



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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NOV - 6 2008

RE: MUR 5954  
Lee Ann Farrell

Dear Mr. White:

On November 28, 2007, the Federal Election Commission ("the Commission") notified your client, Lee Ann Farrell, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 29, 2008, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Ms. Farrell violated 2 U.S.C. § 441a(a)(1)(A). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Marianne Abely, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Audra L. Wassom".

Audra L. Wassom  
Acting Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT:     Lee Ann Farrell

MUR 5954

**I.     FACTUAL BACKGROUND**

This matter arises from a complaint alleging that respondent Lee Ann Farrell made an excessive contribution to Friends of Dave Reichert in connection with an August 27, 2007 reception honoring Representative Dave Reichert. *See* 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f).

The Reichert Washington Victory Committee (RWVC") is a joint fundraising committee formed pursuant to 11 C.F.R. § 102.17 by Friends of Dave Reichert ("FDR") and the Washington State Republican Party ("WSRP"). *See* Statement of Organization, dated August 8, 2007. As such, the RWVC established a separate depository account used solely for receiving federally permissible contributions and distributing net proceeds to its participating committees, FDR and WSRP. *Id.*; 11 C.F.R. § 102.17(c)(3)(i). On August 27, 2007, the RWVC hosted a fundraising reception honoring Reichert and featuring President George W. Bush. The invitation invited recipients to purchase, by check made payable to the RWVC or by credit card, VIP reception tickets for \$10,000 (given or raised) or "attendee" tickets for \$1,000.

The invitation also included a disclaimer outlining the allocation of funds raised in connection with the event.<sup>1</sup> In pertinent part, this disclaimer stated that fundraising proceeds would be distributed to FDR "to the extent permitted by" the Act and any remaining funds would

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<sup>1</sup> All participants in joint fundraising events must enter into a written agreement that identifies the fundraising representative and sets out the formula for allocating proceeds. 11 C.F.R. § 102.17(c)(1). Although the written agreement need not be filed with the Commission, it must be retained by the fundraising representative for at least three years and made available to the Commission on request. *Id.* The participants are also to use the formula to allocate the expenses incurred in fundraising. 11 C.F.R. § 102.17(b)(3)(i).

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be transferred to the WSRP's federal account. According to the disclaimer, funds constituting excessive or prohibited contributions under the Act would be refunded. Invitees were also informed that, notwithstanding the allocation formula, they were free to designate their contribution to either participant. Further, the disclaimer stated that the allocation formula was subject to change in the event contributions were received that exceeded the amount a contributor could give to either participant under federal law.

Invitation recipients made credit card contributions to the subject event through the RWVC's website or by telephone. According to FDR's Finance Director Eric Yates, FDR believed that credit card contributions to the joint fundraising event could be electronically processed using FDR's merchant number and then routed into the RWVC's account. However, due to what the response describes as a "miscommunication," these credit card contributions were electronically deposited directly into FDR's account instead of the joint fundraising committee's account. Apparently, FDR discovered after the event that a coding error on the RWVC's webpage prevented credit card contributions from being automatically transferred into the RWVC's account. Further, because the processing company had placed the funds into a "suspense" account, funds could not be manually released into the joint fundraising account. According to Yates, the bank informed FDR that the funds could only be released into an account associated with the merchant identification number, which meant that the joint fundraising proceeds had to be released into FDR's account. As a result, FDR deposited a total of \$93,600 of these credit card contributions into its account and reported them as direct contributions in its 2007 October Quarterly Report. The 2007 October Quarterly Report reflects

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the receipt of these contributions from twelve (12) individuals as well as the refund of \$44,600 in excessive contributions to these same individuals.<sup>2</sup>

Respondent Lee Ann Farrell was one of the twelve individuals whose credit card contribution was routed into FDR's account. According to Farrell, she made a \$13,000 credit card donation to RWVC in response to an invitation to the August 27, 2007 event. Farrell states that at the time she made her telephone contribution she understood "that the contribution was within the amount legally permitted to be made in connection with the President's visit." After all of Farrell's contribution was unintentionally deposited into FDR's account, FDR informed Farrell that her contribution was in excess of the amount she was legally entitled to contribute to the committee. Within twenty-four hours, FDR issued Farrell a refund in the amount of \$8,400.<sup>3</sup> Several weeks later, FDR issued an additional \$1,000 refund to Farrell from her August 2007 contribution after realizing that she had made a \$1,000 contribution to the campaign in March 2007.

The respondent denies making an excessive contribution to FDR in violation of 2 U.S.C. § 441a(a)(1)(A). Farrell states that the \$13,000 she gave in response to the joint fundraising solicitation was well within the Act's contribution limits because she was entitled to contribute a total of \$4,600 (\$2,300 per election) to FDR and \$10,000 to a state party committee. *See* 2 U.S.C. § 441a(a)(1)(A) and (D); 11 C.F.R. § 110.1(b) and (c)(5). Further, the respondent notes that pursuant to the event invitation's disclaimer, the only amounts due to be allocated to FDR

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<sup>2</sup> It appears that FDR began the process of arranging for a majority of these refunds prior to the actual release of funds into its account. FDR's 2007 October Quarterly Report indicates that seven (7) of the refunds were made prior to the date the contributions were reported as having been received by the committee.

<sup>3</sup> The day after receiving this refund, Farrell contributed \$8,400 to RWVC, which committee in turn transferred that same amount of money to WSRP.

were within the available contribution limits. *Id.* Finally, Farrell asserts that even if her contribution in response to the subject event solicitation is considered an excessive contribution to FDR due to its processing error, the excessive portion of the contribution was returned to her within the sixty days permitted for refunding excess contributions. *See* 11 C.F.R. § 103.3(b)(3).

**B. LEGAL ANALYSIS**

The Act limits individual contributions to a candidate's authorized committee to \$2,300 per election. 2 U.S.C. § 441a(a)(1)(A); *see also* 11 C.F.R. § 110.1(b). Contributions that on their face exceed the Act's contribution limits may be either deposited into a campaign depository or returned to the contributor. If any such contribution is deposited the treasurer may request redesignation or reattribution of the contribution by the contributor. If a redesignation or reattribution is not obtained, the treasurer is required to refund the contribution to the contributor within sixty (60) days of receipt. 11 C.F.R. § 103.3(b)(3).

The available evidence in this matter does not support a finding that Farrell made an excessive contribution to FDR. Farrell was entitled to make a total of \$4,600 in contributions to FDR for the primary and general elections and a \$10,000 annual contribution to the WRSP. 2 U.S.C. § 441a(a)(1)(A) and (D); 11 C.F.R. § 110.1(b) and (c)(5). As described *supra* at 3, Farrell received an invitation to the subject fundraising event and responded by making a \$13,000 credit card contribution. Due to the previously described miscommunication, the entire amount of her contribution to the joint fundraising committee was deposited into FDR's account. It appears that FDR immediately informed Farrell what had occurred and within twenty-four hours refunded \$8,400 out of the \$13,000 she contributed to the joint fundraising committee. FDR also refunded an additional \$1,000 on October 16, 2007 once it realized Farrell had made a \$1,000 contribution to the campaign in March of 2007. It appears FDR retained \$4,600 out of

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Farrell's \$13,000 contribution with her approval, which amount was the maximum amount that Farrell could contribute to the candidate committee. Therefore, while FDR initially received an excessive contribution from Farrell in the amount of \$13,000, it remedied the matter by refunding the excessive portion of the contribution in a timely manner. 11 C.F.R. § 103.3(b)(3). As for Farrell, she would not appear to be liable for the RWVC's apparent mishandling of this contribution.

Accordingly, the Commission finds no reason to believe that Lee Ann Farrell violated 2 U.S.C. § 441a(a)(1)(A).

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