



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 27 2003

Democratic Party of Virginia-Federal
Campaign Committee and
Abbi G. Easter, as treasurer
1108 Main Street, 2nd Floor
Richmond, VA 43219

RE: MUR 5391

Dear Ms. Easter:

On October 22, 2003, the Federal Election Commission found that there is reason to believe the Democratic Party of Virginia-Federal Campaign Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(b), a provision of the Federal Election Campaign Act of 1971, as amended ("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. Additionally, the Commission requests that you submit for its review *all* of the following regarding the transaction reported on September 29, 2000, as described in the attached Factual and Legal Analysis at page 2, lines 5-9:

- (1) sworn affidavits of the individual(s) responsible for communicating with the Committee's bank on behalf of the Committee explaining, in detail, the nature of the Committee's request(s) to the bank that led to the bank error, the nature of the bank error, how and when the Committee learned of the error, any steps the Committee has taken to rectify similar errors in the future, and any other relevant materials;
- (2) sworn affidavits of any knowledgeable individual(s) at the Committee's bank explaining, in detail, the nature of the error, how the error occurred, any steps the bank has taken to rectify similar errors in the future, and any other relevant materials; and
- (3) any documentation (properly authenticated by affidavit) supporting the occurrence of a bank error, including, but not limited to, requests to the bank, communications with the bank that explained the error, any bank documents reflecting the error and its correction, and any other relevant documentation.

Please submit such materials to the General Counsel's Office within 15 days of your 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe, contingent upon your production of the above materials. Enclosed is a conciliation agreement that the Commission has approved in this matter.

If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreement, please provide the above information and sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Joshua Heller, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Ellen L. Weintraub
Chair

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

Conciliation Agreement

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5
6
7 RESPONDENTS: Democratic Party of Virginia- MUR 5391
8 Federal Campaign Committee
9 and Abbi G. Easter, as treasurer

10
11 This matter was generated based on information ascertained by the Federal Election
12 Commission ("the Commission"), in the normal course of carrying out its supervisory
13 responsibilities. *See* 2 U.S.C. § 437g(a)(2).

14 The Federal Election Campaign Act of 1971, as amended ("the Act"), requires treasurers
15 of political committees to file pre-election reports that disclose, *inter alia*, the total amount of all
16 receipts, the total amount of receipts attributable to refunds, the date of any refunds, and
17 identification information for any person who provides refunds aggregating more than \$200 in
18 the calendar year. *See* 2 U.S.C. § 434(b). A political committee's pre-election reports must also
19 include the total amount of all disbursements, and identify persons to whom expenditures
20 aggregating more than \$200 in the calendar year were made by the reporting committee to meet
21 candidate or committee operating expenses. *See id.* Further, a political committee's pre-election
22 reports must include the date, amount, and purpose of such operating expenditures. *See id.*

23 The Democratic Party of Virginia-Federal Campaign Committee and Abbi G. Easter, as
24 treasurer ("the Committee"), in their August 30, 2001 amendment to the 2000 Pre-General
25 Report disclosed a total net increase of \$712,103.29 in receipts and \$732,049.26 in
26 disbursements from the Committee's original 2000 Pre-General Report, filed on October 26,
27 2000—a net increase of 31% and 32%, respectively. Based on the Commission's review, it
28 appears that \$710,000 of the additional \$712,103.29 in the Committee's receipts and \$710,000 of

1 the additional \$732,049.26 in the Committee's disbursements resulted from the Committee's
2 misreporting of a single \$710,000 transaction. The events relating to that transaction appear to
3 have occurred as follows:

4 On September 29, 2000, the Committee disbursed \$710,000 from its federal account to
5 Applied Political Technologies. However, according to the Committee, this disbursement was in
6 error because the Committee intended to disburse the sum of \$710,000, allocated as \$305,300.01
7 from the Committee's federal account and \$404,699.99 from its non-federal account, to Greer,
8 Margolis, Mitchell, Burns & Associates ("Greer Margolis"). The Committee later attributed the
9 error to a mistake by its bank.

10 On October 4, 2000, five days after the disbursement to Applied Political Technologies,
11 the Committee disbursed funds to Greer Margolis as originally intended: \$710,000, allocated as
12 \$305,300.01 from the Committee's federal account and \$404,699.99 from its non-federal
13 account. The next day, on October 5, 2000, Applied Political Technologies, the unintended
14 recipient of the September 29, 2000 wire transfer, refunded the erroneously received \$710,000 to
15 the Committee. Thus, by October 5, 2000, \$710,000 (allocated between the federal and
16 nonfederal accounts) had been properly disbursed to Greer Margolis and the Committee had
17 received the erroneously wired \$710,000 back from Applied Political Technologies and
18 redeposited it to its federal account. However, the Committee's reporting took a long while to
19 catch up to these events.

20 Compounding the original disbursement error, the Committee's October Quarterly
21 Report, filed on October 12, 2000, and its Pre-General Report, filed on October 26, 2000, reflect
22 the events surrounding the September 29, 2000 transaction not as they actually occurred, but as
23 they were intended: a September 29, 2000 allocated disbursement to Greer Margolis (under the

1 description "Media Buy/Wire Transfer"). When the Committee filed its first amended 2000 Pre-
2 General Report on December 7, 2000, it correctly reported the October 4, 2000 disbursement of
3 \$710,000 to Greer Margolis. On the same day, however, the Committee filed an amended 2000
4 October Quarterly Report that continued to incorrectly disclose a September 29, 2000
5 disbursement of \$710,000 to Greer Margolis, not Applied Political Technologies.

6 On August 31, 2001, the Committee filed an amended 2000 12-Day Pre-General Report.
7 That amendment contained the October 4, 2000 expenditure of \$710,000 to Greer Margolis for
8 "Media Buy-Issue Ads" and the previously unreported October 5, 2000 refund of \$710,000 from
9 Applied Political Technologies, accompanied by the notation: "This is a refund of wire [*sic*]
10 transfer from 9/29/2000 made in error."

11 Thus, when comparing the original 2000 Pre-General Report and the August 2001
12 amendment, it appears that the bulk of the additional receipts in the latter are attributable to the
13 \$710,000 refund on October 5, 2000 that was mistakenly wired to Applied Political Technologies
14 on September 29, 2000. The bulk of the additional disbursements are attributable to a late
15 reported \$710,000 disbursement on October 4, 2000 to Greer Margolis.¹

¹ Other than the \$710,000 receipt, the December 7, 2000 amended Pre-General Report summary page included an additional \$1,160.81 in unitemized receipts that did not appear in the original October 26, 2000 report. The August 2001 amended Pre-General Report summary page adjusted the additional unitemized receipts to \$2,103.29. The Committee subsequently filed an amendment to the Pre-General summary page on January 22, 2002 to correct the Column B aggregate amounts.

Other than the Greer Margolis transaction, the December 7 report also included the following itemized disbursements that did not appear in the original report: First Virginia Bank-Colonial for \$367.62 on October 2, 2000, Melinease Hutchinson for \$107.12 on October 2, 2000, Virginia Department of Taxation for \$411.41 on October 4, 2000, Virginia Department of Taxation for \$1,099.72 on October 4, 2000, Wachovia Bank for \$2,692.09 on October 4, 2000, Wachovia Bank for \$6,628.55 on October 4, 2000, Melinease Hutchinson for \$911.90 on October 11, 2000, and Wachovia Bank for \$67.57 on October 13, 2000. The August 2001 Amended Pre-General Report omitted the two disbursements to Melinease Hutchinson and, in addition to those in the December 7 report, included the following itemized disbursements: American Audio Video for \$75.00 on October 3, 2000, Jasper L. Hendricks, III for \$373.86 on October 1, 2000, Wayne Wilson for \$784.59 on October 1, 2000, Pauline Huffman for \$768.70 on October 1, 2000, Elena Panglinan for \$500.00 on October 1, 2000, Metro Herald Newspapers for \$8,000.00 on October 1, 2000, MacMannes, Inc. for \$280.00 on October 3, 2000, and xpedx-Richmond for \$53.01

1 While the erroneous wire transfer to Applied Political Technologies apparently triggered
2 the reporting discrepancies between the original 2000 Pre-General Report and August 2001
3 amendment, the Commission's review of the Committee's interim amendments revealed another
4 problem. In its first amended Pre-General Report, filed December 7, 2000, at a time when it had
5 not yet reported the refund from Applied Political Technologies (and perhaps did not realize how
6 an accretion of \$710,000 to its federal account had transpired), the Committee reported the
7 receipt of \$710,000 to its federal account from the Democratic Senatorial Campaign Committee
8 ("DSCC") on October 4, 2000. The Committee again reported this receipt in its third
9 amendment to its Pre-General Report, filed on April 18, 2001. However, it appears from a
10 review of the DSCC's reports that this transaction did not occur. When the Committee filed its
11 fourth amended Pre-General Report on August 30, 2001, the \$710,000 from the DSCC was
12 dropped from the reported receipts. This suggests that the Committee may have misreported the
13 Applied Political Technologies refund to its federal account as a contribution from the DSCC
14 before realizing what had actually occurred.²

15 Accordingly, there is reason to believe that the Democratic Party of Virginia-Federal
16 Campaign Committee and Abbi G. Easter, as treasurer, violated 2 U.S.C. § 434(b).

on October 16, 2000. There is a slight discrepancy between the total amount of itemized receipts and the total receipts set out on the reports' summary pages.

² During September and October of 2000, the DSCC had made a significant number of large transfers to the Committee in connection with the Allen-Robb Virginia Senatorial election.