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999 E Street, N.W.
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT **SENSITIVE**

MUR: 6519

DATE COMPLAINT FILED: December 21, 2011

DATE OF NOTIFICATION: December 23, 2011

DATE OF LAST RESPONSE: May 11, 2012

DATE ACTIVATED: February 21, 2012

EARLIEST SOL: October 19, 2015

LATEST SOL: October 26, 2015

COMPLAINANT:

Kevin P. LeMaire

RESPONDENTS:

Calvin C. Fayard, Jr.
Cynthia Fayard
Chalyn Fayard
Cathryn Caroline Fayard,
Calvin C. Fayard, III
Frances Gray Fayard
Carolyn Mistoler
D. Blayne Honeycutt
Valerie Honeycutt

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 441f
11 C.F.R. § 110.4(b)

INTERNAL REPORTS CHECKED:

Disclosure Reports

OTHER AGENCIES CHECKED:

Louisiana Board of Ethics

I. INTRODUCTION

Complainant alleges that Calvin C. Fayard, Jr. or Cynthia Fayard provided the funds that their daughter Chalyn Fayard used for a \$10,000 contribution to the federal account of the Democratic State Central Committee of Louisiana ("DSCCL") in October 2010. Respondents maintain that Chalyn Fayard used her own funds for the contribution and provided information

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1 showing that she had sufficient personal funds to make the contribution. Complainant also
2 generally alleges that additional contributions to the DSCCL's federal account reported as being
3 made by Fayard family members and associates came from an unnamed source. Respondents
4 deny these allegations.

5 As discussed below, the available information shows that Chalyn Fayard made the
6 \$10,000 federal contribution to the DSCCL with her own funds. Further, the less specific
7 allegations regarding additional federal contributions made by Fayard family members and
8 associates are based on speculation and have been denied. Therefore, we recommend that the
9 Commission find no reason to believe that respondents violated the Act or Commission
10 regulations.

11 **II. FACTS**

12 **A. Background**

13 The DSCCL is a state political party committee of the Louisiana Democratic Party that
14 is registered with the Commission and maintains a federal account.

15 Calvin Fayard, Jr. is a Louisiana attorney and one of two named partners of the law firm
16 Fayard & Honeycutt, APC. Cynthia Fayard is his ex-wife and the mother of his three adult
17 children: Chalyn Cynthia Fayard, a veterinarian; Cathryn "Caroline" Fayard, an attorney; and
18 Calvin C. Fayard, III, an attorney. Frances Gray Fayard is Calvin Fayard, Jr.'s current wife and
19 is also an attorney. D. Blayne Honeycutt is Calvin Fayard, Jr.'s law partner at Fayard &
20 Honeycutt, APC, and Valerie Honeycutt is his wife. Carolyn Mistoler allegedly was Calvin
21 Fayard, Jr.'s personal and business bookkeeper during the relevant period. *See* Complaint at 2.

22 Disclosure reports filed with the Commission show that the Fayard family members
23 contributed over \$655,000 to various federal candidates and committees since 1997. Calvin

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Fayard, Jr. has contributed over \$280,000; Cynthia Fayard, who is retired, has contributed over \$84,000; Chalyn Fayard has contributed over \$45,000; Caroline Fayard has contributed over \$45,000; Calvin C. Fayard, III, has contributed over \$51,000; and Frances Gray Fayard has contributed over \$149,000.

B. 2010 Federal Contributions

On October 26, 2010, Chalyn Fayard contributed \$10,000 to the DSCCL's federal account. Commission disclosure reports show that other Fayard family members contributed an additional \$55,000 to the DSCCL's federal account in October 2010. Calvin C. Fayard, Jr., Cynthia Fayard, and D. Blayne Honeycutt each contributed \$10,000 on October 19, 2010, and Frances Gray Fayard contributed \$5,000 on the same date. Caroline Fayard and Valerie Honeycutt each contributed \$10,000 on October 26, 2010.¹

Complainant, a former paralegal at Fayard and Honeycutt, APC, alleges that Chalyn Fayard's \$10,000 contribution was made with funds that her parents transferred into her bank account. *See* Complaint at 2-3. Complainant does not claim to have any direct knowledge of such a reimbursement, but alleges that Chalyn Fayard could not have afforded the \$10,000 contribution because she was a veterinary doctoral student in Scotland and was unemployed at the time. *See* Complaint at 3.

Chalyn Fayard asserts that, although she was a full-time graduate veterinary student at the time of her contributions, she had substantial personal assets and investments with which to make the contribution. *See* Response at 2. She submitted an affidavit stating that the \$10,000 contribution was made with her personal funds and was not reimbursed. *Id.* She also provided

¹ The Commission's disclosure reports show that Caroline Fayard previously contributed \$5,000 to the DSCCL's federal account on July 13, 2010 and that Frances Gray Fayard contributed \$2,950 in August 2010. Although Complainant alleged that Calvin Fayard III's contributions to the DSCCL were also reimbursed, the committee's reports show no federal contributions from Calvin Fayard III in 2010.

1 information showing that she received \$85,587 in income from wages and investments during
2 2010. Chalyn Fayard further provided bank records showing the source of the funds used to
3 make the \$10,000 contribution.² See Supplemental Response dated April 19, 2012 at 1.
4 According to the bank records, Chalyn Fayard made the \$10,000 federal contribution with
5 check No. 846 dated October 26, 2010 from her Chase checking account. The check was
6 cashed on October 28, 2010 from equivalent funds Chalyn Fayard transferred from her Chase
7 savings account.

8 Without providing any details, Complainant also alleges that the \$55,000 in federal
9 contributions to the DSCCL reported as being made by various Fayard family members and
10 associates came from an unnamed source. Complainant provided no factual basis for the
11 allegations. Those respondents assert that they made their contributions with personal funds,
12 but they did not provide personal financial information. See Response at 2.

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² Chalyn Fayard, through counsel, offered to provide records voluntarily to substantiate her declaration, notwithstanding her understanding that she need not do so at this stage of the Commission's proceeding. On April 19 and May 11, 2012, Chalyn Fayard provided relevant bank records. She also provided a copy of a personal financial statement showing that she had a net worth of over [redacted] in August 2002 as evidence of her financial means.

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C. 2010 Nonfederal Contributions

Fayard family members also made substantial non-federal contributions in 2010. Complainant alleges that on January 20, 2011, the Louisiana Board of Ethics commenced an investigation into whether Calvin Fayard, Jr., Cynthia Fayard, and Caroline Fayard violated the Louisiana Campaign Finance Disclosure Act by making contributions in the name of another to evade Louisiana's \$5,000 individual contribution limit to state candidates.⁴ *See* Complaint at 3.

Complainant suggests that the Louisiana Board of Ethics investigation into nonfederal contributions indicates that Chalyn Fayard's \$10,000 federal contribution was part of a broader reimbursement scheme to support Caroline Fayard's 2010 candidacy for Lieutenant Governor of Louisiana.⁶ *See* Complaint at 2-3. Respondents deny the allegations. *See* Response.

⁴ Additional information regarding the state investigation is available in a publicly-released opinion from a parallel judicial proceeding challenging the jurisdiction of the Louisiana Board of Ethics to conduct the investigation, which was decided in favor of the Board. *See Louisiana Democrats v. The Louisiana Board of Ethics*, No. 2011 CW 2187, Op. (La. App. 1 Cir. 1/23/12).

⁶ During the 2010 election cycle, Caroline Fayard was a first-time candidate for Lieutenant Governor in the state of Louisiana. She received sufficient votes in an October 2, 2010 special election to run against Louisiana's Secretary of State Jay Dardenne in a November 2, 2010 runoff election. The special election followed the resignation of former Lieutenant Governor, Mitch Landrieu, who became Mayor of New Orleans. *See* Ed Anderson, *Race for Louisiana's [sic] Next Lieutenant Governor Heats Up*, Times-Picayune (Oct. 21, 2010).

III. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits a person from making a contribution in the name of another person, knowingly permitting one's name to be used to effect such a contribution, or knowingly accepting a contribution made by one person in the name of another. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1). The Commission's regulations prohibit knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(1)(iii). Contributions made to the DSCCL's federal account are subject to the limits and prohibitions of the Act. *See* 11 C.F.R. § 102.5(a).

Complainant alleges that the Fayards reimbursed various contributions, including Chalyn Fayard's \$10,000 contribution. Complainant's allegation regarding Chalyn Fayard relies on the premise that as a full-time student she would not have the funds to make a \$10,000 contribution. The available evidence does not support the allegation. Chalyn Fayard provided a sworn affidavit declaring that she made the \$10,000 contribution with personal funds and that she was not reimbursed. She also provided bank records showing that she had sufficient existing funds in her bank account to fund the contribution and that the contribution was made with funds she transferred from her savings account. There is no available information that casts any doubt as to the veracity of the statements in Chalyn Fayard's sworn affidavit. Therefore, we recommend that the Commission find no reason to believe Chalyn Fayard, Calvin Fayard, Jr., or Cynthia Fayard violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1) with regard to the \$10,000 federal contribution reported as having been made by Chalyn Fayard.

Complainant further alleges that various other federal contributions the DSCCL reported as being made by Chalyn Fayard's parents, siblings, and the Honeycutts in 2010 were reimbursed. Complainant provided no information to support the allegations, however, and

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respondents have denied the allegations. Therefore, we also recommend that the Commission find no reason to believe Calvin Fayard, Jr., Cynthia Fayard, Caroline Fayard, Calvin C. Fayard, III, Frances Gray Fayard, D. Blayne Honeycutt, and Valerie Honeycutt violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1) in connection with federal contributions to the DSCCL reported as having been made in their names.

Finally, Complainant alleges that Carolyn Mistoler, the Fayard and Honeycutt law firm's bookkeeper, helped or assisted the family with the purported reimbursement scheme. Based on the above discussion, we also recommend that the Commission find no reason to believe Ms. Mistoler violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1).

III. RECOMMENDATIONS

1. Find no reason to believe that Chalyn Fayard violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1);
2. Find no reason to believe that Calvin C. Fayard, Jr. and Cynthia Fayard violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1);
3. Find no reason to believe that Cathryn Caroline Fayard, Calvin C. Fayard, III, Frances Gray Fayard, D. Blayne Honeycutt, Valerie Honeycutt, and Carolyn Mistoler violated 2 U.S.C. § 441f or 11 C.F.R. § 110.4(b)(1);
4. Approve the attached Factual and Legal Analysis;
5. Approve the appropriate letters; and

6. Close the file.

Date

5/21/12

Anthony Herman
General Counsel



Daniel A. Petalas
Associate General Counsel
for Enforcement



Mark Shonkwiler
Assistant General Counsel



Kamau Philbert
Attorney

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