attachment 1. According to Mr.
16 Shehan, Mr. Wilson responded that it was "absolutely acceptable" for him to contribute on behalf
17 of his children and never asked for further details such as his children's ages. *Id.*

18 Further, the funds used for the contributions consisted of cash that belonged to Mr.
19 Shehan and not the girls. Counsel explained that Mr. Shehan has been experiencing tax and

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1 creditor problems for some time and that he no longer used a personal bank account.⁵ That,
2 counsel explained, was the reason for the cashier's checks.

3 According to Joe Green, the Committee received the Shehan contributions at the door of
4 a campaign fundraiser and the checks did not contain complete contributor information at that
5 time. Attachment 2 at 1. Through a sworn affidavit he provided to the Commission, Mr. Green
6 explained that a number of different volunteers were involved with the fundraiser – to collect the
7 contributions and to input the data - making it difficult to identify who specifically processed the
8 Shehan contributions. One volunteer known to have been involved with processing the
9 contributions from that fundraiser was questioned about it but had no recollection of the Shehan
10 contributions. *Id.* at 2. Nevertheless, Mr. Green averred, it was the Committee's standard
11 operating procedure to mail out information request forms to donors when there was missing
12 identification information. *See* Attachment 2 at 4 (enclosing sample copy of their best efforts
13 form). The Committee's records do not show that they ever received a response to the
14 information request it made regarding the Shehan contributions. *Id.*

15 However, Mr. Green provided this Office with a printout from a campaign database that
16 indicates to whom the Committee sent best efforts forms around the time of the Shehan
17 contributions. Attachment 3 at 4-6. The printout indicates the Committee sent a best efforts
18 form to Susan Shehan at the Florence, Kentucky address. *Id.* at 5. The Committee cannot
19 explain why Georgia's and Mr. Shehan's names were not on the list or why the Committee

⁵ Counsel indicated that a written explanation of Mr. Shehan's financial situation could be provided to the Commission upon request. A public records search did reveal a judgment against his business "Man Made Wonders," which produces faux stone, in the amount of \$4,299.

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1 forwarded the form to the Florence address yet reported the Union address as Susan's address on
2 the October 2002 Quarterly Report.

3 The Committee is also unable to explain how it came to report Georgia Shehan's
4 occupation as "homemaker" to the Commission. Mr. Green speculated that the designation
5 could have come after review of a donor database or could have been "a false assumption by
6 someone with the Committee." Attachment 2 at 2. The Committee, however, amended the
7 incorrect information immediately upon learning Georgia's age. In a sworn affidavit, the
8 Committee's general consultant Marc Wilson indicated that after being informed by a reporter
9 that the Shehan girls were minor children he confirmed the information with Mr. Shehan and
10 then notified the candidate about the situation. Attachment 3. Per instructions from the
11 candidate, the Committee refunded Susan and Georgia Shehan's contributions within twenty-four
12 hours of ascertaining their ages. *Id.* at 2.

13 Moreover, Mr. Wilson could not recall making a statement to Mr. Shehan that parents
14 could legally make contributions on behalf of their children. Attachment 3 at 2. As general
15 consultant to the candidate, his duties did not include speaking with the public or with
16 prospective contributors, but instead he dealt with political and press issues. *Id.* The only
17 conversations he recalled having with regard to the Shehan contributions were in reply to press
18 inquiries, to ask Mr. Shehan about his daughters' ages, and to inquire about the situation with
19 campaign staff. *Id.* at 2.

20 The information we have obtained makes it possible for us to recommend a resolution in
21 this matter. Information from the Committee and Mr. Shehan's own admissions confirm that Mr.
22 Shehan made contributions in the names of his four and five year old daughters in violation of

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2 U.S.C. § 441f. Mr. Shehan did not provide the Commission with any information that would show Susan and Georgia knowingly and voluntarily contributed to the Davis campaign from their own funds. 11 C.F.R. § 110.1(i)(2). Instead, he admitted that the cash used for the contributions belonged to him. As such, the contributions in the names of Susan and Georgia are properly attributed to Mr. Shehan.

Further, since Mr. Shehan had already contributed \$1,000 to the Committee, the maximum amount permitted toward the 2002 general election, Mr. Shehan exceeded the contribution limit by \$2,000 with the contributions he made in the names of his children. 2 U.S.C. § 441a(a)(1)(A). Our investigation, however, has not revealed any conclusive evidence that Mr. Shehan's violations were knowing and willful. Mr. Shehan claims he relied on a statement by Mr. Wilson indicating that contributions on behalf of his children were permissible while Mr. Wilson has no recollection of such a conversation. Attachments 1, 3.

Moreover, while the Committee acted appropriately when it refunded the contributions soon after learning the girls' ages, it appears the Committee failed to use its best efforts to "obtain, maintain and submit" missing identification information but instead speculated as to Georgia Shehan's occupation when it reported it as "homemaker." See 11 C.F.R. § 104.7. Although the Committee stated that it was its standard operating procedure to mail out best efforts forms to all donors with missing information, the evidence it produced shows a form was only sent to four-year-old Susan Shehan and not to Georgia or Mr. Shehan. Attachment 3 at 4-5. *Supra* p. 4. In fact, according to the printout provided by the Committee, that form was mailed to Florence, Kentucky which is Mr. Shehan's business address and not the family's home address. *Id.* Further, instead of indicating that both children's occupation information was not available,

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the Committee speculated as to Georgia's occupation and provided inaccurate information on the disclosure reports it filed with the Commission. These discrepancies call into question the Committee's diligence and efforts in ascertaining accurate identification information. Thus, the Committee violated section 434(b)(3)(A) of the Act in failing to use best efforts to seek and report the missing information in accordance with 11 C.F.R. § 104.7(b) and in reporting inaccurate identification information to the Commission.

IV. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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General Counsel's Report #2

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Based on the foregoing, we recommend that the Commission approve the attached conciliation proposal and that the Commission dismiss the matter against Georgia and Susan Shehan, take no further action against the Committee and close the file as it pertains to them.

V. RECOMMENDATIONS

1. Enter into conciliation with Bill Shehan, Jr. prior to a finding of probable cause to believe.
2. Take no further action against Geoff Davis for Congress and Joe Green, as treasurer, and close the file as it pertains to them.
3. Approve the attached proposed conciliation agreement.
4. Dismiss the matter against Georgia Shehan and Susan Shehan (a/k/a Suzannah Shehan), and close the file as it pertains to them.
5. Approve the appropriate the letters.

Lawrence H. Norton
General Counsel

12/18/09
Date

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- 1 Attachments
- 2 1. Bill Shehan, Jr.'s Response to discovery
- 3 2. Committee's Response to discovery
- 4 3. Committee's Response to additional discovery request
- 5 4. Requests for pre-probable cause conciliation
- 6 5. Proposed Conciliation Agreement for Bill Shehan, Jr.
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