

# Trombley & Hanes

Professional Association  
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August 3, 2006

**VIA FACSIMILE AND UNITED STATES MAIL**

2006 AUG -9 A 8:49  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Lynn Tran  
Federal Election Commission  
999 East Street, N.W.  
Washington, D.C. 20463

Re: Roger Swinford  
MUR: 5666

Dear Ms. Tran:

This letter is in response to your letter of June 19, 2006, advising our client, Roger Swinford, that the Federal Election Commission has reason to believe that Mr. Swinford participated in a violation of 2 U.S.C. § 441f. By letter dated July 7, 2006, we had asked for additional time for Mr. Swinford to provide a response and/or documents, however, the Office of the General Counsel granted only a twenty day extension which does not provide enough time for Mr. Swinford to recover records that relate to the contributions in question. I had previously informed you telephonically that Mr. Swinford has been in Iraq and Afghanistan assisting in the war effort with his company and only returned this past week from those obligations. Therefore, our time to meet and respond appropriately to your letter has been extremely limited though we certainly intend to cooperate with the Commission in this matter.

In responding to the Commission's probable cause determination, we would provide the following information in response based upon our review of the Factual and Legal Analysis provided by the Commission and our understanding of Mr. Swinford's limited role in this matter. We would request that the Office of the General Counsel recommend to the Commission that no further action is warranted or necessary as to Mr. Swinford.

It is clear from the Commission's initial review of this situation and by the Plea Agreement entered into by Mitchell Wade, that Mr. Wade took advantage of

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an employer/employee relationship with the MZM employees (including Mr. Swinford) and for his own personal and business interests compelled the employees to contribute to the campaigns in question, again for Mr. Wade's own personal and business interests, and basically funded the contributions.

As to Mr. Swinford specifically: Roger Swinford has extensive military background having served in the United States Army for twenty-three years. During his career, Roger received the Legion of Merit, Bronze Star Medal, and the Defense Meritorious Service Medal. He served as a Paratrooper with the 82d Airborne Division when he received the Combat Parachutist Badge for his participation in the airborne operation in Panama during Operation Just Cause in December 1989, and served with distinction in Operation Desert Storm as well as with NATO forces in Sarajevo in 1996. Mr. Swinford retired from the military on September 4, 2001. He was a Chief Warrant Officer Four when he retired. His background in the military was in all source intelligence and counter-intelligence and he spent a considerable amount of that time working at Central Command at MacDill Air Force Base here in Tampa, Florida. Upon retirement, Mr. Swinford signed with another contracting firm, ASC Defense which was also at Central Command.

On September 11, 2001, one week after Roger's retirement, he was working in another division of the J2. At 9:30 a.m., approximately an hour and a half after the attacks on the World Trade Center, General Kimmons, the Directorate of Intelligence for Central Command, instructed that Roger was to immediately report to the Counterterrorism Branch. This was due to Roger's expertise in intelligence operations and the need for experienced counterterrorism experts during this critical time. Roger called upon that expertise to set up the Afghan Fusion Cell to strike at Taliban and Al Qaeda targets and leadership. His service to this country continued throughout the balance of 2001 and thereafter.

Mr. Swinford signed his employment agreement with MZM on July 22, 2002, with a start date of August 1, 2002. Brigadier General (Retired) Wayne M. Hall recruited Mr. Swinford to MZM. MZM evidently wanted a strong presence at Central Command and Mr. Swinford's experience there certainly provided value to the company based upon his level of expertise and his service to the command.

When Mr. Swinford began employment with MZM, he was the only employee in Tampa. His work at MZM was essentially in the same capacity that he had within the military and was based upon Central Command's continued need and reliance upon experienced counter-terrorism consultants in both the public and private sector. While at MZM, Roger was "full time" at Central Command at MacDill Air Force Base in Tampa, continually working 10-12 hours a day. However, those obligations were interrupted by multiple deployments to

Iraq and Afghanistan to assist the United States military in the Global War on Terrorism.

While at Central Command in 2002, Roger was heavily involved with the intelligence planning of Operation Iraqi Freedom. In January 2003, he learned that he was going to be deployed with the Central Command Deployable Headquarters to Qatar. While in Qatar, General Kimmons placed Roger in charge of the Iraq High Value Targets Cell, which was responsible for executing high value targeting against the Iraqi senior leadership, also known as the "Deck of Cards". Roger was relied upon to work side by side with the military while in Qatar. He had very little contact with the United States or with MZM during these deployments. In April/May 2004, Roger was deployed to Baghdad for U.S. Central Command, and to consult with the high value targeting element under General Sanchez, the Commander in Iraq. Since Roger headed up the initial High Value Target cell in the beginning of Operation Iraqi Freedom, he is now consulting as the senior analyst of the intelligence fusion cell operating against High Value Targets throughout the Middle East.

The first news regarding MZM and Mitchell Wade's conduct broke in approximately June of 2005. Mr. Swinford left MZM in August 2005, and began basically the same position with Booz Allen Hamilton at MacDill Air Force Base transitioning from his old position with MZM. He currently is a sub-contractor through his own company performing the same service to this country now in the private sector.

As to the political contributions outlined in the Commission's Factual and Legal Analysis, Mr. Swinford provides the following for consideration. While at MZM, Mr. Swinford would acknowledge that there was significant pressure to make contributions to the company's Political Action Committee. Mr. Swinford had absolutely little, if any, political background and/or knowledge or familiarity with political campaigns, contribution limitations, or any other election regulations as those issues simply did not come up through a lifetime of service through the military.

Mr. Wade directed all three contributions in 2004 and in 2005, in between Mr. Swinford's deployments overseas. Mr. Wade directed how the checks should be made out, the amounts involved and instructed that he would send the funds to cover the checks. With no experience in political campaigns, when directed by his employer to provide the checks in question, Mr. Swinford was not given the choice in the matter but was matter-of-factly told this is to be done as an employee of MZM. Mr. Swinford had no relationship with either candidate whatsoever and was totally unaware of Mr. Wade's business dealings. Mr. Swinford did not imagine that Mr. Wade was ordering him to do anything in violation of the law nor that the funding of the contributions by the employer for an employee was in violation of the Federal Election Campaign Act. In hindsight, he wished he had taken the time to investigate.

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However, Mr. Swinford had greater and more important matters that he was involved in through his work with our military and quite frankly was criticized for not being able to capture a larger share of contracting work at Central Command due to his contributions to the war effort. Mr. Swinford did not benefit in any way from these contributions nor does it appear from Mr. Wade's Plea Agreement that anyone other than Mr. Wade was intended to benefit from these contributions. There is no basis to believe that Mr. Swinford had sufficient knowledge of any of Mr. Wade's wrongdoings that would have apprised him of the reasoning for Mr. Wade to have funded or reimbursed Mr. Swinford for these contributions. It appears Mr. Wade simply used Mr. Swinford's good name to further his own personal gains without any consideration to the damage to his employees.

There is no basis to believe that Roger Swinford knowingly violated the Federal Elections Campaign Act, nor any allegation that he was aware of Mr. Wade's larger scheme of violating FECA to influence the lawmakers. Had Mr. Swinford known it was a violation of FECA, he would have not complied with the instruction to make the contributions.

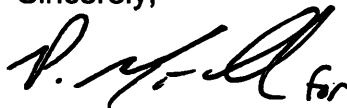
As stated, Mr. Swinford resigned from MZM in 2005, and has continued to serve with dignity in the intelligence sector and alongside the United States military. He has received commendation after commendation for his work with the military both in the public and private sector. Enclosed is a copy of a commendation letter from General Kimmons that illustrates the outstanding character of Roger Swinford and additionally honoring his service to this country. Any additional action by the Federal Election Commission against Mr. Swinford would for all intents and purposes end what has been a shining career. We would hope that the Commission would recognize the devastating impact any action on its part will have on his career.

Due to Mr. Swinford being overseas until last week, he has not had the opportunity to retrieve any of the supporting documents that would be relevant to the Commission's consideration; however, he is attempting to retrieve any documentation from any source for the Commission's use and as part of his overall cooperation with this investigation. Should the Office of the General Counsel believe that there is any additional information needed from Mr. Swinford, including any sworn statement in order to make an appropriate recommendation to the commission that no further action is ordered against him, please contact me so we can provide such information on his behalf. Obviously, due to the sensitive nature of some of the information within our submission, we would request that this matter remain confidential as to Mr. Swinford in accordance with U.S.C. §§ 437(g)(a)(4)(b) and 437(g)(a)(12)(a).

Thank you again for your consideration of this matter on behalf of Roger Swinford and we are hopeful that the Office of the General Counsel and likewise

the Commission will agree to close out this matter as to Mr. Swinford based upon the admitted conduct by Mr. Wade and the lack of any evidence that Mr. Swinford knowingly violated the Federal Elections Campaign Act.

Sincerely,

A handwritten signature in black ink, appearing to read "R. P. Hanes", with a stylized flourish at the end.

RONALD P. HANES

RPH/sac

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