

# Jacks Law Firm

TOMMY JACKS ♦ LARA RUTH JACKS ♦ MARK GUERRERO

November 3, 2006

**VIA FACSIMILE (202) 219-3923 AND  
VIA U.S. CERTIFIED MAIL**

Ms. Lynn Tran, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

**RE: Doggett for U.S. Congress / James Cousar, Treasurer  
MUR 5811**

Dear Ms. Tran:

I write on behalf of the Doggett for U.S. Congress Committee and James Cousar, in his capacity as Treasurer (collectively referred to hereinafter as the "Committee"), in response to the Federal Election Commission's (hereinafter the "Commission") Reason to Believe Finding dated September 19, 2006.

## INTRODUCTION

The Committee understands and shares the Commission's concerns about the embezzlement of campaign funds. However, enforcement action in the present case would be arbitrary and capricious and would violate fundamental principles of due process. First, neither the Federal Election Campaign Act of 1971 ("FECA") nor publicly available contested cases provide clearly ascertainable standards regarding what constitutes reasonable internal controls. The Commission also does not have a clear policy with respect to enforcement in embezzlement cases. This is substantiated by recent guidance documents published by the Commission regarding its proposed embezzlement enforcement policy and proposed internal guidance for political committees.<sup>1</sup> Notably, these documents were published by the Commission on October 16, 2006, well *after* this Committee received the Commission's Reason to Believe Finding and obviously long after the embezzlement occurred.<sup>2</sup>

<sup>1</sup> See MEMORANDUM-RE EMBEZZLEMENT ENFORCEMENT POLICY TO THE COMMISSION FROM VICE CHAIRMAN ROBERT D. LENHARD, dated Oct. 16, 2006, ("COMMISSION'S PROPOSED EMBEZZLEMENT ENFORCEMENT POLICY"), See also MEMORANDUM RE PROPOSED INTERNAL CONTROL GUIDANCE FOR POLITICAL COMMITTEES TO THE COMMISSION FROM ASSISTANT STAFF DIRECTOR, AUDIT DIVISION JOE STOTLZ, dated Oct. 16, 2006, ("COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE.")

<sup>2</sup> The embezzlement occurred from approximately 1999 until March 2004.

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Second, the Committee acted reasonably both before and after the embezzlement was discovered. In the Factual and Legal Analysis on which the Reason to Believe Finding is based, the Commission has failed to take into account internal controls the Committee had in place prior to the embezzlement. Many of the internal controls suggested by the Commission's recent guidance documents were utilized by the Committee. As the Commission itself has acknowledged, after the embezzlement was discovered, the Committee took all the appropriate steps, including informing law enforcement authorities about this criminal activity, notifying the Commission that the Committee was a victim of embezzlement, and voluntarily filing disclosure reports correcting inaccuracies resulting from the embezzlement, all of which are suggested in the recent guidance documents. Importantly, and as discussed below, it is likely the embezzlement would not have been prevented regardless of the use of internal controls in addition to those that were already being used by the campaign.

Lastly, the Committee's research of the Commission's enforcement archives indicates that it has not undertaken enforcement action against other individual candidate committees that have been victims of embezzlement. For each of these reasons, the Commission should dismiss this matter and take no further action.

## DISCUSSION & ANALYSIS

**A. The Commission has no clearly ascertainable standards as to what constitutes reasonable internal controls, nor any clear enforcement policy with respect to embezzlement cases.**

Although the Commission acknowledges that the Committee's reporting errors stem from embezzlement of funds by Ms. Kristi Willis, the Commission seeks to hold the Committee responsible for failing to utilize "reasonable internal controls" that could have prevented the embezzlement. However, the provisions of FECA that the Commission suggests the Committee violated, and in fact, the FECA as a whole, contain absolutely no reference to internal controls, much less provide any guidance as to what constitutes reasonable internal controls.<sup>3</sup>

Indeed, not until October 16, 2006, did the Commission first take action to provide public guidance as to the definition of internal controls and what constitutes reasonable internal controls, and even this guidance is not yet final. The Commission publicized the proposed guidance documents on October 23, 2006, and the period for public comment does not expire until November 30, 2006. In discussing the guidance documents published by the Commission, a Commission spokesperson acknowledged that FECA is silent as to the issue of internal controls:

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<sup>3</sup> Specifically, the Commission cites violations of 2 U.S.C. §§ 432(c)(5), 434(b)(4)(H)(v), 434 (b)(6)(A) and 11 C.F.R. § 104 3(b). See Commission's REASON TO BELIEVE FINDING dated September 19, 2006.

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"This isn't something that fits well in the rulemaking context, because it isn't specifically guided by [the Federal Election Campaign Act], but the commission wants to give committees clear guidance if they can."<sup>4</sup>

Furthermore, the Commission spokesperson indicated that the Commission plans to set forth a process for enforcement in cases:

[The Commissioners] "will work toward producing a policy statement that lays out an approach to enforcement to these embezzlement cases."<sup>5</sup>

Chairman Toner and Commissioner Mason have also stated that no direct guidelines exist with respect to reasonable controls. At the end of their statement in the *Lockheed PAC* case, the Chairman and Commissioner explicitly acknowledge that no "specific guidance as to what internal controls constitute best efforts" exists.<sup>6</sup> Interestingly, in discussing internal controls in their *Lockheed PAC* statement, Chairman Toner and Commissioner Mason reference a prior contested case, *Orange County*; however, they are unable to cite any specific Commission regulations or rules because none exist.<sup>7</sup> Notably, documentation regarding the *Orange County* case, including the Statement of Reasons cited by Chairman Toner and Commissioner Mason in the *Lockheed PAC* case, is unavailable at the Commission's website.<sup>8</sup> In addition to a lack of guidelines, the Commission also lacks publicly available contested cases discussing reasonable internal controls.

It is clear the Commission understands it needs to establish standards for what constitutes reasonable internal controls and a policy for enforcement so that committees can have "clear guidance." However, prior to October 16, 2006, this Committee had virtually no guidance available to it from the Commission. Due to the Commission's lack of clearly ascertainable standards as to what constitutes reasonable internal controls, the Committee had no notice of what would be considered adequate by the Commission. On this basis alone, this matter should be dismissed.

<sup>4</sup> See Murray, Matthew, *FEC Wants to Curb Campaign Fund Embezzlement*, ROLL CALL, Oct. 19, 2006. A copy of this article is attached hereto as Exhibit A.

<sup>5</sup> See *Id*

<sup>6</sup> See *In the Matter of Lockheed Martin Employees' PAC, et al*, MUR 5721, STATEMENT OF REASONS OF CHAIRMAN MICHAEL E. TONER AND COMMISSIONER DAVID M. MASON dated July 27, 2006. See FN 4, *Lockheed PAC*.

<sup>7</sup> See *In re Orange County Democratic Cent Comm.*, MURs 4389 & 4652.

<sup>8</sup> The Public Records Department of the Commission was contacted on October 17, 2006, and stated that the *Orange County* case is not publicly available because it is still in litigation, and is not closed. A search of the Commission records available online confirmed that this case is not publicly available.

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**B. Despite the Commission's lack of guidance as to "internal controls," the Committee had internal controls, including several discussed in the Commission's recent guidance documents.**

The Commission asserts that the Committee "had no internal controls in place that would have prevented the embezzlement," and that "[t]here is no indication that the Committee had any procedures in place to either prevent Willis from making the unauthorized disbursements or to detect the unauthorized disbursements once they were made."<sup>9</sup> [Emphasis added.] The basis of the Commission's conclusions appears to be from general conversations FEC personnel had with Treasurer Cousar at and after the time he was calling the Commission to report the embezzlement and to notify the Commission of the corrective action the Committee was going to take. However, these conversations did not specifically address the issue of internal controls of the type the Commission now proposes. The Commission's conclusions are incorrect and are based on incomplete information.

**1. The Committee had internal controls in place, including certain controls recently suggested by the Commission.**

Contrary to the Commission's assertion that the Committee "had no" internal controls, the Committee had in place longstanding safeguards that it felt were reasonable and effective given the nature of a political campaign. In fact, many of the internal controls used by the campaign *prior to* the embezzlement were included as suggestions in the Commission's recent guidance documents. These internal controls included:

- a) Check signing authority was limited to the candidate and one other person. For most of the period when the embezzlement occurred, Austin attorney Michael Whellan was the other person who signed checks.<sup>10</sup> During calendar year 2002, Mr. Whellan was replaced by attorney Mick Long, and there may have been some brief period of overlapping authority for the two as the Committee changed financial institutions. Mr. Whellan and Mr. Long did not have direct access to the accounting records. At no time did Ms. Willis have check signing authority.<sup>11</sup>
- b) All bank accounts were in the name of the Committee.<sup>12</sup>

<sup>9</sup> See FEDERAL ELECTION COMMISSION FACTUAL AND LEGAL ANALYSIS at p 4.

<sup>10</sup> Mr. Whellan is a long-standing member of the community and practices with an established Austin law firm. The Declaration of Mr. Whellan is attached hereto as Exhibit B, and incorporated into the Committee's response as if reproduced herein verbatim.

<sup>11</sup> See FN1, COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p 4.

<sup>12</sup> See FN 1, COMMISSION'S PROPOSED EMBEZZLEMENT ENFORCEMENT POLICY and COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p 4.

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- c) All expenditures were made from a single checking account.<sup>13</sup>
- d) The mailing address for all bank accounts was a committee address.<sup>14</sup>
- e) No signature stamps were used for Committee checks.<sup>15</sup>
- f) A list of all receipts was recorded at the time or reasonably soon after mail was opened.<sup>16</sup>
- g) Prenumbered checks were used for disbursements.<sup>17</sup>
- h) For most periods, no petty cash disbursements were approved. The standard practice was to limit them to \$100.<sup>18</sup>
- i) Access to the Committee's computerized data system was limited to only certain individuals.<sup>19</sup>
- j) The Committee's software supplier hosted and backed up data during the period that embezzlement occurred.<sup>20</sup>

Additionally, the Committee's financial duties were not fully centralized in one individual. Although Ms. Willis performed the accounting duties, as discussed above, she did not have check signing authority herself. Similarly, it is the practice of the Committee's Treasurer, James Cousar, to review and approve the disclosure reports to the Commission to ensure that the information was reported according to FEC regulations, including the inclusion of reportable contributions and disbursements.

Furthermore, the individual who aided the Treasurer in managing the Committee's financial responsibilities was an individual with a long-standing reputation for competence and trustworthiness. Ms. Willis, as stated in the *Austin American-Statesman* ("*Statesman*") article referenced by the Commission in its Factual and Legal Analysis, was a well-known and trusted individual in Austin.<sup>21</sup> She had worked at length with other Committee staffers and the candidate himself since at least 1994 in various volunteer capacities, and had established a strong relationship of trust with those individuals. At the time Ms. Willis volunteered to perform some financial duties for the Committee in 1999, she had a long-standing relationship with the candidate, the Committee, and the Central Texas community. Moreover, the Committee performed due diligence on Ms. Willis prior to making the decision to grant her any authority. At that time and continuing until the discovery of her embezzlement, Ms. Willis was thought to be a trustworthy individual in whom fiduciary-like responsibilities could be entrusted.

<sup>13</sup> See FN 1, COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p.4.

<sup>14</sup> See *Id*

<sup>15</sup> See *Id*

<sup>16</sup> See *Id* at 5

<sup>17</sup> See *Id*

<sup>18</sup> See *Id*

<sup>19</sup> See *Id* at 7.

<sup>20</sup> See *Id*

<sup>21</sup> See Copp, Tara, *Former Doggett Aide Admits to Taking Money from the Campaign*, AUSTIN AMERICAN-STATESMAN, Feb 2, 2006. A copy of this article is attached hereto as **Exhibit C**.

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The Committee acknowledges that additional controls could have been used, such as reconciliation of the Committee's bank accounts, as discussed in the Commission's recent guidance documents. In fact, additional controls have been adopted by the Committee in response to the embezzlement. However, it is clear the Committee had in place certain internal controls. The controls utilized by the Committee at the time of the embezzlement were similar to those used by other committees, which indicates that such controls were generally thought to be reasonable, particularly in the absence of specific guidance from the Commission.<sup>22</sup>

Furthermore, as the Commission itself observed, "Small organizations that have only a few people involved will have very different needs and resources than a large corporate or union Separate Segregated Fund that has a significant staff and access to the internal auditing resources of the connected organization." [Emphasis added].<sup>23</sup> Indeed, this Committee, as many other Congressional candidates' committees, operated as a small organization, yet the Committee utilized controls that were reasonable given its resources.

Chairman Toner and Commissioner Mason stated only three months ago in the *Lockheed PAC* case that "a committee is not automatically liable when an agent embezzles money and files inaccurate reports... The Commission should instead consider factors such as the committee's internal controls and what it reasonably could have done to prevent the problem. A committee that reasonably relies on an agent and maintains adequate financial controls should not be penalized for inaccurate reporting resulting from embezzlement by an agent." [Emphasis added].<sup>24</sup> Here, the Committee reasonably relied on an individual widely thought to be trustworthy and had in place adequate internal controls.<sup>25</sup> Accordingly, the Committee should not be penalized.

<sup>22</sup> See, for example, Getter, Lisa, *Campaigns Can Finance Embezzlers*, CINCINNATI POST, June 2, 2004, stating "[T]he money going in and out of campaigns is often controlled by one person—usually a trusted aide..." See also Wallace, Nora K, *Capps Says Campaign Official Stole \$230,000*, SANTA BARBARA NEWS-PRESS, Jul. 16, 2004. Copies of both articles are attached hereto as Exhibits D and E. While both articles discuss cases of embezzlement from two separate committees, they demonstrate that other committees employed similar controls and felt those controls were reasonable. Absent any specific guidance from the Commission, committees were using, and many likely continue to use, similar safeguards. Moreover, the Commission's awareness that committees often lack understanding of what is considered reasonable internal controls is underscored by the Commission's publishing of guidance documents, and their own statement "We have noted that when the issue of internal controls is raised with political committees, often their representatives respond that they are small operations staffed by volunteers and can't afford elaborate systems of controls" See FN 1, COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p 1

<sup>23</sup> See FN 1, COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p 2.

<sup>24</sup> See FN 5, *Lockheed PAC*

<sup>25</sup> In their analysis of 'reasonable' internal controls, Chairman Toner and Commissioner Mason also discuss analogous principles in the corporate law, tax law and securities law context. They state: "Indeed, the 'knowing or reckless disregard of risk' standard might adequately describe all comparable rules. More particularly, in industries where specific financial controls are mandated by law or regulation, failure to implement or follow required controls constitutes recklessness, creating potential liability for an agent's misdeeds" See FN 5, *Lockheed PAC*

Here, as discussed at length above, no specific financial controls are mandated by Commission regulations and therefore no specific mandates could have been knowingly or recklessly disregarded. In spite of the

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2. **After the embezzlement was discovered and without benefit of the Commission's guidance documents, the Committee responded precisely as recently outlined by Vice Chairman Lenhard.**<sup>26</sup>

As the Commission is aware, as soon as the embezzlement was discovered, the Committee took the exact steps outlined by Vice Chairman Lenhard. Specifically, the Committee notified the FEC of the misappropriation, voluntarily filed amended reports to correct any reporting errors due to the misappropriation, and immediately notified relevant law enforcement of the misappropriation. In fact, Ms. Willis was recently sentenced to jail time for her criminal activities and was ordered to repay the money she embezzled from the Committee.<sup>27</sup> Each of these actions were performed without there having been explicit request or guidance from the Commission.

3. **Ms. Willis was embezzling from *multiple campaigns*, and additional internal controls would likely not have prevented the embezzlement.**

In the *Lockheed PAC* case, Chairman Toner and Commissioner Mason further state that "[i]n order to hold a political committee liable for errors arising from an agent's embezzlement, the Commission must examine whatever internal controls the committee maintained and **consider whether any reasonable internal controls would have prevented embezzlement and related reporting failures.**" [Emphasis added.]<sup>28</sup>

Here, as discussed above, Ms. Willis's pattern of conduct and breach of trust after a long-standing relationship with the Committee and the candidate indicate that she likely would have embezzled these funds despite additional internal controls. Most importantly, Ms. Willis embezzled money from more than this Committee. Other victims included a Texas State House candidate, Andy Brown, with whom she had a longstanding friendship. She also embezzled money from the Capital Area Democratic Women, a Central Texas organization with which she had ties for many years and in which she held the office of Treasurer.

As referenced in the *Statesman* article discussed in the Commission's Factual and Legal Analysis and in Mr. Whellan's declaration, with respect to her embezzlement from this Committee, Ms. Willis forged checks, destroyed canceled checks, falsified personal reimbursements, made unauthorized disbursements to herself and her credit card company and omitted disbursements from the software program used to track the Committee's

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absence of regulation, given the Committee's reasonable safeguards and use of an individual with a longstanding relationship with the Committee, it is clear that the Committee did not knowingly or recklessly disregard the risks of criminal activity inherent to the handling of Committee funds. Indeed, the fact that the Committee had internal controls in place despite no formal Commission requirement or informal guidelines requiring such controls demonstrates that the Committee acted reasonably.

<sup>26</sup> See FN 1, COMMISSION'S PROPOSED EMBEZZLEMENT ENFORCEMENT POLICY.

<sup>27</sup> See Kreytak, Steven, *Former Doggett Aide Admits Theft, Gets 30-Day Jail Sentence*, AUSTIN AMERICAN-STATESMAN, Aug 30, 2006. A copy of this article is attached hereto as **Exhibit F**.

<sup>28</sup> See FN 5, *Lockheed PAC*

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disbursements and contributions and to generate FEC reports. Ms. Willis' pattern of criminal activity occurred in spite of fiduciary-like relationships, personal relationships and oversight from three separate campaigns. Even with additional controls in place, Ms. Willis could have just as easily forged two signatures as opposed to only one, or circumvented other similar controls.

**C. The Commission's enforcement action against this Committee is unprecedented, and similar victims of larger embezzlement have not been the subject of fines or conciliation agreements.**

**1. Multiple committees have been victims of embezzlement, yet have not been fined.**

As the Commission is aware, this Committee is not the only committee to fall victim to embezzlement. At least seventeen different federal individual candidate committees have been victims of embezzlement. These include committees for the following Congressional, Senate and Presidential candidates: Daniel Inouye; Anne Northrup; John Boehner; Joseph Biden; Elizabeth Dole; Robert Lamutt; Ernest Istook, Jr.; Doc Hastings; Lois Capps; Sam Farr; Henry Bonilla; Gary Condit; Trent Lott; Nancy Detert; Gus Yatron; Paul Tsongas; and Dennis DeConcini.<sup>29</sup> Based on the Committee's research of the Commission's database, not one of these candidates has been the subject of fines or conciliation agreements with respect to the committee's conduct in relation to the embezzlement.

Furthermore, certain of these committees have been victims of greater embezzlement. For example, the committee of Representative Capps had \$200,000.00 embezzled, and the committee of Senator Biden had \$412,000.00 embezzled.<sup>30</sup> The Commission's publicly available records reflect no fines or conciliation agreements for these two campaigns. The Presidential Committee of Elizabeth Dole had \$174,725.00 embezzled and was the subject of a Commission audit, which found receipt of prohibited corporate contributions (which were later embezzled), untimely deposits of contributions and a failure to use best efforts to obtain employer and occupation information, yet still the Commission did not fine the Dole committee, only suggested the committee return the corporate contributions.<sup>31</sup>

Perhaps the most striking example of an embezzlement case where no enforcement action was undertaken was for Representative Boehner. The Boehner committee lost \$617,563.00 over eight years.<sup>32</sup> Despite the committee losing an average of \$77,000 per

<sup>29</sup> See Keller, Amy, *Boehner Seeks Change on Restitution*, ROLL CALL, April 4, 2005. A copy of this article is attached hereto as **Exhibit G**. See also FN 3, Murray article, **Exhibit A**.

<sup>30</sup> See FN 22, Getter, **Exhibit D**.

<sup>31</sup> See Kane, Paul, *Ex-Biden Aide Faces Three Years for Theft*, ROLL CALL, March 15, 2005. A copy of this article is attached hereto as **Exhibit H**.

<sup>32</sup> See FN 22, Getter, **Exhibit D**.

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year over eight years, the Commission has not fined or entered into a conciliation agreement with Representative Boehner.

The only case of enforcement action this Committee was able to find with respect to embezzlement was the *Lockheed PAC* case in which Chairman Toner and Commissioner Mason issued the Statement of Reasons cited above.<sup>33</sup> However, the *Lockheed PAC* case is clearly distinguishable from the present case specifically based on the Commission's finding that although the Lockheed PAC conducted its own internal audit and was aware that more controls were needed, the PAC disregarded those audit findings. The Lockheed PAC was not a small organization, but a corporate organization that undoubtedly had "significant staff and access to the internal auditing resources of the connected organization."<sup>34</sup> No similar facts exist in the present case. Indeed, the facts of the present case are similar to those of the seventeen embezzlement cases where the Commission took no action.

**2. In light of the Commission's lack of an enforcement policy, the Commission's selective enforcement action is arbitrary and capricious.**

In its recently published guidance documents, which are still open for comment and review, the Commission acknowledges that it lacks a clear enforcement policy. Specifically, as referenced above, the Commission has stated that it "will work toward producing a policy statement that lays out an approach to enforcement in these embezzlement cases."<sup>35</sup> Absent such a policy, and absent clear guidance on what constitutes reasonable internal controls, Committees are vulnerable to selective enforcement.

The dominant law clearly is that an agency must either follow its own precedents or explain why it departs from them.<sup>36</sup> With the exception of the distinguishable *Lockheed PAC* case, the Commission has not previously levied fines or entered into conciliation agreements with several other committees that were the victim of embezzlement based on the committee's actions with respect to the embezzlement. Furthermore, the Commission has provided no basis as to the rationale behind requiring a penalty, when a penalty was not required in other similar circumstances.

The cause of the disparate treatment this Committee is receiving from the Commission is unclear. However, the Committee firmly believes it had adequate and reasonable internal controls in place, particularly in light of the Commission's lack of ascertainable standards as to what constitutes reasonable internal controls. Accordingly, the Committee feels this action should be dismissed.

<sup>33</sup> See FN 4, *Lockheed PAC*.

<sup>34</sup> See FN 1, COMMISSION'S PROPOSED INTERNAL CONTROL GUIDANCE at p 2.

<sup>35</sup> See FN 3, Murray article, Exhibit A.

<sup>36</sup> PIERCE, RICHARD J., JR., ADMINISTRATIVE LAW TREATISE § 11.5 (4<sup>th</sup> ed. 2002) See generally *Pfaff v. U.S. Dept. of Housing and Urban Dev.*, 88 F.3d 739 (9<sup>th</sup> Cir. 1996.)

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Ms. Lynn Tran, Esq.  
Office of General Counsel, FEC  
November 3, 2006  
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**D. The Committee has implemented additional controls.**

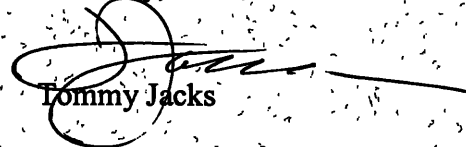
The Committee has employed additional safeguards and internal controls in response to the embezzlement. As the Commission is aware, the Committee conducted a review of its financial records and filed appropriate amendments to correct errors and omissions due to Ms. Willis' criminal conduct. Currently, the individual that handles all incoming checks and other receipts does not handle the Committee's accounting or disbursements. Additionally, since approximately 2002 and continuing today, the candidate himself signs all disbursement checks. The Committee is also in the process of creating a written internal policy including a process for reconciling bank statements periodically. Furthermore, upon adoption of any written guidelines by the Commission, the Committee stands ready to implement the internal controls suggested by the Commission.

**CONCLUSION**

The Committee is committed to ensuring that the risk of future embezzlement is minimized insofar as is reasonably possible. In response to the embezzlement, the Committee has implemented new internal controls, in addition to those previously in use. Additionally, after the embezzlement was discovered, the Committee appropriately took each of the steps only recently published by the Commission, including informing the Commission of the embezzlement and promptly correcting all relevant disclosure reports. Furthermore, the Committee cooperated with local law enforcement officials, and Ms. Willis has been sentenced to jail for her criminal activity and ordered to repay the embezzled funds.

At no point did the Committee knowingly or recklessly disregard the risk of embezzlement, but to the contrary took reasonable steps to minimize the risk. The Committee firmly believes that it has engaged in no conduct for which a fine would be appropriate, and respectfully requests that the Commission dismiss this matter and take no further action.

Sincerely,

  
Tommy Jacks

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**EXHIBIT A**

# ROLL CALL

## **FEC Wants to Curb Campaign Fund Embezzlement**

October 19, 2006  
By Matthew Murray,  
Roll Call Staff

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Following the embezzlement of at least \$2.5 million from political committees during the past decade, the Federal Election Commission unveiled new guidance Wednesday that some say could make it harder for sticky fingers to drain funds from loosely monitored campaign accounts.

"Since arriving at the commission in January, I have been struck by the number of cases in which a political committee suffers a misappropriation of funds at the hand of the committee staff," said Robert Lenhard, a Democrat who is a vice chairman of the commission. "In many of these cases, the misappropriation could've been prevented if the committee had even minimal internal controls in place."

At Wednesday's meeting, the commissioners agreed, 6-0, to start the clock on a 30-day public comment period for recommended accounting guidelines for political committees. If the guidelines are approved as is, political committees would be encouraged not to open bank accounts in the names of individuals; to require two signatures for expenditures of more than \$1,000; to separate payables and receivables duties; to establish a voucher- or log-based petty cash system; and to notify relevant law enforcement authorities if embezzlement occurs.

This week's FEC proposal comes just months after the commission slapped Lockheed Martin's political action committee with a \$27,000 fine for failing to properly account for receipts and payments that essentially allowed an employee to siphon off more than \$150,000 from the defense contractor's PAC.

Some contend the penalty in that case was excessive.

"If someone steals from a campaign, the full force of the law should come down on that thief," said Marc Elias, a Democratic election lawyer. "For the FEC to come in and treat the committee as if it broke the law is unfair."

"I think the FEC should not treat campaigns that have been victims of embezzlement as if they are suspects or perpetrators," Elias added. "Especially at the Congressional level, to require two signatures on every check over \$1,000 is burdensome."

According to campaign finance lawyer Brett Kappel, if the FEC decides to adopt its proposal, a political committee's liability for keeping sloppy books will be clear cut. By following the commission's new accounting recommendations, Kappel said, it would allow committees "to avoid liability for campaign finance violations caused by embezzling PAC officers."

Kappel told his clients Wednesday that even though the FEC's proposed accounting requirements will not be mandatory, they will essentially require "corporate and trade association PACs to establish specific internal financial controls on PAC operations."

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"It is highly likely that the proposed policy will be adopted without any significant changes," Kappel said. "If so, we expect these internal controls to become de facto requirements for all corporate and trade association PACs."

Elias, however, also disagreed with the FEC's Wednesday vote on procedural grounds, arguing that the agency's six commissioners should make accounting standards mandatory, not "de facto requirements."

"If the FEC believes new rules are in order," Elias said, "they should go through the normal rulemaking process."

Bob Biersack, an FEC spokesman, defended the commission's decision to forgo the rulemaking process and said that following the 30-day comment period, the commissioners have not indicated "specifically what would happen next."

"They will work toward producing a policy statement that lays out an approach to enforcement in these embezzlement cases," Biersack said.

"This isn't something that fits well in the rulemaking context, because it isn't specifically guided by [the Federal Election Campaign Act], but the commission wants to give committees clear guidance if they can."

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**EXHIBIT B**

**DECLARATION OF MICHAEL WHELLAN**

1. My name is Michael Whellan. I am an attorney licensed to practice in Texas.
2. During the 1994 election cycle, I was employed as campaign manager for the Doggett for U.S. Congress Committee. Since the 1994 cycle, I have remained an advisor to the Committee.
3. As a former campaign manager, and current advisor to the Committee, I am aware of the Committee's past and present practices for handling contributions, disbursements, and generating Federal Election Commission reports.
4. Among my past responsibilities as an advisor to the Committee was having authority to sign checks on the account used for Committee disbursements.
5. I am aware that prior to Ms. Willis' embezzlement and continuing today, the Committee had the following internal controls in place:
  - a) Check signing authority was limited to the candidate and one other person. For most of the period when the embezzlement occurred, I was the other person who signed checks. During calendar year 2002, I was replaced by attorney Mick Long, and there may have been some brief period of overlapping authority for the two of us as the Committee changed financial institutions. I did not have direct access to the accounting records. At no time did Ms. Willis have check signing authority.
  - b) All bank accounts were in the name of the Committee.
  - c) All expenditures were made from a single checking account.
  - d) The mailing address for all bank accounts was a committee address.
  - e) No signature stamps were used for Committee checks.
  - f) A list of all receipts was recorded at the time or reasonably soon after mail was opened.
  - g) Prenumbered checks were used for disbursements.
  - h) For most periods, no petty cash disbursements were approved. The standard practice, was to limit them to \$100.
  - i) Access to the Committee's computerized data system was limited to only certain individuals.
  - j) I understand that the Committee's software supplier hosted and backed up data during the period that embezzlement occurred.
6. Additionally, the Committee's financial duties were not fully centralized in one individual. Although Ms. Willis performed the accounting duties, as discussed above, she did not have check signing authority herself. Similarly, I understand that it was the practice of the Committee's Treasurer, James Cousar, to review

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and approve the disclosure reports to the Commission to ensure that the information was reported according to FEC regulations, including the inclusion of reportable contributions and disbursements.

7. I know Kristi Willis personally, and have known her since at least 1994. During my employment as campaign manager for the Committee, I worked with Ms. Willis, who was an advisor on another campaign. At the time Ms. Willis volunteered to perform some the financial duties for the Committee in 1999, she had a long-standing relationship with me personally, the candidate, and the Committee and the Central Texas community. At that time, and until the time I found out about the embezzlement, I believed that Ms. Willis was trustworthy and competent. She was well known and respected in the community. I understand that the Committee performed due diligence on Ms. Willis prior to making the decision to grant her any authority. I felt that Ms. Willis could be entrusted with the fiduciary-like responsibilities that were given to her.
8. I have learned that Ms. Willis embezzled in excess of \$168,000.00 from the Committee. I have been told that Ms. Willis forged checks, destroyed canceled checks, falsified personal reimbursements, made unauthorized disbursements to herself and her credit card, omitted disbursements from the software program used to track the Committee's disbursements and contributions and to generate FEC reports, embezzled from Texas State House candidate Andy Brown, and embezzled from the Capital Area Democratic Women, an organization for which she was Treasurer.
9. Given Ms. Willis' knowledge of the Commission reporting requirements, and her conduct while she was in a relationship of trust with the Committee, the candidate and myself, I believe it is probable that Ms. Willis would have embezzled funds even if additional controls had been in place.
10. To the best of my knowledge, at all times prior to the embezzlement, it is my belief that the Committee employed reasonable internal controls and safeguards of its financial accounts, despite a lack of any specific mandates for such controls from the Federal Election Commission.

I declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the foregoing is true and correct. Executed on November 3, 2006

  
\_\_\_\_\_  
Michael Whellan

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**EXHIBIT C**

## Former Doggett aide admits to taking money from campaign

### Attorney says ex-staff member also took money from Brown campaign.

By Tara Copp  
AMERICAN-STATESMAN STAFF  
Thursday, February 02, 2006

WASHINGTON — A former staff member for U.S. Rep. Lloyd Doggett has admitted embezzling more than \$166,000 from the Austin Democrat's campaign and also took money from another local campaign and a local organization, according to her attorney.

Kristi Willis, 37, is a well-known fixture in Austin's Democratic circles and has served on several community boards. She became a longtime trusted ally to both Doggett and Texas House District 48 Democratic candidate Andy Brown, from whom she has admitted taking \$17,000.

Willis has apologized to both campaigns and to Capitol Area Democratic Women, for whom she was a treasurer and from which she also took money, lawyer Charles Grigson said.

Willis took at least \$10,000 from the Capitol Area Democratic Women, the group's president, Alicia Butler, said in a statement Wednesday.

On Wednesday, Grigson issued a statement on Willis' behalf:

"Kristi Willis deeply regrets her actions and intends to repay all of the money taken without authorization. She has a serious personal psychological problem that has manifested itself in a spending addiction for which she is seeking long-term professional help."

Willis worked in Doggett's Austin office from 1998 to 2004, most recently as the congressman's district director, Doggett campaign Treasurer James Cousar said. In 1999, Willis volunteered to be Doggett's campaign bookkeeper and was in charge of recording all the checks that came in or were paid out, Cousar said.

The money Willis took didn't buy big-ticket items but paid for meals and nights out, Grigson said.

"If it was something expensive like a Mercedes, we could sell the car and pay some back," Grigson said.

Public records show that in 2003, Willis purchased a house in the Hyde Park neighborhood valued at

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\$203,000. She also owns a 2001 Volvo.

"She does have a house, and she does have a car," Grigson said. "And the money was spent on these type of normal living expenses: house expenses and car expenses. On the (records) I've gone over, it just looks like somebody's ordinary expenses."

Willis' family has returned the \$17,000 that she took from Brown's campaign, Grigson said, and has paid Doggett's campaign \$40,000, with plans to pay back the rest over time.

Capitol Area Democratic Women has been paid back \$2,000, and Willis has agreed to return the missing money, plus pay penalty fees, the group said.

Willis also has informed the Travis County district attorney's office "that she will cooperate in any investigation," Grigson said.

Claire Dawson-Brown, chief of the district attorney's grand jury division, said her office is investigating. Dawson-Brown said she learned of the allegations against Willis on Jan. 25 when she and an investigator from the Austin Police Department met with representatives from Doggett's office.

Dawson-Brown said the investigation could take months. The decision on charging her will be made only after the investigation is complete.

Brown has said he does not intend to press charges against Willis because her family has paid him back. Cousar said that no decision has been made whether Doggett will file charges.

Grigson said Willis did not take money from other local agencies or campaigns that she has worked for over the years, including the local nonprofit PeopleFund and the City Council campaigns of Sheryl Cole and Mike Martinez.

On Wednesday, Doggett said in a statement that he and his wife "are both shocked and saddened." He described Willis as "a friend of over a decade, whom Libby and I would have entrusted with anything we have."

Trust partly played into how Doggett's missing money was not realized for so many years, Cousar said. From 1999 to 2004, Willis managed Doggett's campaign accounts and informed Cousar what the balances were, but no one double-checked her math, he said.

Brown has known Willis since 1994, and they worked together on Doggett's 2004 re-election campaign.

Willis then went to work on Brown's campaign. Early this year, he double-checked Willis' work on spending forms he had to file with the state, found a discrepancy and confronted her. He placed a panicked call to Doggett's office, not knowing the congressman's campaign was also missing money.

Willis confessed to both embezzlements shortly afterward, Cousar said.

"Basically, when a check was written (to Willis) on the campaign, one hard copy came back, and Kristi would take it out of the envelope and destroy it. No entry was made in the checkbook ledger," Cousar said.

Because the campaign finance report totals continued to balance each year, no one suspected

wrongdoing, he said.

Brown and Doggett's offices and Capitol Area Democratic Women said Wednesday that they now have policies in place to verify their spending.

**Find this article at:**

<http://www.statesman.com/search/content/news/stories/nation/02/2doggett.html>

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**EXHIBIT D**

6/2/04 Cin. Post A  
2004 WLNR 11579672

Cincinnati Post (OH)

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June 2, 2004

Campaigns can finance embezzlers  
[Final Edition]  
Getter, Lisa

Ohio - WASHINGTON -- For a man with a gambling problem, Russell Roberts of Fairfield had what seemed like the perfect job.

He worked as the campaign treasurer for Rep. John A. Boehner, R- Ohio, of West Chester, which gave the Butler County man access to lots of money.

From 1994 until he was caught last year, Roberts, 36, embezzled \$617,563, wiring money directly from the congressman's campaign office to riverboat casinos in Indiana

Discrepancies on FEC reports also led to the discovery. When the campaign asked him to explain the discrepancies last year, Roberts said the records he needed had been destroyed in a flood

That led campaign officials to reconstruct financial records by seeking copies from the bank. The bank records showed Roberts had been embezzling.

From Hawaii to Delaware, more and more candidates and political action committees are becoming victims of embezzlers.

As record amounts of money are donated to political groups, the temptation to steal is greater than ever. House and Senate campaigns have become multimillion-dollar enterprises, but the money going in and out is often controlled by one person -- usually a trusted aide or friend of the candidate who works as the campaign treasurer.

Shocked by the revelation, Boehner sent a letter to 8,000 supporters reassuring them that he would never be victim to such a crime again. He hired a new treasurer, required that no one person ever have control of his accounts, and promised to personally review his campaign records every month and subject them to an independent audit every two years.

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"Safeguards that should have prevented this were not in place. They are now and to a degree not seen in most congressional campaigns," Boehner wrote.

Roberts pleaded guilty in October in federal court in Cincinnati, and was sentenced to a 30-month prison term in January and ordered to pay full restitution. He is due to be released in June 2006. He faced up to 15 years in prison.

Lydia Percival Meuret, a Texas mother of three, was afraid to tell her husband she had racked up too much credit card debt. So to pay her family's household bills, she began embezzling money from a political action committee for minority candidates run by Rep. Henry Bonilla (R-Texas).

Meuret, the PAC's executive director, stole more than \$120,000 over the course of three years.

"Had there been any checks or balances, it probably never would have happened," she said recently, as she prepared to begin serving a 15-month prison term. "I would just write myself checks."

And financial controls, commonplace in business, are frequently nonexistent in the world of politics. Campaign embezzlers can go undetected for years. And when they're caught, it's a problem members of Congress and political committees would rather not publicize.

"You know how senators are. They don't like to talk about it," said Calvert Chipchase III, campaign treasurer for Sen. Daniel K. Inouye, D-Hawaii. "Typically, these people are their friends and supporters, and they trusted them."

Chipchase got the job after the former treasurer, Theresa Blanco, spent about \$100,000 in campaign funds for her personal use. A good friend of the senator's, she repaid the money, and the campaign did not press charges.

With burgeoning campaign coffers and little oversight, the number of federal campaign embezzlement cases has increased in the last few years, election lawyers say.

One embezzler dipped into a senator's campaign cache to woo men over the Internet, buy a Porsche Boxster, a BMW convertible and send a \$10,000 check as a wedding gift. Another went on a shopping spree at Best Buy and the Men's Warehouse. And one campaign worker spent \$85,000 in campaign contributions to support his drug habit.

"I think there's been a lot more of it recently," said Jan Witold Baran, a Washington attorney who has represented four campaigns and political committees that were fleeced by embezzlers since 2000.

"There are two basic themes in all of these embezzlement cases," Baran said. "A longtime trusted individual -- operating with the exclusive and unsupervised control of funds."

No single agency tracks campaign embezzlement, and there are no dollar-figure

estimates But The Times identified 11 federal cases since January 2002 that involved the theft of more than \$1.73 million. Misusing campaign contributions violates election laws and subjects campaigns to civil fines.

But the Federal Election Commission does not require campaigns to report embezzlement to law enforcement. Instead, the campaigns must disclose the thefts as unauthorized expenditures.

When the campaign of Rep. Anne M. Northup, R-Ky., of Louisville, discovered last year that one of its aides had stolen \$24,000, it decided to let Stephine Stottmann pay back the money -- plus the \$17,000 cost of the audit that documented the theft. The campaign did not pursue criminal charges.

"She had been a very good employee," said Ted Jackson, the campaign manager.

"It was just a judgment call that nothing more could be served by trying to prosecute her," he said.

Credit: Los Angeles Times

Cincinnati Post Jun 2, 2004

Word Count: 1034

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**EXHIBIT E**

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S B. school

## Capps says campaign official stole \$230,000

July 16, 2004 12:00 AM

NEWS-PRESS STAFF WRITER

The former finance director of Rep. Lois Capps' election committee is paying back more than \$200,000 the campaign alleges she embezzled during the past four years, Mrs. Capps said Thursday

The campaign handed over financial documents to the Federal Bureau of Investigation in Santa Maria, including allegations that Jennifer Severance falsified Federal Election Commission documents to conceal the thefts.

The FBI field office referred the case to its Ventura office, which covers Santa Barbara No one could be reached there late Thursday.

Ms. Severance, who has moved from Santa Barbara to Boise, has admitted the theft, and has repaid the campaign \$50,000 so far, said Steve Amerikaner, Mrs. Capps' attorney.

Mr. Amerikaner said the former consultant has also agreed to pay the balance of the loss, about \$180,000, during the next five years.

Ms Severance's attorney, Thomas J McCabe, said: "Jennifer Severance deeply regrets that this situation ever arose and she has entered into counseling to deal with the issue "

administrator fined \$3,000  
RECORDED Dec 5, 2003

Bookkeeper jailed for embezzling \$140K  
RECORDED Sep 19, 2003

Next up: 2nd Dist campaign donations  
RECORDED May 23, 2006

The Boise criminal defense attorney would not comment any further on the case Thursday.

"This theft was committed by a person who worked for my campaign for more than four years," Mrs. Capps, a Santa Barbara Democrat, said in a statement. "She was one of the most trusted and respected members of my political family. I am deeply saddened and angry over such a shocking act of betrayal."

Ms. Severance began working for the campaign in 1999, and was on retainer until April of this year.

The irregularities on the documents were discovered in April by Ben Romo, Mrs. Capps' political consultant, who noticed unusual expenditures on the lengthy financial documents candidates are required to file to the FEC on a regular basis. The expenses, he said, were charges the campaign would not normally have expected

When the campaign finished an "exhaustive audit" of its financial filings for the past three years, it was required to file amended reports with the FEC, showing the irregularities, he said. According to the FEC Web site, there are now 15 separate documents with amendments listed by the campaign

Dozens of unauthorized expenditures are noted on the documents, including payments to retail shops, credit cards companies, a relative of Ms. Severance, other consultants and utility companies.

The FEC documents note charges at Costco last year on Oct. 8 for \$404; on Oct. 27 for \$500, on Dec. 1 for \$395 and on Dec. 20 for \$957.

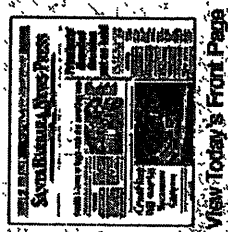
Also at the end of last year, for example, there were unauthorized payments to United Cardmember Service on Nov. 6 for \$7,811, on Dec. 9 for \$4,545 and on Jan. 10 of this year for \$5,000. There were unauthorized charges to MBNA American Business Card -- the campaign's credit card -- last year for \$1,144 on April 1, for \$1,079 on May 13, for \$5,815 on June 10, for \$1,159 on July 23, for \$4,899 on Sept. 16, for \$1,207 on Oct. 17, for \$1,503 on Nov. 14 and for \$5,000 on Dec. 20, among others. The card also received payments this year for \$1,227 on Jan. 14, for \$740 on Feb. 14 and for \$2,535 on March 16.

Some of the largest expenditures include a June 11, 2003, payment to First USA credit card for \$16,910 and an Aug. 11, 2003, payment to First USA for \$12,946.

Other expenses include smaller payments to a telephone company and gasoline credit card. A campaign subcontractor allegedly hired by Ms. Severance was apparently paid thousands of dollars through the Capps campaign's coffers, rather than through Independent means.

Ms. Severance, who was paid approximately \$5,000 monthly for her financial duties, moved to Boise in 2003, according to Mr. Romo.

"This is the last thing I would have expected," Mr. Romo said about looking at the documents. "This was a betrayal completed by one of the campaign's most respected and trusted members. We've been through a lot together. This is a shock, that has given way to anger."



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The campaign hasn't ruled out filing a lawsuit against Ms. Severance, said Mr. Romo

Part of the difficulty in uncovering the alleged thefts was the way she documented the expenses on the federal disclosure reports documents, Mr. Romo said. In one case, there was a credit card charge to cover personal expenditures, but it was listed as a campaign travel expense. In another case, a credit card payment for several thousands of dollars was listed as being paid for a significantly smaller amount. Some charges to credit cards, such as First USA, were omitted from original FEC reports filed by the campaign.

Some payments, in amounts like \$92.32, \$92.72 and \$93.98 were made to the Boise telephone service provider, Qwest, but were listed as being for Verizon, Mrs Capps' local telephone provider. Those expenses were uncovered when the campaign noticed the checks cleared to Qwest rather than Verizon.

In a number of cases, there were unauthorized payments to Ms Severance, in the amount of \$5,000 -- the same as her regular monthly fee, according to FEC documents.

The campaign conducted an audit of financial filings to ensure Mrs. Capps had the most correct information on her financial filings, Mr. Romo said.

"We have strengthened internal controls to make sure this doesn't happen again," Mr Romo said. "We're going to do a full audit every quarter. There is now a separation of duties where multiple people need to approve every expenditure made. There are levels of internal reviews that go beyond the norm to ensure this will never happen again."

There is no evidence, he said, to show that anyone else was involved, or that Ms. Severance took specific campaign donations. Mr. Romo is now in charge of the campaign's finances

There have been several high-profile political embezzlement cases in the past few years. In 2003, the former treasurer for Ohio Rep John Boehner's re-election fund pleaded guilty to stealing more than \$400,000. In that case, the former treasurer apparently wrote checks for his monthly salary as often as three times a month, according to news reports.

In May of this year, Earl Haywood, a former assistant campaign treasurer to Sen. Elizabeth Dole of North Carolina was sentenced to 18 months in prison for mail fraud and was ordered to pay more than \$174,000 in restitution for money taken from the senator's campaign. According to the Department of Justice, Mr. Haywood wrote checks to himself from campaign accounts, and did not report the payments to the FEC. He attempted to conceal the fraud by labeling checks as having been used for postage, according to the government.

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**EXHIBIT F**

## Former Doggett aide admits theft, gets 30-day jail sentence

### Kristi Willis agrees to repay \$168,000.

By Steven Kreytak  
AMERICAN-STATESMAN STAFF  
Wednesday, August 30, 2006

A former staffer for U.S. Rep. Lloyd Doggett will be spending her upcoming weekends in jail for stealing about \$168,000 from the Austin Democrat's campaign coffers.

Kristi Willis, 38, was sentenced to 30 days in jail and four years of probation after pleading guilty Tuesday in state district court to aggregated misapplication of fiduciary property, a second-degree felony with a maximum sentence of 20 years.

The sentence was part of a plea bargain with Travis County prosecutors that was approved by state District Judge Jon Wissler. The deal calls for Willis to perform 80 hours of community service and repay the money she stole from Doggett.

If Willis successfully completes her probation, the charge will be dismissed, and she can petition a judge for it to be removed from her record.

"Kristi is doing everything in her power to make things right for all concerned," said her lawyer, Charles Grigson.

"I bear her no malice, but real harm was done," Doggett said in a statement. "I am pleased the court has required the repayment of all stolen funds. I have also taken steps to ensure such misappropriation does not reoccur."

Beginning at a date yet to be set, Willis will report to the Travis County Correctional Complex in Del Valle on Friday nights and stay until Sunday. She'll receive credit for three days per weekend and could receive one day of good-time credit for every day she serves, meaning she could complete her sentence in five weekends, sheriff's office spokesman Roger Wade said.

"Those who violate their positions of trust must be held accountable," District Attorney Ronnie Earle said in a statement, "both by paying back the money and forfeiting some of their freedom."

Willis worked in Doggett's Austin office from 1998 to 2004, most recently as his district director. In 1999, she volunteered to keep his campaign books, and that's when she started writing checks to herself.

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As campaign contribution checks came in, Willis would not record the amount of a contribution she deposited but would write herself a check for an equal amount and later destroy the canceled checks, Doggett campaign officials have said.

After quitting her job as Doggett's district director in March 2004 — and passing up a raise that would have increased her salary to \$100,000 per year — Willis went to work at an Austin nonprofit group that helps businesses develop in low-income areas. She didn't steal from them, reviews by the nonprofit found.

But on the side, Willis continued stealing while raising money for the Capital Area Democratic Women and for Democrat Andy Brown, then a candidate for the Texas House, she later admitted. She was not charged with those thefts as part of the plea bargain but agreed to pay restitution.

Brown noticed the thefts when he prepared year-end campaign finance reports and alerted Doggett, whose staffers told the Travis County district attorney's office.

When the allegations were made public in February, Willis' lawyer said she admitted stealing the money and she vowed to repay it.

Grigson said at the time that the money was spent on such things as living expenses or meals at restaurants, not on big-ticket items. He also attributed the stealing to a "serious personal psychological problem."

In court Tuesday, Willis wore a black pants suit and answered only with "yes, sir" and "guilty, sir" during the brief hearing before Wisser. She declined to comment as she left the courtroom with tears in her eyes.

Grigson said Willis now works as a computer applications instructor and continues to receive counseling.

Outside court, Assistant District Attorney Patty Robertson said Willis has returned \$45,000 to Doggett. She also has paid back the \$17,000 she took from Brown and \$11,000 she took from the Capital Area Democratic Women, Robertson said.

A lawyer with the Capital Area Democratic Women could not be reached for comment. Brown said only: "It's a sad situation, and I am glad she's paying everyone back."

skreytak@statesman.com; 912-2946

**Find this article at:**  
<http://www.statesman.com/search/content/news/stories/local/08/30/30willis.html>

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**EXHIBIT G**



# ROLL CALL

## **Boehner Seeks Change on Restitution**

April 4, 2005  
By Amy Keller,  
Roll Call Staff

It appears that Rep. John Boehner (R-Ohio) will likely never recover the more \$600,000 his former campaign treasurer embezzled from the Congressman's campaign committee several years ago.

Under a court-ordered restitution, Russell Roberts has been paying Boehner \$25 quarterly installments while serving time in prison.

Upon completion of his 30-month sentence, Roberts will be required to pay \$10 per month, or \$120 annually.

"If Congressman Boehner were in office for another forty years, the projected amount of the required restitution would be less than \$5,000," Boehner's campaign lawyer, Jan Baran, noted in a recent letter to the Federal Election Commission. The letter seeks the FEC's permission to exclude the embezzled amount from any listed debt to the campaign and proposed that any restitution payments be given to charity.

Said Baran: "As should be readily apparent from the restitution order, at the required rate of repayment, Friends of Boehner will never obtain full restitution from Mr. Roberts."

Roberts' embezzlement of the campaign funds first became apparent in 2003, after other Boehner campaign aides noticed that certain disbursements had been misreported in the campaign's FEC filings.

According to court records and coverage of the case, Roberts attempted to cover his tracks by claiming that accounting problems were the product of a March 2001 flood that had destroyed the campaign's computer records.

Later, however, Roberts admitted he had stolen the funds to support a gambling habit. He pleaded guilty in 2003 to transporting stolen funds over state lines and causing false statements to be filed with the FEC.

With no hope in sight of recovering any more than a minimal amount of the embezzled funds, Boehner has asked that Roberts' restitution payments instead be paid to an Ohio-based charity and not be included as a debt owed to the campaign.

A rash of embezzlement has hit Members' on both sides of the aisle.

Last year, a former finance director to Rep. Lois Capps (D-Calif.) was accused of having stolen \$200,000 from the campaign over a three-year period. The aide subsequently repaid \$50,000 of that amount and agreed to reimburse the remaining \$150,000. The matter was referred to the FBI.

Other lawmakers reporting embezzlement schemes involving their campaigns or their political

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action committees over the past several years have included: Sens. Trent Lott (R-Miss.), Joseph Biden (D-Del.), Elizabeth Dole (R-N.C.) and Daniel Inouye (D-Hawaii), and Reps. Henry Bonilla (R-Texas), Anne Northup (R-Ky.), Ernest Istook (R-Okla.), Doc Hastings (R-Wash.), Sam Farr (D-Calif.) and then-Rep. Gary Condit (D-Calif.).

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**EXHIBIT H**

# ROLL CALL

## Ex-Biden Aide Faces Three Years for Theft

March 15, 2005

By Paul Kane,  
Roll Call Staff

Ending one of several embezzlement cases involving Congressional campaigns that came to light in 2003, a former aide to Sen. Joseph Biden (D-Del.) was sentenced last week to more than three years in federal prison for stealing better than \$412,000 in political funds from the potential presidential aspirant.

Roger Blevins, 34, was sentenced by U.S. District Judge Kent Jordan to three years and one month in prison, concurring with a federal prosecutor's assertion that Blevins diverted Biden's campaign cash to "fund his own fantasy life," according to The News Journal of Wilmington, Del. Blevins stole the money from Citizens for Biden and spent it on three men from Florida he met on a gay pornographic Web site, making at least 20 transfers out of the account between October 2002 and July 2003 — during which time Biden was considering making a late entry into the 2004 Democratic presidential primaries.

Instead of being used as seed money for a presidential campaign, the money was spent on a Porsche Boxster, a BMW convertible, expensive dinners and other gifts to Blevins' romantic partners, one of whom alerted the authorities after an altercation over one of the items.

Biden is again considering a presidential bid, although he is approaching the 2008 race in a much more traditional fashion than he did in 2004 — delivering policy speeches to key constituencies and traveling to Jefferson-Jackson dinners held by state Democratic parties. Aides said the loss of the embezzled funds played no role in his decision not to enter the '04 race, but it was a significant loss of cash: Biden had \$574,000 on hand as of Dec. 31, according to reports filed with the Federal Election Commission.

The missing \$400,000 would put him at almost \$1 million on hand, all of which could be transferred into a presidential campaign account.

All but \$10,000 of the stolen money was lost, with the \$10,000 recovered from friends of Blevins who were given that amount of cash as a wedding gift. Upon learning of the stolen money, the couple returned the cash.

But Biden is far from alone in experiencing campaign theft from once trusted aides. In 2003 alone, Sens. Elizabeth Dole (R-N.C.) and Daniel Inouye (D-Hawaii) had their campaigns robbed of approximately \$100,000, and Rep. John Boehner (R-Ohio) reported his campaign treasurer allegedly stole more than \$400,000. And a former aide to Rep. Henry Bonilla (R-Texas) pleaded guilty that summer to taking as much as \$160,000 from his leadership PAC.

Additionally, last July, authorities announced the arrest of a former finance director to Rep. Lois Capps (D-Calif.) who allegedly stole roughly \$200,000 from Capps' campaign in the previous three years.

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And sentencing is set for June in the case of Roger Chiang, a former fundraiser who pleaded guilty last month to stealing \$360,000 from the Democratic Senatorial Campaign Committee. All but \$11,000 was recovered in that case.

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