

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 5359

Paul Williams for Congress and)
 Michael Mundy, in his official capacity)
 as treasurer;)
 Paul Williams)

SENSITIVE

Paul Williams Campaign and)
 Walter E. Combs, in his official capacity)
 as treasurer)

Audit Referral #04-03

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

1. Reject Respondents' counteroffer to the Commission's opening conciliation offer.
2. Open a MUR and merge Audit Referral #04-03 into MUR 5359.
3. Make an additional reason to believe finding.
4. Approve new conciliation agreements.

II. PAUL WILLIAMS FOR CONGRESSA. Background

MUR 5359 arose from the audit of Paul Williams for Congress, Paul Williams' principal campaign committee in the 2000 election.¹ See Audit Referral #02-16. Based on information obtained during the audit, the Commission found reason to believe that Paul Williams for Congress and Michael Mundy, in his official capacity as treasurer, and Paul Williams (collectively "Respondents") violated various provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), as well as the Commission's regulations. Specifically, the Commission found reason to believe that Paul Williams for Congress and Michael Mundy, in his

¹ Paul Williams was a candidate for Congress in Texas' Ninth Congressional District in both 2000 and 2002.

1 official capacity as treasurer, ("the Committee") failed to maintain records in violation of
2 2 U.S.C. § 432(d) and 11 C.F.R. § 104.14(b); failed to disclose contributions and exercise best
3 efforts to obtain contributor information in violation of 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R.
4 §§ 104.3(a) and 104.7; failed to disclose and continually report outstanding debts and obligations
5 in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11; failed to disclose operating
6 expenditures in violation of 2 U.S.C. § 434(b)(4); failed to keep records and failed to report and
7 itemize disbursements in violation of 2 U.S.C. §§ 432(d) and 434(b)(5), and 11 C.F.R. §§ 102.9
8 and 104.3(b); made excess cash disbursements in violation of 2 U.S.C. § 432(h)(2) and 11 C.F.R.
9 § 102.11; misstated financial activity in violation of 2 U.S.C. §§ 434(b)(1), (b)(2), and (b)(4);
10 and failed to deposit receipts into campaign depositories, made disbursements from unregistered
11 campaign depositories, and failed to properly report campaign depositories in violation of
12 2 U.S.C. § 432(h)(1) and 11 C.F.R. §§ 103.1 and 103.3(a). In addition, the Commission found
13 reason to believe that Paul Williams and the Committee used campaign funds for personal use in
14 violation of 2 U.S.C. § 439a and 11 C.F.R. § 113.2(d).

15 The Commission authorized pre-probable cause conciliation and approved a joint
16 conciliation agreement for all the respondents
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1 2. **Conciliation Agreement**

2 Given the circumstances of this case, this Office recommends that the Commission
3 approve a new conciliation agreement

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12 **III. PAUL WILLIAMS CAMPAIGN**

13 **A. Background**

14 In 2002 Mr. Williams ran again for Congress in Texas' Ninth Congressional District.
15 The Audit Division audited Paul Williams Campaign ("the 2002 Committee") as well. The
16 Audit Division referred to this Office one of the findings from the Final Audit Report approved

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1 by the Commission on March 17, 2004.⁸ That finding pertains to cash disbursements made by
2 the 2002 Committee.⁹ See Attachment 6. The Audit Division examined the 2002 Committee's
3 bank records and identified 34 cash withdrawals from the bank account that exceeded the \$100
4 limit for petty cash fund disbursements.¹⁰ The withdrawals totaled \$12,610. Thirty-three (33)
5 were made by cash withdrawal from an ATM and one was made by a check payable to cash.
6 Further, the 2002 Committee did not maintain a written record for its cash disbursements.¹¹

7 In response to the Audit Division's Interim Audit Report, the 2002 Committee stated:
8 "Disbursements by Check was impractical;" "Funds were withdrawn as a courtesy to staff . . .
9 where there was a concern that checks might not clear the bank;" and "The only cash
10 withdrawals that were made were made specifically to pay campaign staff (campaign manager,
11 coordinator, block walker, and consultant)." Attachment 6 at 2.

⁸ The Final Audit Report contained five findings, however, only Finding 4 was referred to this Office

⁹ Most of the 2002 Committee's activity at issue in the Audit Referral is governed by the Federal Election Campaign Act of 1971, as amended ("the Act") and the Commission's regulations in effect from January 1, 2001 to November 6, 2002. The amendments to the Act and regulations made by, or as a result of, the Bipartisan Campaign Reform Act of 2002 did not change the section of the Act (2 U.S.C. § 432(h)(2)) or the regulation (11 C.F.R. § 102.11) relevant to the 2002 Committee's activity from November 7, 2002 to December 31, 2002.

¹⁰ The Act requires political committees to make disbursements by checks drawn on the committee's account at its designated campaign depository. See 2 U.S.C. § 432(h)(1) and 11 C.F.R. § 102.10. Political committees, however, may maintain a petty cash fund for disbursements not in excess of \$100. See 2 U.S.C. § 432(h)(2) and 11 C.F.R. § 102.11. Committees that utilize a petty cash fund must maintain a written record of all disbursements. *Id.* The record must include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of the disbursement. *Id.*

¹¹ During the audit, Mr. Williams provided the Audit Division affidavits from three individuals attesting that they received cash payments totaling \$7,930 for services rendered to the campaign. In addition, invoices from a vendor and ATM receipts annotated by the 2002 Committee indicated that cash payments totaling \$4,680 were made to the vendor. Attachment 6 at 2

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B. Discussion

Based on the analysis set forth in the Audit Referral, this Office recommends that the Commission find reason to believe that Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer, violated 2 U.S.C. § 432(h)(2) and 11 C.F.R. § 102.11.¹²

In addition, because of the relatively small amount of money involved with the 2002 Committee's violation (\$12,610), this Office recommends that the Commission open a MUR, merge it into MUR 5359, and enter into conciliation negotiations with the 2002 Committee prior to a finding of probable cause to believe.

C. Conciliation Agreement

¹² Mr Williams' stepfather, Walter E Combs, is the current treasurer Fred Ashmead and Rick Trapp were the treasurers during the period covered by the audit

IV. RECOMMENDATIONS

1. Reject Respondents' counteroffer to the Commission's opening conciliation offer.
2. Approve the attached conciliation agreement for Paul Williams for Congress and Michael Mundy, in his official capacity as treasurer, and Paul Williams.
3. Open a MUR with respect to Audit Referral 04-03 and merge it into MUR 5359.
4. Find reason to believe that Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer, violated 2 U.S.C. § 432(h)(2) and 11 C.F.R. § 102.11.
5. Approve the appropriate Factual and Legal Analysis for Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer.¹³
6. Enter into conciliation with Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer, prior to a finding of probable cause to believe.
7. Approve the attached conciliation agreement for Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer.

¹³ Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer, will be notified that the factual and legal basis for the Commission's findings can be found in the Final Audit Report.

8. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

12/28/09
Date

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Attachments:

1. Commission's opening conciliation offer
2. Respondents' counteroffer
3. Paul Williams' Financial Disclosure Statement
4. Michael Mundy's Financial Disclosure Statement
5. New conciliation agreement for Paul Williams for Congress and Michael Mundy, in his official capacity as treasurer, and Paul Williams
6. Audit Referral 04-03 memorandum
7. Conciliation agreement for Paul Williams Campaign and Walter E. Combs, in his official capacity as treasurer