

# SANDLER, REIFF & YOUNG, P.C.

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March 10, 2004

Ms. Ruth Heilizer  
Attorney  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

RE: MUR 5391

Dear Ms. Heilizer:

Enclosed please find an executed Conciliation Agreement in the above referenced matter. Per our conversation of yesterday, it is my understanding that the amendment requirements of Section VI.2. of the Agreement have already been satisfactorily complied with by the Democratic Party of Virginia.

If you have any questions regarding this matter, feel free to contact me at (202) 479-1111.

Sincerely,



Neil P. Reiff

RECEIVED  
FEC MAIL  
OPERATIONS CENTER  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2004 MAR 10 P 1:33  
2004 MAR 10 P 3:07

2004 MAR 25 P 4: 50

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Democratic Party of Virginia—Federal )  
Campaign Committee and Abbi G. Easter, )  
as treasurer )

MUR 5391

**SENSITIVE**

GENERAL COUNSEL'S REPORT #2

**I. ACTIONS RECOMMENDED**

Accept the attached signed conciliation agreement with the Democratic Party of Virginia—Federal Campaign Committee and Abbi G. Easter, as treasurer ("Respondents"), and close the file in this matter.

**II. DISCUSSION**

On October 22, 2003, the Commission found reason to believe that Respondents violated 2 U.S.C. § 434(b) as a result of filing a series of erroneous financial disclosure reports that Respondents claimed their bank had set into motion by mistakenly wiring \$710,000 to the wrong vendor. The Commission also approved a conciliation agreement

In the First General Counsel's Report in this matter, this Office stated: "Although the information on hand provides sufficient facts to conciliate this matter, during conciliation this Office intends to request information corroborating that the bulk of the misreporting was due

1 to a wire transfer by the Committee's bank. Accordingly, in the notification letter, this Office  
2 will request this information and appropriate supporting documents."<sup>1</sup>

3 Respondents submitted an affidavit of Kendra-Sue Derby, former director of  
4 Respondents' Alexandria office, who was personally involved in the events in question. *See*  
5 Attachment 1. According to her affidavit, on September 29, 2000, Derby submitted transfer  
6 orders to Wachovia Bank ("Wachovia") asking Wachovia to wire \$3,750 to Applied Political  
7 Technologies ("APT") and \$710,000 to Greer, Margolis, Mitchell, Burns & Associates  
8 ("Greer Margolis"), but the bank incorrectly wired all of the funds to APT. Attachment 1 at  
9 2. When her assistant contacted Wachovia the next day, Derby averred, it refused to honor  
10 her request to reverse the erroneous wire. *Id.* Thereafter, APT requested its bank to return the  
11 funds, and Respondents received them on October 5, 2000, subsequent to the closing date of  
12 the 2000 October Quarterly Report. *Id.* Meanwhile, on October 4, 2000, Respondents sent a  
13 check for \$710,000 to Greer Margolis. *Id.* Derby acknowledged that the Alexandria office  
14 failed to inform the Richmond office of these transactions when providing the latter with  
15 financial data for inclusion in the 2000 October Quarterly Report. *Id.* Respondents provided  
16 documents supporting Darby's affidavit, including her written transfer orders to Wachovia  
17 and bank statements showing the erroneous transaction and its correction. Attachment 1 at 4-  
18 5, 8, 10-11.

19 This Office believes that Respondents have satisfactorily documented the claim that  
20 their bank had committed an error by wiring funds to the wrong vendor, and that it is therefore  
21 appropriate to conclude conciliation. The Respondents have submitted the attached signed

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<sup>1</sup> As was noted during the October 22, 2003 Executive Session, the Commission had issued Advisory Opinion 2001-11 in response to the Committee's request to make an untimely transfer of funds from its non-federal account to its federal account, based on its claim that the bank had allegedly failed to transfer the funds, as the Committee had requested, in a timely manner.

conciliation agreement. Attachment 2.

**III. RECOMMENDATIONS**

1. Accept the attached signed conciliation agreement from the Democratic Party of Virginia—Federal Campaign Committee and Abbi G. Easter, as treasurer.
2. Close the file.
3. Approve the appropriate letter.

Lawrence H. Norton  
General Counsel

Date

3/25/04

BY:

Rhonda J. Vosdingh  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

Susan L. Lebeaux  
Susan L. Lebeaux  
Assistant General Counsel

Ruth Heilizer  
Ruth Heilizer  
Attorney

**Attachments:**

1. Affidavit of Kendra-Sue Derby and supporting documents
2. Conciliation Agreement