



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MAR 15 2013

VIA U.P.S

Cora Carper

Churchton, MD 20733

RE: MUR 6526

Dear Ms. Carper:

On February 2, 2012 and May 14, 2012, the Federal Election Commission (the "Commission") notified you of a complaint alleging that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and provided you with a copy of the complaint.

After reviewing the allegations contained in the complaint and other information available to it, the Commission, on January 10, 2013, found reason to believe that you knowingly and willfully violated 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15, provisions of the Act and Commission regulations, respectively. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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.

To expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

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During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 2 U.S.C. § 437g(a), 11 C.F.R. Part 111 (Subpart A).

If you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding. We are also enclosing for your convenience another copy of the enforcement procedures that were originally provided to you with the notification letters mailed to you in 2012.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Statement of Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 matter to be made public. We look forward to your response.

On behalf of the Commission,



Donald F. McGahn II
Vice Chairman

Enclosures

Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT:** Cora Carper

MUR 6526

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8 **I. INTRODUCTION**

9 This matter was generated by a Complaint filed with the Federal Election Commission
10 (the "Commission") by the International Association of Heat and Frost Insulators & Allied
11 Workers PAC ("AWPAC"). AWPAC alleges that Cora Carper, a former employee of its
12 connected organization, a labor union, embezzled approximately \$500,000 from it, thereby
13 preventing it from filing accurate disclosure reports as required by the Federal Election
14 Campaign Act of 1971, as amended (the "Act").

15 Carper was indicted on November 14, 2012, in the U.S. District Court for the District of
16 Maryland for embezzling funds from AWPAC. *United States v. Cora Carper*, Case No. 8:12-
17 CR-00593-GLR (Nov. 14, 2012) ("Indictment"). According to the Indictment, Carper made
18 numerous cash deposits into her personal bank accounts after cashing approximately \$502,586 in
19 AWPAC checks payable to cash. Indictment ¶8.

20 Based on the Complaint, the Indictment, and information obtained by the Commission,
21 and for the reasons discussed below, the Commission finds reason to believe that Cora Carper
22 knowingly and willfully violated 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15 by commingling
23 AWPAC funds with her personal funds.¹

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¹ The Complaint alleges that Carper's surreptitious embezzlement prevented AWPAC from filing accurate disclosure reports with the Commission. Carper was neither the registered treasurer nor an assistant treasurer of AWPAC. The Act and Commission regulations impose liability only on a committee's treasurer (or in some cases, an assistant treasurer) for failing to file accurate disclosure reports. 2 U.S.C. §§ 434(a)-(b), 432(c); 11 C.F.R. §§ 104.1, 102.7, 102.9, 104.14.

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II. FACTUAL AND LEGAL ANALYSIS

A. Facts

1. AWPAC's Organization and Carper's Role

AWPAC is the separate segregated fund of the International Association of Heat and Frost Insulators and Allied Workers ("Insulators"), a labor organization with approximately 20,000 members throughout the United States and Canada. It makes contributions to both federal and state candidates and is funded by voluntary contributions from members in the United States. The Insulators' headquarters staff consists of two elected officers, President James Grogan and Secretary/Treasurer James McCourt, and about eight employees. Grogan and McCourt frequently travel for union business and are out of the office at least 50% of the time. Before Insulators terminated her employment in 2011, Carper was one of about six clerical employees, and had been employed by the union since 2001.

Carper handled administrative tasks for AWPAC since shortly after she began working for Insulators. Carper's duties included recording receipts and disbursements in an electronic ledger using financial software, preparing software-generated checks authorized in writing by one of about three union officers, reviewing AWPAC's bank statements and reconciling them with the accounting records, and generating reports of AWPAC's financial activity that she transmitted to counsel who prepared AWPAC's FEC disclosure reports. See Compl. ¶ 4. Copies of AWPAC's monthly bank statements were also distributed to McCourt and his secretary for review.

AWPAC policy required that someone other than Carper authorize checks drawn on its accounts, and further required both Grogan and McCourt to sign any such checks. This safeguard could be readily circumvented, however: the software program used to generate

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1 checks included a password-protected feature that enabled Carper to print checks bearing Grogan
2 and McCourt's signatures. In addition, because they travel frequently, AWPAC maintained ink
3 stamps accessible to Carper that could be used to reproduce Grogan and McCourt's signatures.
4 See Compl. ¶ 8.

5 2. Carper's Embezzlement Scheme and Commingling of Personal and
6 Committee Funds

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10 Following Carper's termination, AWPAC discovered that she had embezzled
11 approximately \$499,200 between June 2009 and February 2011. Compl. ¶ 5. Based on our
12 review, we identify \$506,200 in total unauthorized disbursements, slightly more than the figures
13 provided in the Complaint and Indictment.²

14 During the course of her scheme, Carper used AWPAC's financial software to generate
15 more than 300 unauthorized checks bearing McCourt's and Grogan's signatures payable to
16 "cash" or "cash reimbursement." She endorsed the checks apparently by using McCourt's
17 signature stamp, signing her own name, or both. She then cashed the checks at a PNC Bank
18 branch. Compl. ¶¶ 5, 8; see also Compl., Attach. A. AWPAC did not authorize Carper to
19 prepare or cash these checks. Compl. ¶ 6. Carper made numerous cash deposits into her
20 personal bank accounts after cashing the unauthorized checks. Indictment ¶ 8. According to
21 information obtained by the Commission, Carper deposited approximately \$180,000 of
22 committee funds into her personal accounts.

² We reviewed AWPAC checks attached to the Complaint and copies of checks dated January and February 2011 that AWPAC inadvertently omitted from the attachment. Copies of the January and February checks are attached to this Factual and Legal Analysis.

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Carper apparently made false entries for some of the checks in the electronic ledger. Indictment ¶ 8. She also failed to include unauthorized checks in the financial reports she prepared, which were used to file disclosure reports with the Commission. In addition, check copies attached to the Complaint show that Carper also placed false printed or handwritten memo entries with descriptions such as "PAC Fund" or "JDC Genesse Fund" on some of the checks.

Indictment ¶ 8; Compl., Attach. A.

B. Legal Analysis

The Act and Commission regulations require that all funds of a political committee must be "segregated from and may not be commingled with the personal funds of any individual." 2 U.S.C. § 432(b)(3); 11 C.F.R. § 102.15. A knowing and willful violation of the Act indicates that "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law" 122 Cong. Rec. H3778 (daily ed. May 3, 1976). Such a violation may be established "by proof that the defendant acted deliberately and with knowledge" that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). In *Hopkins*, the court found that an inference of a knowing and willful violation could be drawn "from the defendants' elaborate scheme for disguising their . . . political contributions" *Id.* at 214-15. The court held further that willfulness did not require proof that a defendant "had specific knowledge of the regulations" or "conclusively demonstrate" a defendant's "state of mind," if there were "facts and circumstances from which the jury reasonably could infer that [the defendant] knew her conduct was unauthorized and illegal." *Id.* at 213 (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)).

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1 Carper prepared and cashed checks drawn on AWPAC's account without authorization
2 and deposited cash proceeds from the scheme into her personal bank accounts, thus mixing or
3 commingling committee and personal funds in violation of both 2 U.S.C. § 432(b)(3) and
4 11 C.F.R. § 102.15. Her efforts to conceal the scheme by omitting the unauthorized checks from
5 internal reports the Committee used to prepare its Commission disclosure reports and by making
6 false entries in the electronic ledger concerning some of the checks further demonstrate that she
7 knew her actions were unauthorized and illegal. Accordingly, the Commission finds there is
8 reason to believe that Cora Carper knowingly and willfully violated 2 U.S.C. § 432(b)(3) and
9 11 C.F.R. § 102.15.

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