FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APR 27 2007

Mrs. Susan Talbott
[redacted]
Worthington, OH 43085

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RE: MUR 5871
Susan Talbott

Dear Mrs. Talbott:

On April 23, 2007, the Federal Election Commission found that there is reason to believe you knowingly and willfully violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). This finding was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's finding, is 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 your 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 and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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 enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tracey Ligon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Robert D. Lenhard
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Susan Talbott MUR: 5871

I. INTRODUCTION

This matter was generated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person from making a contribution in the name of another person. *See* 2 U.S.C. § 441f. Likewise, the Act prohibits any person from knowingly permitting their name to be used to effect contributions made in the name of another person and from knowingly assisting in making such contributions. *See* 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iii).

On October 27, 2005, in the United States District Court for the Northern District of Ohio, Thomas W. Noe was indicted on charges of conspiracy, making illegal conduit contributions, and causing a false statement to be made to the Federal Election Commission.[1] Specifically, the indictment states that on or about October 30, 2003, Bush-Cheney '04, Inc. ("the Committee" or "the campaign") hosted a campaign fundraiser ("the fundraiser") at the Hyatt Regency hotel in Columbus, Ohio, to which the admission fee was a $2,000 contribution – the maximum amount an individual could give to Bush-Cheney '04, Inc. Mr. Noe and his wife had each already contributed $2,000 to the Committee on August 12, 2003. The indictment states

[1] The criminal charges of conspiracy and defrauding the Unites States are not within the jurisdiction of the Commission.

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that in order to fulfill a written pledge to raise $50,000 for the campaign at the fundraiser, Mr. Noe used $45,400 of his funds to make contributions over the legal limits and concealed the true source of the contributions by making them in the names of other individuals, known as "conduits."

The indictment alleges that on October 23, 2003, Mr. Noe provided a check in the amount of $14,300 from his National City Bank account for several conduits, including one later identified as Susan Talbott, as an advance on or reimbursement for a contribution to the Committee. According to the indictment, Ms. Talbott filled out a donor card and other contributor forms for the fundraiser stating that she was making a contribution with her personal funds when, in fact, she used Mr. Noe's funds to make a contribution; and consequently, on January 29, 2004, the Committee filed a 2003 Year End Report with the Commission that "unknown to Bush-Cheney, '04, Inc." incorrectly identified Ms. Talbott as the source of a $2,000 contribution to the Committee. On May 31, 2006, Mr. Noe pled guilty to the charges in the indictment.

Based on the foregoing information, it appears that Ms. Talbott violated the Act by permitting her name to be used to effect the making of a contribution in the name of another. *See* 2 U.S.C. § 441f. The information suggests that Ms. Talbott's violation may also have been committed knowingly and willfully. The knowing and willful standard requires knowledge that one is violating the law. *See Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990). *Id.* at 214-15. Here, the indictment states the conduits filled out donor cards and other contributor forms stating that they were

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making contributions themselves with their personal funds when, in fact, they used Mr. Noe's funds to make contributions; and some received instructions from Mr. Noe that, if asked in the future about the payments, they should lie and say the payments were a loan from Mr. Noe. Thus, based on the foregoing, there is reason to believe Susan Talbott knowingly and willfully violated 2 U.S.C. § 441f.

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