



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 15 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles M. Webster
9 Higgins Street
Augusta, Maine 04330

Re: MUR 6394
Rochelle M. Pingree, *et al.*

Dear Mr. Webster:

This is in reference to the complaint you filed with the Federal Election Commission on October 13, 2010, concerning possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). After conducting an investigation in this matter, the Commission found that there was probable cause to believe Rochelle M. Pingree violated 52 U.S.C. §§ 30114(c)(2), 30116(f), and 11 C.F.R. §§ 100.93(c)(2) and 113.5(b); Pingree for Congress and Anne Rand in her official capacity as treasurer violated 52 U.S.C. §§ 30114(c)(2), 30116(f), and 11 C.F.R. § 113.5(b); and S. Donald Sussman violated 52 U.S.C. § 30116(a)(1)(A), provisions of the Act and Commission's regulations. On July 9, 2015, the Commission accepted a joint conciliation agreement signed by the respondents, thereby concluding the matter.

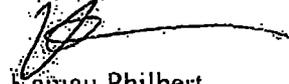
Prior to its investigation, the Commission found reason to believe that Sussman alternatively violated 2 U.S.C. § 441b(a) (now 52 U.S.C. § 30118(a)) and 11 C.F.R. § 114.2(e), and that Magic Carpet Enterprises, LLC ("Magic Carpet") and Pingree for Congress and Anne Rand in her official capacity as treasurer violated 2 U.S.C. § 441b(a) (now 52 U.S.C. § 30118(a)). The Commission, however, voted to take no further action regarding these reason to believe findings after its investigation showed that Magic Carpet was not a corporation. Accordingly, the Commission closed the file in this matter on July 9, 2015.

Documents related to the case, including a copy of the redacted Second General Counsel's Report explaining the Commission's decision to take no further action regarding the reason to believe findings described above, 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) and Statement of Policy Regarding Placing First General

Charles M. Webster
Page 2

Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the joint conciliation agreement with Pingree, Sussman, and Pingree for Congress and Anne Rand in her official capacity as treasurer is enclosed for your information.

Sincerely,



Kaimau Philbert
Attorney

Enclosure
Signed Conciliation Agreement

11-11-11 11:11:11

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
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Chellie Pingree)
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Pingree for Congress and)
Anne Rand in her official)
capacity as treasurer)
)
S. Donald Sussman)

MUR 6394

OFFICE

REC'D
FEDERAL CENTER
2015 JUN 25 PM 12:00

CONCILIATION AGREEMENT

This matter was initiated via a complaint filed by Charles M. Webster and the Maine Republican Party. The Federal Election Commission ("Commission") found probable cause to believe that Chellie Pingree violated 52 U.S.C. §§ 30114(c)(2), 30116(f), and 11 C.F.R. §§ 100.93(c)(2) and 113.5(b), that Pingree for Congress and Anne Rand in her official capacity as treasurer violated 52 U.S.C. §§ 30114(c)(2), 30116(f), and 11 C.F.R. § 113.5(b), and that S. Donald Sussman violated 52 U.S.C. § 30116(a)(1)(A).

NOW, THEREFORE, the Commission and the above-named Respondents, having duly entered into conciliation pursuant to 52 U.S.C. § 30109(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 - 1. Chellie Pingree was a candidate for re-election to Maine's First Congressional District during the 2010 election cycle.

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1 contributions in the form of non-commercial air travel. *Id.* § 113.5(b). The regulations explain
2 that HLOGA prohibition on non-commercial air travel applies to a House candidate who is a
3 “campaign traveler,” which includes, “any candidate traveling in connection with an election for
4 Federal office.” *Id.* § 100.93(a)(3)(i)(A).

5 7. HLOGA permits a House candidate to travel on an aircraft owned or leased by the
6 candidate or the candidate’s “immediate family member.” 52 U.S.C. § 30114(c)(3). HLOGA
7 limits immediate family members to a father, mother, son, daughter, brother, sister, husband,
8 wife, father-in-law, or mother-in-law; it does not include “fiancé” among immediate family
9 members. 52 U.S.C. § 30114(c)(3)(B); 11 C.F.R. §§ 100.93(g)(4), 113.5(c)(3).

10 8. The Act prohibits any person from making contributions to any candidate or the
11 candidate’s authorized committee with respect to a federal election that in the aggregate, exceed
12 \$2,400 in the 2010 election cycle. 52 U.S.C. § 30116(a)(1)(A). The Act’s limits also apply to the
13 provision of in-kind contributions in the form of air travel. 11 C.F.R. § 113.5(b).

14 9. A contribution by a limited liability company that is owned by a sole individual and
15 does not elect to be treated as a corporation by the Internal Revenue Service is attributed only to
16 the individual. *See* 11 C.F.R. § 110.1(g)(4).

17 10. The Act prohibits any candidate or political committee from accepting any
18 contribution that exceeds the contribution limits, which were \$2,400 for the 2010 election cycle.
19 52 U.S.C. § 30116(f).

20 **Facts**

21 11. Sussman’s business regularly involves travel to the metropolitan New York area,
22 where, as of 2010, he maintained an office and residence in Greenwich, Connecticut (roughly
23 one hour north of New York City), and an apartment in Manhattan, New York City. Pingree

1 occasionally accompanied Sussman on travels to New York City for personal reasons unrelated
2 to re-election campaign activities.

3 12. In the summer of 2010, the Committee considered planning a re-election fundraiser
4 in New York City. Respondents state that roughly one month prior to the date on which the
5 fundraiser was to be held, Pingree sought from Sussman dates that he would otherwise be
6 traveling to the New York area for business. Sussman identified September 13, 2010, and the
7 campaign scheduled a fundraiser on that day.

8 13. On September 13, 2010, the day of the fundraiser, Pingree traveled with Sussman on
9 the jet from Portland, Maine to Westchester County Airport in White Plains, New York ("White
10 Plains Airport"). Pingree and Sussman drove to New York City and, among other things,
11 attended a re-election fundraiser at a private residence. After the fundraiser ended, Pingree and
12 Sussman drove back to White Plains Airport and flew on the jet to Washington, D.C.

13 14. On September 30, 2010, Pingree flew on the jet from Washington D.C. to
14 Portland — Maine and attended a campaign fundraiser and a Democratic candidates event the
15 next day, October 1, 2010. The following day, October 2, 2010, Pingree attended a Seacoast
16 Democrats event and a campaign house party. On October 4, 2010, Pingree flew on the jet from
17 Portland, Maine to Westchester, New York for a nonprofit fundraiser — the only scheduled
18 event on Pingree's calendar for the day. Pingree returned to Washington, D.C. on the jet with
19 Sussman.

20 15. Sussman paid total costs of approximately \$13,456.80 for both of Pingree's trips on
21 the jet — \$7,974.40 for the September 13, 2010 trip and \$5,482.40 for the September 30 to
22 October 4, 2010 trip.

16. Respondents contend that they would have made the trip to the New York area on September 13, 2010, and the trip between Washington, D.C., Maine, and New York from September 30 to October 4, 2010, irrespective of Pingree's re-election campaign. Based on their understanding of the Commission's decision in Advisory Opinion 2002-5, Respondents contend that they understood that any travel expenses that would have existed irrespective of campaign activities would not be considered expenditures and not subject to the Act's restrictions. Accordingly, notwithstanding the new restrictions that HLOGA placed on House candidates campaign travel on noncommercial aircraft, Respondents contend that they believed that Representative Pingree's trips on Sussman's private aircraft were permissible at the time they were made in 2010. Respondents contend that they had a good faith misunderstanding of the HLOGA restrictions and that any violation of the law was inadvertent, and the Commission is unaware of any information to the contrary.

V. Solely for the purpose of settling this matter expeditiously and avoiding litigation, with no admission as to the merit of the Commission's legal conclusions or with respect to any other proceeding, Respondents agree not to contest:

1. That Chellie Pingree was a "campaign traveler" on the flights in question within the meaning of 11 C.F.R. § 100.93.

2. The flights at issue constituted a violation of 52 U.S.C. § 30114 (c)(2) and 11 C.F.R. §§ 100.93(c)(2) and 113.5(b), when Pingree travelled on a non-commercial aircraft on trips to attend re-election campaign events.

3. The flights at issue constituted an excessive in-kind contribution under 52 U.S.C. § 30116 (a)(1)(A) and 30116 (f).

1 VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the
2 amount of Nine Thousand Seven Hundred Fifty Dollars (\$9,750), pursuant to 52 U.S.C.
3 § 30109(a)(5)(A). Respondents will cease and desist from violating 52 U.S.C. §§ 30114(c),
4 30116 (a)(1)(A), and 30116(f).¹

5 2. Pingree for Congress and Anne Rand in her official capacity as treasurer will
6 reimburse the \$13,456.80 value of the flights on the jet to Magic Carpet Enterprises LLC and
7 will provide the Commission with proof of the reimbursement.

8 VII. The Commission, on request of anyone filing a complaint under 52 U.S.C.
9 § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review
10 compliance with this agreement. If the Commission believes that this agreement or any
11 requirement thereof has been violated, it may institute a civil action for relief in the United States
12 District Court for the District of Columbia.

13 VIII. This agreement shall become effective as of the date that all parties hereto have
14 executed same and the Commission has approved the entire agreement.

15 IX. Respondents shall have no more than 30 days from the date this agreement becomes
16 effective to comply with and implement the requirements contained in this agreement and to so
17 notify the Commission.

18

¹ The Commission acknowledges that under HLOGA, Pingree may travel on a non-commercial aircraft owned or leased by an "immediate family member," such as her husband.

CONFIDENTIAL

