ARMSTRONG TEASDALE LLP

Thomas M Bradshaw, P C tbradshaw@armstrongteasdale.com

10

MISSOURI	KANSAS	ILLINOIS	WASHINGTON, DC	NEW YORK, NY	SHANGHAI	SYDNEY	

December 15, 2004

VIA FACSIMILE (202) 219-3923

FEDERAL ELECTION COMMISSION Attn. Ms. Elena Paoli 999 E. Street, N.W. Washington, DC 20463

> Re: Carl M. Koupal, Jr. MUR 5573

Dear Ms Paoli:

Enclosed please find an Affidavit of our client Carl M. Koupal, Jr. submitted in response to the investigative documents of the Commission. The Affidavit addresses Mr. Koupal's recollection of the events described in the materials provided to us with respect to the above referenced Matter Under Review. As you may know, Mr. Koupal has not been employed by Westar since October 2001. Therefore he did not have access to its records. As a result, we have not been able to unearth evidence to disprove certain allegations made in your report, but, more importantly, have not discovered evidence that supports them. For instance, significant efforts have been made to determine the circumstances surrounding the purported bundled contributions on or about June 15, 2001. It now appears that those contributions were made during a visit to the Westar offices by Pat Roberts on June 1, 2001. As the enclosed affidavit makes clear, Mr. Koupal does not recall any effort to coordinate contributions at Westar on or about that date.

We feel that those allegations not supported by any evidence should not form the basis of any complaint against Mr. Koupal.

I trust that following your review of the enclosed Affidavit you will appreciate the fact that our client had no intention of violating any applicable statute or regulation. The events described in MUR 5573 were isolated and not in the ordinary course of business for Mr. Koupal. As far as Mr. Koupal is concerned, the September 2000 activities were unique and performed without any knowledge such activity was in violation of applicable regulations.

I hope you agree that the facts, or the lack thereof, as they relate to Mr. Koupal combined with his lack of intent to violate applicable laws warrants lenient treatment of Mr. Koupal. Mr. Koupal remains hopeful that this investigation can be resolved prior to any probable cause

۲~. (0

pin

er rig

end Bend

7 7 0

١n

December 15, 2004 Page 2



ARMSTRONG TEASDALE LLP

hearing. Please call if you have any questions or concerns. Thank you for your consideration of the enclosed material. I look forward to hearing from you.

6

Very truly yours,

Fraddan/M3

Thomas M. Bradshaw

TMB/mmb Encl.

AFFIDAVIT OF CARL M. KOUPAL, JR.

STATE OF MISSOURI

COUNTY OF JACKSON

) ss.

MUR5573

The undersigned, Carl M. Koupal, Jr., declares and states as follows:

1. I am over the age of 18 and otherwise competent to make this Affidavit.

)

)

- 2. I was employed as an officer of Westar Energy, Inc. ("Westar") from March 16, 1992 until October 31, 2001.
- 3. While employed at Westar I served in the capacities of Vice President, Executive Vice President and later as Executive Vice President and Chief Administrative Officer.
- 4. During certain periods of my employment at Westar the Vice President of Government Relations reported to me. The Vice President of Government Relations maintained associations between Westar's Political Action Committee, lobbyists and the political campaigns of candidates.
- 5. With respect to the conduct described in MUR5573 relating to the September, 2000 contribution activities, the following facts are relevant:
 - (a) Organized efforts relating to contributions by executives to selected political campaigns, such as the September, 2000 effort, were sporadic and to the best of my knowledge were not duplicated while I was employed by Westar.
 - (b) The September 20, 2000 memorandum from me referenced in the Commission's Factual and Legal Analysis resulted from desire to identify candidates who should receive contributions from the most senior officers of the Company.
 - (c) The payment schedule referenced in the Commission's Factual and Legal Analysis was prepared and intended as a suggestion only. No follow-up was performed, nor requested, to ensure that the individuals actually made the suggested contributions. To the best of my knowledge, no executive suffered damaging consequences as a result of not making a contribution.
 - (d) I did not make all suggested contributions to the listed political candidates on the spreadsheet under my name.

- 6. To the best of my knowledge, during my employment with Westar there was no other instance where individual contributions to political candidates were discussed, organized or otherwise managed through the company.
- 7. Contrary to the Commission's assertion that until my departure from the Company I had "...primary responsibility for ... collecting contribution checks, and sending the checks to recipient committees," it was not my responsibility, nor my habit, to collect and forward contributions made by individual executives. With the exception of I am not aware of any effort being made to bundle

contributions.

- I am not aware of any concerted effort on the part of any Westar employees to submit 8. "bundled" contributions to Pat Roberts for Senate in June of 2001.
- 9. At times relevant to the Commission's factual inquiry I did not have any knowledge of the statutory and regulatory prohibitions relating to the relevant conduct and had no intention to break applicable laws and/or regulations.

Executed this $\frac{3^{2}}{2}$ day of December, 2004.

FURTHER AFFIANT SAYETH NAUGHT.

Carl M. Koupal, Jr.

Subscribed and sworn to before me, a Notary Public, this $/3^{2}$ day of December, 2004.

u Trake lotary Public

My Commission expires:

