



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FACSIMILE AND FIRST CLASS MAIL

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FEB 01 2012

RE: MUR 6234
Kurt Fakier

Dear Mr. Ardoin:

By letter dated June 28, 2011, the Federal Election Commission ("Commission") notified your client, Kurt Fakier, that on June 29, 2010, based on a complaint filed by Citizens for Responsibility and Ethics in Washington, the Commission found reason to believe that "Unknown Respondents" may have violated 2 U.S.C. § 441f in connection with certain contributions made to the Friends of Mary Landrieu, Inc. This letter notified your client that, in the course of carrying out its supervisory responsibilities, the Commission had information in its possession indicating that he may be one of the "Unknown Respondents" who violated the Federal Election Campaign Act of 1971, as amended, as described above.

On January 24, 2012, after reviewing all the available information, including the information provided by you, the Commission substituted the name Kurt Fakier in place of "Unknown Respondent" in its previous reason to believe finding that "Unknown Respondents" violated 2 U.S.C. § 441f. The Factual and Legal Analysis, which more fully explains the Commission's finding, is attached for your information.

Your client may submit any factual or legal materials that he believes are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of the 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.

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

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless your client notifies the Commission in writing that he wishes the investigation to be made public. Please note that your client has a legal obligation to preserve all documents, records and materials relating to this matter until such time as he is notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1319.

If you have any questions, please contact Marianne Abely or Audra Hale-Maddox, the attorneys assigned to this matter, at (202) 694-1650.

On behalf of the Commission,



Caroline C. Hunter
Chair

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kurt Fakier MUR 6234

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). On May 14, 2008, Friends of Mary Landrieu, Inc. ("Landrieu Committee") received six sequentially numbered cashier's checks, totaling \$25,300, issued by Whitney National Bank ("Bank"). At some point after receiving these funds, the Landrieu Committee attempted to confirm the legality of each contribution by contacting the eleven individuals listed as remitters on the six cashier's checks. The Commission has information that the Landrieu Committee received various responses from the alleged contributors ranging from denial of any knowledge of a contribution to signed Contributor Information Forms verifying that the contributions were personal contributions drawn on a personal/joint checking account containing personal funds. One of the putative contributors disclaimed any knowledge of making any contributions to the Landrieu Committee. After receiving responses to its inquiries, the Landrieu Committee disgorged the \$25,300 to the U.S. Treasury because it suspected that the funds may have come from a prohibited source or may have been made by a person other than the listed remitter.

Based on the information outlined above, the Commission found reason to believe that Unknown Respondents may have violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b and 441f. This matter was generated based on information ascertained by the Federal Election Commission

1 ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See*
2 2 U.S.C. § 437g(a)(2).

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Factual Summary**

5 The Commission has information that the Landrieu Committee approached C. Berwick
6 Duval in the Spring of 2008 and asked him to raise funds for the campaign. The Commission
7 also has information that, after failing to meet a fundraising deadline of March 30, and after an
8 inquiry from the Landrieu Committee, Duval informed the Landrieu Committee that he would
9 shortly forward the contributions to the campaign. The available information also indicates that,
10 a few days later, on May 14, the Landrieu Committee received a FedEx envelope containing six
11 sequentially numbered cashier's checks. The Commission has information showing that Duval
12 raised these funds from Arlen B. Cenac, Jr., who was a friend and client. Cenac is the president
13 and sole owner of Cenac Towing Co., Inc. ("Cenac Towing"), and he is the sole owner of
14 numerous other related companies headquartered in Houma, Louisiana.

15 The Commission has information that, on April 24, 2008, Cenac arranged to obtain the
16 six subject cashier's checks by calling the Bank's Houma branch. The available information also
17 shows that Cenac's secretary arrived at the Bank shortly after Cenac's telephone call with written
18 instructions and a personal check from Cenac in the amount of \$25,300. These instructions
19 directed the Bank to prepare six cashier's checks (totaling \$25,300) made payable to Friends of
20 Mary Landrieu, and listed the names and addresses of the "remitters" and the specific amounts to
21 appear on each check. The listed "remitters" included Mr. & Mrs. Kurt Fakier (\$4,600). The
22 Commission has information that Cenac's secretary collected the six cashier's checks and the
23 written instructions from the Bank on the same day as the checks were purchased, April 24,

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2008. The Commission also has information that Cenac delivered the cashier's checks to Duval, who in turn forwarded them to the Landrieu Committee.

Kurt Fakier signed the Committee's Contributor Information Form verifying that his contribution was drawn on a personal/joint checking account containing his personal funds. The form also stated that the entire \$4,600 contribution should be attributed to him alone. The form also listed the number of the check attributed to Fakier and showed the date of receipt, May 14, 2008. However, the information in the Commission's possession indicates that the subject cashier's check was purchased by Cenac with funds drawn from a personal checking account he has with the Bank. Although the Contributor Information Form Fakier signed indicates that he owns "LA Paint Supply," there is also information that Cenac may have an ownership interest in LA Paint and Marine Supply. In contrast to his Contributor Information Form, in his only communication with the Office of General Counsel staff via voicemail, Fakier stated that he has no recollection or record of making this contribution.

B. Legal Analysis

The Federal Election Campaign Act of 1971, as amended, ("the Act") provides that no person shall make a contribution in the name of another person, or knowingly permit his or her name to be used to effect such a contribution. 2 U.S.C. § 441f; *see also* 11 C.F.R. § 110.4(b)(1)(ii). This prohibition also applies to any person knowingly helping or assisting any person in making a contribution in the name of another, including "those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another..." 11 C.F.R. § 110.4(b)(1)(iii); Explanation and Justification for 11 C.F.R. § 110.4(b)(1)(iii) at 54 Fed. Reg. 34,105 (1989).

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1 The information in the Commission's possession indicates that Cenac used his personal
2 funds to make the \$4,600 contribution attributed to Fakier. It appears that Fakier permitted his
3 name to be used to make a contribution in the name of another by falsely verifying that this
4 contribution was a personal contribution drawn on a personal/joint checking account containing
5 personal funds. 2 U.S.C. § 441f. Accordingly, the Commission is substituting Kurt Fakier's
6 name in place of "Unknown Respondent" in the Commission's previous finding of reason to
7 believe. 2 U.S.C. § 441f.

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