



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 28 2006

Thomas Jonathan Jackson Ravenel
Ben Whaley Le Clercq, Treasurer
Ravenel for U.S. Senate
P.O. Box 420
Charleston, SC 29402

RE: MUR 5764
Thomas Jonathan Jackson Ravenel
Ravenel for U.S. Senate and Ben Whaley Le Clercq,
in his official capacity as treasurer

Dear Mr. Ravenel and Mr. Le Clercq:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission, on June 20, 2006, found that there is reason to believe Ravenel for U.S. Senate and Ben Whaley Le Clercq, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a)(6)(B)(iv); 434(b)(2) and (4), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 400.22(a). Additionally, the Commission found that there is reason to believe that Thomas Jonathan Jackson Ravenel violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.25. The Factual and Legal Analyses, which more fully explain the Commission's findings, are 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. Please submit such materials to the General Counsel's Office within 15 days of 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

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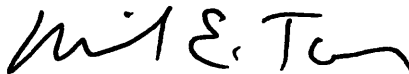
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 Claire Rajan, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Attachments

1. Ravenel Factual and Legal Analysis
2. Ravenel for U.S. Senate Factual and Legal Analysis
- 3.
- 4.
- 5.

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Thomas Jonathan Jackson Ravenel **MUR:** 5764

4
5 **I. INTRODUCTION**

6 The Federal Election Commission (the "Commission") initiated this matter pursuant to
7 information ascertained in the normal course of carrying out its supervisory responsibilities.
8 After timely filing the requisite initial notification required by the "Millionaires' Amendment" of
9 the Bipartisan Campaign Reform Act, Mr. Ravenel did not timely file five 24-Hour Notices of
10 Expenditure from Candidate's Personal Funds ("FEC Form 10") for additional expenditures from
11 Mr. Ravenel's personal funds exceeding \$10,000 in support of his candidacy. For the reasons set
12 forth below, the Commission finds reason to believe that Mr. Ravenel violated the Federal
13 Election Campaign Act of 1971, as amended (the "Act"), in connection with its late filing of five
14 FEC Form 10s and misreporting of receipts and disbursements.

15 **II. FACTUAL AND LEGAL ANALYSIS**

16 **A. Factual Background**

17 In May 2003, Thomas Jonathan Jackson Ravenel filed FEC Form 2, Statement of
18 Candidacy, in connection with his candidacy for the United States Senate from South Carolina.
19 As part of the Form 2, Mr. Ravenel declared his intention to spend \$1,000,000 above the
20 applicable threshold amount in both the primary and general elections. He subsequently lost the
21 June 8, 2004 primary election. In all, Mr. Ravenel made \$2,936,500 in expenditures from his
22 personal funds, all designated for the primary election.

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1 On June 30, 2003, Mr. Ravenel loaned the Committee \$950,000, triggering and
2 exceeding the reporting threshold requirement of \$553,840, which required the filing of FEC
3 Form 10. 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). The Committee timely filed the
4 requisite FEC Form 10 on July 1, 2003.

5 The Committee disclosed in its 2003 October Quarterly Report, filed on October 20,
6 2003, the receipt of a loan from the candidate's personal funds totaling \$50,000, which had been
7 received on September 30, 2003. On November 18, 2003, RAD sent the Committee a Request
8 for Additional Information ("RFAI") referencing the report, and noting the Committee's failure
9 to file the FEC Form 10 for the loan. In response, the Committee filed the FEC Form 10 on
10 December 17, 2003, 77 days late. Thereafter, the Committee filed timely FEC Form 10s for
11 seven additional expenditures from the candidate's personal funds made before the June 8, 2004
12 primary.

13 Following the primary, which Mr. Ravenel lost, the candidate made a \$50,000
14 expenditure from personal funds on June 10, 2004, designated for the primary. The Committee
15 filed the FEC Form 10 on June 14, 2004, three days late. Subsequently, Mr. Ravenel made three
16 additional expenditures from his personal funds to his Committee, all designated for the primary
17 election, for which neither he nor the Committee filed timely FEC Form 10s.

18 Specifically, in its 2004 July Quarterly Report, the Committee reported two candidate
19 contributions of \$45,000 and \$40,000 made on June 15, 2004 and June 30, 2004, respectively.
20 RAD sent the Committee an RFAI noting its failure to file FEC Form 10s for these additional
21 expenditures from the candidate's personal funds, and on October 14, 2004, the Committee filed
22 FEC Form 10s for these expenditures, 120 and 105 days late, respectively. Although the
23 Committee had already filed an FEC Form 10 for a post-primary expenditure from the

1 candidate's personal funds on June 14, 2004, as noted above, the Committee subsequently
2 asserted in a separate filing that it was not aware that FEC Form 10s were required for
3 expenditures made after the date of the primary election. On October 14, 2004, the Committee
4 also filed its 2004 October Quarterly Report, which disclosed the receipt on August 3, 2004 of a
5 contribution from the candidate in the amount of \$16,500, designated for the primary. The
6 corresponding FEC Form 10 was filed on October 13, 2004, 71 days late.

7 **B. Analysis**

8 Although Mr. Ravenel and the Committee timely filed the initial FEC Form 10, as well as
9 some subsequent ones, including one filed after the primary election, *see* Attachment 1, five
10 other FEC Form 10s for expenditures from the candidate's personal funds in excess of \$10,000
11 were not filed timely. Candidates who make expenditures from personal funds to their
12 campaigns in excess of a specified threshold amount must meet particular reporting and
13 disclosure requirements.¹ Not later than 24 hours after a Senate candidate "makes or obligates to
14 make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold
15 amount in connection with any election, the candidate shall file a notification" with the Secretary
16 of the Senate, the Commission, and each candidate in the same election.
17 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a).² After the initial notification threshold is
18 triggered, the Commission's regulation requires the filing of additional FEC Form 10s "when the
19 candidate makes expenditures from personal funds *in connection with the election* exceeding

¹ An expenditure from personal funds includes direct contributions, an expenditure made by a candidate using personal funds, loans made by the candidate using personal funds, or a loan secured using such funds to the candidate's authorized committee. 2 U.S.C. § 434(a)(6)(B)(i); 11 C.F.R. § 400.4.

² The threshold for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population of the state multiplied by four cents. *See* 11 C.F.R. § 400.9. In the case of South Carolina in 2004, the threshold amount was \$276,920 (\$150,000 + (3,173,000 x \$0.04)). Thus, two times the threshold amount is \$553,840.

1 \$10,000.” See 11 C.F.R. § 400.22(a) (emphasis added); see also 11 C.F.R. § 400.4(a)(1)
2 (defining “[e]xpenditure from personal funds” as including an expenditure “for the purpose of
3 influencing the election in which he or she is a candidate”). Each notification must include the
4 date and the amount of each expenditure and the total amount of expenditures from personal
5 funds that the candidate has made or obligated to make, with respect to an election.
6 2 U.S.C. § 434(a)(6)(B)(v); 11 C.F.R. § 400.23. Although the FEC Form 10 is signed by the
7 committee treasurer, the candidate is responsible for ensuring that it is filed in a timely manner.
8 11 C.F.R. § 400.25.

9 Here, the candidate’s post-primary expenditures from personal funds were not only
10 designated for the primary, the only election in which he participated, but were used to retire
11 primary election campaign debt. Under these circumstances, the post-primary expenditures from
12 the candidate’s personal funds were both “in connection with” the primary and “for the purpose
13 of influencing” the primary, thus requiring the filing of FEC Form 10s. See *Federal Election*
14 *Commission v. Haley*, 852 F.2d 1111, 1115 (9th Cir. 1988) (stating that “funds raised after an
15 election to retire election campaign debts are just as much *for the purpose of influencing an*
16 *election and in connection with the election as are those contributions received before the*
17 *election*”) (emphasis added); see also MUR 5607 (Socas for Congress) (where the Commission
18 found reason to believe and conciliated with respondents who filed a post-primary FEC Form 10
19 late).

20 Since the statute and regulations obligate the candidate to ensure that appropriate filings
21 are made with respect to his expenditures from personal funds, there is reason to believe that
22 Thomas Jonathan Jackson Ravenel violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.25.

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Ravenel for U.S. Senate and **MUR: 5764**
4 Ben Whaley Le Clercq, in his official
5 capacity as treasurer
6

7 **I. INTRODUCTION**

8 The Federal Election Commission (the "Commission") initiated this matter pursuant to
9 information ascertained in the normal course of carrying out its supervisory responsibilities.
10 After timely filing the initial notification required by the "Millionaires' Amendment" of the
11 Bipartisan Campaign Reform Act, Ravenel for U.S. Senate ("the Committee") did not timely file
12 five 24-Hour Notices of Expenditure from Candidate's Personal Funds ("FEC Form 10") for
13 additional expenditures from Mr. Ravenel's personal funds exceeding \$10,000 in support of his
14 candidacy. In addition, the Committee amended its 2003 Year-End Report to disclose additional
15 receipts totaling \$33,969.36, a 49% increase, and additional disbursements totaling \$105,121.99,
16 a 24% increase, over the financial activity reported in its original 2003 Year-End Report. For the
17 reasons set forth below, the Commission finds reason to believe that Respondents violated the
18 Federal Election Campaign Act of 1971, as amended (the "Act"), in connection with its late
19 filing of five FEC Form 10s and misreporting of receipts and disbursements.

20 **II. FACTUAL AND LEGAL ANALYSIS**

21 **A. Late Reporting of Personal Funds Expenditures**

22 **1. Factual Background**

23 In May 2003, Thomas Jonathan Jackson Ravenel filed FEC Form 2, Statement of
24 Candidacy, in connection with his candidacy for the United States Senate from South Carolina.
25 As part of the Form 2, Mr. Ravenel declared his intention to spend \$1,000,000 above the

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1 applicable threshold amount in both the primary and general elections. He subsequently lost the
2 June 8, 2004 primary election. In all, Mr. Ravenel made \$2,936,500 in expenditures from his
3 personal funds, all designated for the primary election.

4 On June 30, 2003, Mr. Ravenel loaned the Committee \$950,000, triggering and
5 exceeding the reporting threshold requirement of \$553,840, which required the filing of
6 FEC Form 10. 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). The Committee timely filed
7 the requisite FEC Form 10 on July 1, 2003.

8 The Committee disclosed in its 2003 October Quarterly Report, filed on October 20,
9 2003, the receipt of a loan from the candidate's personal funds totaling \$50,000, which had been
10 received on September 30, 2003. On November 18, 2003, RAD sent the Committee a Request
11 for Additional Information ("RAI") referencing the report, and noting the Committee's failure
12 to file the FEC Form 10 for the loan. In response, the Committee filed the FEC Form 10 on
13 December 17, 2003, 77 days late. Thereafter, the Committee filed timely FEC Form 10s for
14 seven additional expenditures from the candidate's personal funds made before the June 8, 2004
15 primary.¹

16 Following the primary, which Mr. Ravenel lost, the candidate made a \$50,000
17 expenditure from personal funds on June 10, 2004, designated for the primary. The Committee
18 filed the FEC Form 10 on June 14, 2004, three days late. Subsequently, Mr. Ravenel made three
19 additional expenditures from his personal funds to his Committee, all designated for the primary
20 election, for which neither he nor the Committee filed timely FEC Form 10s.

¹ These expenditures were: an April 1, 2004 loan of \$150,000; an April 15, 2004 loan of \$300,000; an April 21, 2004 loan of \$200,000; a May 5, 2004 loan of \$300,000; a May 19, 2004 loan of \$300,000; a May 27, 2004 contribution of \$250,000; and a June 2, 2004 contribution of \$285,000, all designated for the primary election.

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1 Specifically, in its 2004 July Quarterly Report, the Committee reported two candidate
2 contributions of \$45,000 and \$40,000 made on June 15, 2004 and June 30, 2004, respectively.
3 RAD sent the Committee an RFAI noting its failure to file FEC Form 10s for these additional
4 expenditures from the candidate's personal funds, and on October 14, 2004, the Committee filed
5 FEC Form 10s for these expenditures, 120 and 105 days late, respectively. Although the
6 Committee had previously filed an FEC Form 10 for a post-primary expenditure from the
7 candidate's personal funds on June 14, 2004, as noted above, the Committee subsequently
8 asserted in a separate filing that it was not aware that FEC Form 10s were required for
9 expenditures made after the date of the primary election. On October 14, 2004, the Committee
10 also filed its 2004 October Quarterly Report, which disclosed the receipt on August 3, 2004 of a
11 contribution from the candidate in the amount of \$16,500, designated for the primary. The
12 corresponding FEC Form 10 was filed on October 13, 2004, 71 days late.

13 **2. Analysis**

14 Although Mr. Ravenel and the Committee timely filed the initial FEC Form 10, as well as
15 some subsequent ones, including one filed after the primary election, *see* Attachment 1, five
16 other FEC Form 10s for expenditures from the candidate's personal funds in excess of \$10,000
17 were not filed timely. Candidates who make expenditures from personal funds to their
18 campaigns in excess of a specified threshold amount must meet particular reporting and
19 disclosure requirements.² Not later than 24 hours after a Senate candidate "makes or obligates to
20 make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold

² An expenditure from personal funds includes direct contributions, an expenditure made by a candidate using personal funds, loans made by the candidate using personal funds, or a loan secured using such funds to the candidate's authorized committee. 2 U.S.C. § 434(a)(6)(B)(i); 11 C.F.R. § 400.4.

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1 amount in connection with any election, the candidate shall file a notification” with the Secretary
2 of the Senate, the Commission, and each candidate in the same election.

3 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a).³ After the initial notification threshold is
4 triggered, the Commission’s regulation requires the filing of additional FEC Form 10s “when the
5 candidate makes expenditures from personal funds *in connection with the election* exceeding
6 \$10,000.” *See* 11 C.F.R. § 400.22(a) (emphasis added); *see also* 11 C.F.R. § 400.4(a)(1)
7 (defining “[e]xpenditure from personal funds” as including an expenditure “for the purpose of
8 influencing the election in which he or she is a candidate”). Each notification must include the
9 date and the amount of each expenditure and the total amount of expenditures from personal
10 funds that the candidate has made or obligated to make, with respect to an election.

11 2 U.S.C. § 434(a)(6)(B)(v); 11 C.F.R. § 400.23. Although the FEC Form 10 is signed by the
12 committee treasurer, the candidate is responsible for ensuring that it is filed in a timely manner.
13 11 C.F.R. § 400.25.

14 Here, the candidate’s post-primary expenditures from personal funds were not only
15 designated for the primary, the only election in which he participated, but were used to retire
16 primary election campaign debt. Under these circumstances, the post-primary expenditures from
17 the candidate’s personal funds were both “in connection with” the primary and “for the purpose
18 of influencing” the primary, thus requiring the filing of FEC Form 10s. *See Federal Election*
19 *Commission v. Haley*, 852 F.2d 1111, 1115 (9th Cir. 1988) (stating that “funds raised after an
20 election to retire election campaign debts are just as much *for the purpose of influencing an*

³ The threshold for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population of the state multiplied by four cents. *See* 11 C.F.R. § 400.9. In the case of South Carolina in 2004, the threshold amount was \$276,920 (\$150,000 + (3,173,000 x \$0.04)). Thus, two times the threshold amount is \$553,840.

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1 election and *in connection with* the election as are those contributions received before the
2 election”) (emphasis added); *see also* MUR 5607 (Socas for Congress) (where the Commission
3 found reason to believe and conciliated with respondents who filed a post-primary FEC Form 10
4 late).

5 Therefore, there is reason to believe that Ravenel for U.S. Senate and Ben Whaley
6 Le Clercq, in his official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iv) and
7 11 C.F.R. § 400.22(a).

8 **B. Failure to Disclose all Financial Activity**

9 **1. Factual Background**

10 After the Committee filed its 2003 Year-End Report, it filed two amendments, ultimately
11 disclosing an additional \$33,969.36 in total receipts and \$105,121.99 in total disbursements over
12 the amounts disclosed in the original Report. The Committee filed its original 2003 Year-End
13 Report on January 29, 2004, disclosing total receipts of \$68,025.04 and total disbursements of
14 \$443,106.71. On April 8, 2004, the Committee filed an amended 2003 Year-End Report,
15 disclosing total receipts and disbursements of \$80,506.52 and \$449,809.97, respectively. After
16 the election, on July 15, 2004, the Committee filed another amended 2003 Year-End Report,
17 disclosing total receipts of \$102,895 and total disbursements of \$548,228.70.

18 **2. Analysis**

19 Each treasurer of a political committee must file reports of receipts and disbursements in
20 accordance with 2 U.S.C. § 434(a). For non-election calendar years, principal campaign
21 committees of Senate candidates must file the report for the quarter ending December 31 no later
22 than January 31 of the following calendar year. 2 U.S.C. § 434(a)(2)(B). The Year-End Report
23 must disclose for the reporting period and calendar year the total amount of all receipts and all

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1 disbursements. 2 U.S.C. §§ 434(b)(2) and (4); 11 C.F.R. §§ 104.3(a)(2) and (b)(1). It must also
2 identify each person who makes a contribution to the reporting committee during the reporting
3 period whose contributions have an aggregate amount or value in excess of \$200 within the
4 calendar year. 2 U.S.C. § 434(b)(3)(A). The report must also identify each expenditure made to
5 meet candidate or committee operating expenses and the name and address of each person to
6 whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year
7 is made, together with the date, amount, and purpose of each expenditure.
8 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A).

9 Based on the Commission's review of the Committee's original and amended 2003 Year-
10 End Reports, it appears that \$12,320 of receipts not reported in the original 2003 Year-End
11 Report consist of several in-kind contributions for catering, tent rental, plane transportation,
12 printing, and food and beverage costs. The Committee reported these receipts in the amended
13 report filed on April 8, 2004 as in-kind contributions received between November 25, 2003 and
14 December 12, 2003.

15 Additionally, in the original 2003 Year-End Report, the Committee reported a receipt
16 from itself in the amount of \$10,838.84, made on December 31, 2003. In the amended 2003
17 Year-End Report filed on April 8, 2004, the Committee attributed that receipt to Smith Barney.
18 In the last amended 2003 Year-End Report filed on July 15, 2004, the Committee increased the
19 receipt to \$21,701 and disclosed that it represented capital gains and interest. In that Report, the
20 Committee added a second receipt from Smith Barney in the amount of \$11,525, made on
21 November 30, 2003, also for capital gains and interest. Taken together, these aforementioned

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1 transactions account for the bulk of the \$33,969.36 discrepancy in receipts between the original
2 and final amended 2003 Year-End Report.⁴

3 With respect to disbursements, the total increase between the original and last amended
4 2003 Year-End Reports was \$105,121.99. Most of this difference is due to an omission of one
5 transaction -- a \$104,976 disbursement to Media Solutions on October 3, 2003, first reported in
6 the last amended 2003 Year-End Report, filed on July 15, 2004.

7 Therefore, there is reason to believe that Ravenel for U.S. Senate and Ben Whaley
8 Le Clercq, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(2) and (4) by
9 misreporting receipts and disbursements.

⁴ A less significant discrepancy was a \$500 contribution on December 19, 2003 that appeared only on the original Report.