

**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

**FIRST GENERAL COUNSEL'S REPORT**

**RAD REFFERAL:** 08L-30

**DATE ACTIVATED:** September 10, 2008

**EXPIRATION OF SOL:** April 9, 2012-  
February 8, 2013

**SOURCE:** Internally Generated

**RESPONDENTS:** Leading US in Success Political Action Committee and  
Maria A. Sanchez Bras, in her official capacity as treasurer  
Christopher J. Ward

**RELEVANT STATUTES AND  
REGULATIONS:**

2 U.S.C. § 432(b)(3)  
2 U.S.C. § 432(c)  
2 U.S.C. § 432(d)  
2 U.S.C. § 434(b)  
11 C.F.R. § 102.9  
11 C.F.R. § 102.15  
11 C.F.R. § 104.3(a)  
11 C.F.R. § 104.3(b)  
11 C.F.R. § 104.14(d)

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

**I. INTRODUCTION**

On August 12, 2008, the Reports Analysis Division ("RAD") referred Leading US in  
Success Political Action Committee ("LUISPAC") for the apparent unauthorized receipt of  
committee funds totaling approximately \$23,500 and the apparent unauthorized disbursement of  
committee funds totaling approximately \$41,000 by its former treasurer, Christopher J. Ward,  
during the 2007-2008 election cycle. Ward did not disclose these transactions on the

1 Committee's disclosure reports, which he prepared and filed with the Commission. The failure  
2 to disclose these transactions resulted in the misreporting of the Committee's cash-on-hand,  
3 receipts, and disbursements.

4 According to information contained in the referral, Ward concealed his misappropriations  
5 and reporting omissions, which were not discovered until the Committee conducted an internal  
6 review of its bank records following media reports of the National Republican Congressional  
7 Committee's ("NRCC") concerns with Ward's activities as its treasurer. It appears that Ward's  
8 activities in these matters may be part of an overarching entertainment scheme devised by Ward.  
9 See Pre-MUR 470/RR 08L-22 (NRCC), First General Counsel's Report, dated September 10,  
10 2008; Pre-MURs 465, 466, 467 and 468 (Tuesday Group PAC, *et al.*), First General Counsel's  
11 Report, dated September 10, 2008; Pre-MUR 471/RR 08L-26/MUR 6017 (PhilPAC), First  
12 General Counsel's Report, dated October 9, 2008; and Pre-MUR 476/RR 08L-27/MUR 6063  
13 (SAXPAC), First General Counsel's Report, dated October 17, 2008.

14 By letter dated November 20, 2008, we gave Ward, through counsel, the opportunity to  
15 provide us with any factual or legal information he believes relevant to this matter. To date, we  
16 have not received a response from Ward, and, based on conversations with his counsel that Ward  
17 will not be providing information because he is the target of a pending parallel criminal  
18 investigation, we do not anticipate that a response will be filed on his behalf.

19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_ We further recommend that the Commission find reason to believe that

11044290529

1 Christopher J. Ward, in his personal capacity, knowingly and willfully violated 2 U.S.C.  
2 §§ 432(b)(3), (c), (d) and 434(b) and 11 C.F.R. § 104.14(d), by commingling committee funds with  
3 his personal funds, failing to keep account of and disclose cash-on-hand, receipts, and disbursements  
4 on reports filed with the Commission, and failing to file timely, complete and accurate reports. Last,  
5 we recommend that the Commission authorize the use of compulsory process to obtain additional  
6 information regarding Ward's embezzlement scheme and the resulting reporting and recordkeeping  
7 omissions.

8 **II. FACTUAL SUMMARY**

9 LUISPAC is a multieandidate political committee and has been filing reports with the  
10 Commission since 2004. 2 U.S.C. § 441a(a)(4). According to disclosure reports filed with the  
11 Commission, Ward served as LUISPAC's treasurer since the Committee's inception in February  
12 2004, until he was replaced by Ms. Sanchez Bras on February 20, 2008.

13 On June 20, 2008, the Committee filed five amended reports for the 2007-2008 election  
14 cycle disclosing four disbursements to Ward in the total amount of \$40,000, a \$1,000  
15 disbursement to Safeguarding America by Expanding National Security Political Action  
16 Committee ("SAXPAC"), and a \$23,500 receipt from Ward. Specifically, the amended reports  
17 identified each of the following transactions as "unauthorized disbursements": Amended 2007  
18 May Monthly Report -- \$20,000 to Ward on April 9, 2007; Amended 2007 August Monthly  
19 Report -- \$10,000 to Ward on July 24, 2007; and 2007 September Monthly Report -- \$5,000 to  
20 Ward on August 17, 2007 and \$5,000 to Ward on August 24, 2007. The Amended 2008  
21 February Monthly Report disclosed an "unauthorized political contribution" in the amount of  
22 \$1,000 on January 3, 2008 to SAXPAC. Last, the Amended 2008 March Monthly Report

11044290530

disclosed a \$23,500 receipt from Ward on February 8, 2008 with the purpose identified as "refund -- unauthorized disbursement."

On July 11, 2008, after reviewing the amended reports, RAD contacted LUISPAC's current treasurer, Ms. Sanchez Bras, to inquire about the recently disclosed unauthorized activity. As further described in the referral, Ms. Sanchez Bras recounted to the RAD analyst that Rep. Luis Fortuno, the House member for Puerto Rico, had contacted her after learning of Ward's alleged embezzlement activities with the NRCC and asked her to replace Ward as treasurer. Ms. Sanchez Bras said that the Committee hired an outside firm to audit the Committee's activities, and, in June 2008, following completion of the audit, the firm amended the Committee's reports to disclose the financial activity accurately. To her knowledge, the unauthorized activity took place as reported on the amended reports. According to Ms. Sanchez Bras, Ward wrote the checks to himself, but the Committee did not keep copies of the checks and is working with its bank to obtain copies. Although the exact time frame is unknown, the Committee has been working with the FBI in Washington, DC about Ward's unauthorized transactions in this matter. There is no available information to determine whether LUISPAC had any internal financial controls in place prior to its discovery of Ward's embezzlement of funds. However, the information contained in the RAD Referral suggests that LUISPAC may have lacked internal controls, given that Ward's embezzlement went undetected for months and may have continued, were it not for the media reports surrounding the NRCC's concerns with Ward, which prompted LUISPAC to conduct an internal audit.

11044290531

1 **III. LEGAL ANALYSIS**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

11044290532

11044290533

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

11044290534

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

**B. Liability of Christopher J. Ward for Commingling and Reporting Violations**

According to Commission policy and practice, a former treasurer may be named as a respondent in his personal capacity when it appears that, while serving as a treasurer, he may have violated obligations that the Act or Commission regulations impose personally on a

1 treasurer and where, among other situations, the violations were knowing and willful. *See*  
2 *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings*. 70 Fed. Reg. 3  
3 (January 3, 2005); *see, e.g.*, MUR 5610 (Earl Allen Haywood), MUR 5721 (Lockheed Martin  
4 Employees' PAC) and MUR 5971 (Lindsey Graham for Senate). A knowing and willful  
5 violation may be established "by proof that the defendant acted deliberately and with knowledge"  
6 that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990). In  
7 *Hopkins*, the court found that an inference of a knowing and willful violation could be drawn  
8 "from the defendants' elaborate scheme for disguising their . . . political contributions. . ." *Id.* at  
9 214-15. The court also found that the evidence did not have to show that a defendant "had  
10 specific knowledge of the regulations" or "conclusively demonstrate" a defendant's "state of  
11 mind," if there were "facts and circumstances from which the jury reasonably could infer that  
12 [the defendant] knew her conduct was unauthorized and illegal." *Id.* at 213 (quoting *United*  
13 *States v. Bordelon*, 871 F.2d 491, 494 (5<sup>th</sup> Cir.), *cert. denied*, 493 U.S. 838 (1989)).

14 The available information suggests that Ward attempted to disguise his embezzlement by  
15 not disclosing the unauthorized disbursements and receipts in Committee reports he prepared and  
16 then filed with the Commission. RR 08L-30, at 2. Therefore, we recommend that the  
17 Commission make knowing and willful findings as to Ward in his personal capacity in  
18 connection with violations of the Act and Commission regulations while performing the duties of  
19 treasurer of LUISPAC.

20 As treasurer, Ward was required to accurately keep an account of and disclose, cash-on-  
21 hand, receipts and disbursements. *See* 2 U.S.C. §§ 432(c)(5), (d), 434(b)(1), (2), (3), (4)(H), (5)  
22 and (6)(B) and 11 C.F.R. § 104.3(a), (b). Committee treasurers required to file any report or  
23 statement under the Act and the Commission's regulations are also personally responsible for the

11044290535



1 timely and complete filing of the report or statement and for the accuracy of any information or  
2 statement contained in it. 11 C.F.R. § 104.14(d). It appears Ward knowingly and willfully failed  
3 to keep an accurate account of all receipts, disbursements and cash-on-hand with respect to his  
4 activities as treasurer of LUISPAC to hide his fraudulent scheme and failed to accurately disclose  
5 certain receipts, disbursements and cash-on-hand in reports filed with the Commission.

6 The Act also prohibits the commingling of committee funds with the "personal funds of  
7 any individual," including officers of a committee. 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15.  
8 The Commission has previously made findings that respondents have violated 2 U.S.C.  
9 § 432(b)(3) in matters where individuals misappropriated committee funds by making  
10 unauthorized disbursements to themselves or others to pay for personal expenses. *See, e.g.*,  
11 MUR 5610 (Dole), MUR 5721 (Lockheed Martin Employees PAC), MUR 5811 (Dogett for  
12 Congress), MUR 5814 (Lamutt for Congress), MUR 5872 (Hague for Congress), MUR 5920  
13 (Women's Campaign Fund), and MUR 5971 (Lindsey Graham for Senate). *But see, e.g.*, MUR  
14 5898 (Ryan Pennington) (The Commission voted 3-3 not to accept the negotiated conciliation  
15 agreement with the embezzler, which included an admission to knowingly and willfully violating  
16 2 U.S.C. § 432(b)(3), where the embezzler deposited committee funds to his personal account  
17 from a third-party intermediary account with a separate legal existence);

11044290536

1 \_\_\_\_\_ and MUR 5933 (Kimberly  
2 Bostic)(by a 3-3 vote, the Commission failed to approve recommendations to pursue pre-  
3 probable cause to believe conciliation with the embezzler for a commingling violation, where the  
4 embezzler, without authorization, charged personal expenses to the Committee's bank account  
5 through an unauthorized credit card).

6 Based on the available information, Ward knowingly and willfully misappropriated  
7 committee funds by writing himself checks from LUISPAC's bank account without  
8 authorization. Given the information in the referral stating that the checks were made out to  
9 Ward personally, it appears that Ward either cashed the checks or deposited them into his  
10 personal bank account. In addition, given that we do not know the source of funds used to make  
11 Ward's unauthorized deposit of \$23,500, questions remain as to whether Ward took funds  
12 embezzled from another committee, placed them in his personal bank account, and then  
13 deposited them into LUISPAC's bank account.

14 Accordingly, we recommend that the Commission find reason to believe that Christopher  
15 J. Ward, in his official capacity as treasurer of LUISPAC and in his personal capacity, knowingly  
16 and willfully violated 2 U.S.C. §§ 432(b)(3), (c), (d), 434(b) and 11 C.F.R. § 104.14(d) by  
17 commingling committee funds with his personal funds, failing to keep account of and disclose  
18 receipts, disbursements and cash-on-hand in reports filed with the Commission, and failing to file  
19 timely, complete and accurate reports with the Commission.

20 Ward is also a respondent in Pre-MUR 470/08L-22 (NRCC), Pre-MURs 465, 466, 467,  
21 468 (Tuesday Group PAC, *et al.*), RR 08L-26/Pre-MUR 471/MUR 6017(PhilPAC), and RR 08L-  
22 27/Pre-MUR 476/MUR 6063(SAXPAC). The First General Counsel's Reports in these matters  
23 were circulated to the Commission on October 14 and 20, 2008.

11044290537

**IV. PROPOSED INVESTIGATION**

We do not have sufficient information from the RAD Referral to allow the Commission to proceed directly to pre-probable cause conciliation. While the amount in violation in this matter appears at this time to be relatively low, we recommend going forward with an investigation because it is not clear how, if at all, Ward's various embezzlements are interrelated. The embezzlement may be intertwined with an overarching embezzlement scheme devised by Ward. Because at this point we do not know the full extent of Ward's embezzlement scheme, we cannot be certain of the full amount in violation in this matter. An investigation of Ward in connection with this matter and Pre-MUR 470/RR 08L-22 involving the NRCC, Pre-MURs 465, 466, 467 and 468 involving four leadership PACs, Pre-MUR 471/RR 08L-26/MUR 6017 involving PhilPAC, and RR 08L-27/Pre-MUR 476/MUR 6063 involving SAXPAC may reveal that he made further unauthorized transactions from these committees that have not yet been discovered. In addition, although the Committee amended its 2008 March Monthly Report to disclose a \$23,500 receipt by Ward on February 8, 2008 and designated it as a refund of unauthorized disbursements, there are insufficient facts to establish the source of the funds.

Therefore, we recommend that the Commission authorize the use of compulsory process.

11044290539

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

13 **V. RECOMMENDATIONS**

14 1. Open a MUR.

15 2. \_\_\_\_\_

16  
17  
18  
19  
20 3. Find reason to believe Christopher J. Ward in his personal capacity knowingly and  
21 willfully violated 2 U.S.C. §§ 432(b)(3), (c), (d), 434(b), and 11 C.F.R.  
22 § 104.14(d).

23  
24 4. Approve the attached Factual and Legal Analyses.

25  
26 5. Authorize the use of compulsory process in this matter, including the issuance of  
27 interrogatories, document subpoenas, deposition subpoenas and orders.

6. Approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

Date

1/5/09

BY:

  
Ann Marie Terzaken  
Associate General Counsel for Enforcement

  
Sidney Rocke  
Assistant General Counsel

  
Christine C. Gallagher  
Attorney

11044290540