



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20468

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JUN 8 2010

RE: MUR 6301
California Republican Party/V8 and
Keith Carlson, in his official
capacity as treasurer

Dear Mr. Bell:

On August 7, 2009, the Federal Election Commission (the "Commission") notified you that in the normal course of carrying out its supervisory responsibilities it ascertained information suggesting that your clients, the California Republican Party/V8 and Keith Carlson, in his official capacity as treasurer, (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act") and the matter was referred to the Office of the General Counsel for possible enforcement action. The Commission also provided you with a copy of the referral.

After reviewing the referral and your clients' response, the Commission, on May 15, 2010, found reason to believe that the Committee violated 2 U.S.C. §§ 441b(a) and 441a(f), and 11 C.F.R. §§ 102.5(a)(1)(b) and 105.7(f), provisions of the Act and Commission regulations. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, 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. In the meantime, 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.

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We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures
Factual and Legal Analysis
Procedures

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** California Republican Party/V8
6 and Keith Carlson, in his official
7 capacity as treasurer

MUR 6301

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9 **I. GENERATION OF MATTER**

10 This matter was generated based on information ascertained by the Federal Election
11 Commission ("the Commission") in the annual course of carrying out its supervisory
12 responsibilities. See 2 U.S.C. § 437g(a)(2).
13

14 **II. FACTUAL AND LEGAL ANALYSIS**

15 The Commission's Reports Analysis Division (RAD) referred the California Republican
16 Party/V8 and Keith Carlson, in his official capacity as treasurer ("the Committee") for the
17 excessive transfer of non-federal funds for allocated administrative expenses. The Committee's
18 2006 12-Day Pre-General, 30-Day Post-General, and Year-End Reports disclose a total excess of
19 \$386,345.02 in non-federal funds transferred to the Committee's federal account for allocated
20 administrative expenses.

21 Specifically, the 12-Day Pre-General, 30-Day Post-General, and Year-End Reports each
22 show non-federal transfers for allocated administrative activity on Schedule H3 that exceed the
23 non-federal share of allocated activity reported on Schedule H4, as set forth in the chart below.
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2006 Report	Schedule H4 Non-Federal Share of Administrative Activity	Schedule H3 Non-Federal Transfers for Administrative Activity	Apparent Excessive Non- Federal Transfers
Amended 12-Day Pre-General	\$542,926.58	\$623,662.41	\$80,735.83
Amended 30-Day Post-General	\$787,067.60	\$1,162,223.28	\$375,155.68
Amended Year-End	\$461,966.01	\$476,738.02	\$14,772.01
(Corrective Transfers)			(\$84,318.50)
Total			\$386,345.02

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3 With each report, the Committee included the same explanation of the discrepancies:

4 "The transfers shown reflect variations due to timing of transfers based upon reimbursements
5 from the non-federal and Levin accounts the federal account at different points in the 70-day
6 window provided in Reg. 10-6.7(f)(2) [sic]. No transfers were made outside the 70-day
7 window."

8 On May 8, 2007, after the RAD sent a RFAI, the Committee submitted an Amended 30-
9 Day Post-General Report. However, the amended report only revealed a decrease in the non-
10 federal share of allocated administrative activity on Schedule H4. An attached memo stated,
11 "The payment on 10/30/06 has been moved from the H4 to H6. Assuming all other open issues
12 with the Fec [sic] are resolved, we do not believe the committee has over transferred funds, and
13 therefore no corrective action would be necessary."

14 On May 18, 2007, in response to the RFAI, the Committee filed a Form 99 which stated,
15 in part, "We believe the over transfer only deals with the expenditures that were the basis of
16 previous RFAI's. The committee had previously responded to that matter." However, the

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1 Committee's 2007 June Monthly Report included a \$44,318.50 corrective transfer from the
2 federal account to the non-federal account.¹ Although this transfer was in response to unrelated
3 activity, RAD factored the transfer amount into the total violation amount, yielding a total of
4 \$386,345.02 in excessive non-federal transfers.

5 The Commission notified the Committee of a referral for the excessive transfer of non-
6 federal funds for allocated administrative expenses on August 7, 2009, pursuant to the
7 Commission's Agency Procedure for Notice to Respondents in Non-Complaint Generated
8 Matters. The Committee's response stated that the Committee intended to make corrective
9 transfers of funds from the federal to the non-federal account within two weeks. On
10 November 2, 2009, the Committee notified the Commission that it made a \$60,000 corrective
11 transfer from the federal account to the non-federal account on October 30, 2009. An additional
12 \$100,000 corrective transfer was made in October 2009.

13 State party committees may allocate their administrative expenses between their federal
14 and non-federal accounts. 11 C.F.R. § 106.7(c)(2). If the committee allocates these expenses, it
15 must do so according to a set ratio; in California's 2005-2006 election cycle, committees were
16 required to allocate at least twenty-one percent of their administrative expenses to their federal
17 accounts. 11 C.F.R. § 106.7(d)(2). State party committees may transfer funds from their non-
18 federal to their federal accounts only to cover the non-federal share of the allocable expenses,
19 and these transfers must be made no more than ten days before and no more than sixty days after
20 the payments for which they are designated are made from the federal account. 11 C.F.R.
21 § 106.7(f). When committees have a separate federal and non-federal account, only funds

¹ In addition to this corrective transfer, RAD also factored in a \$40,000 transfer made by the Committee during the last ten days of the reporting period, yielding the \$84,318.50 listed in the chart above. See 11 C.F.R. § 106.7(f).

1 subject to the prohibitions and limitations of the Act may be deposited into the federal account.

2 11 C.F.R. § 102.5(a)(1)(i).

3 State political party committees are prohibited from knowingly accepting contributions
4 from corporate or labor organizations in connection with a federal election. 2 U.S.C. § 441b(a).

5 They are further prohibited from accepting contributions to their federal accounts which in
6 aggregate exceed \$10,000 in a calendar year. 2 U.S.C. § 441a(a), (f). California law, however,
7 permits corporate contributions to non-federal candidates and committees. California Political
8 Reform Act §§ 82047, 85303. Additionally, California permits individuals to contribute \$25,000
9 per calendar year to party committees' non-federal accounts. CPRA § 85303. In this matter, it
10 appears that the Committee did not properly allocate its administrative expenses between its
11 federal and non-federal accounts.

12 Based on its 2006 Amended 12-Day Pre-General, 30-Day Post-General, and Year-End
13 Reports, it appears that the Committee transferred a total excess of \$386,345.02 in non-federal
14 funds into its federal account. Accordingly, the Commission finds reason to believe that the
15 California Republican Party/V8 violated 2 U.S.C. §§ 441b(a) and 441a(f), and 11 C.F.R.
16 §§ 102.5(a)(1)(i) and 106.7(f).

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