



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Charlette Mimiasie, Treasurer
Wright 2016
2160 Madison Ave., Suite 11G
New York, NY 10037

MAY - 8 2018

RE: MUR 7374 (formerly RR 17L-39)
Wright 2016 and Charlette Mimiasie in her
official capacity as treasurer

Dear Ms. Mimiasie:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Wright 2016 and you in your official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 11, 2017, the Commission notified you that the Committee was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On April 26, 2018, the Commission found reason to believe that the Committee violated 52 U.S.C. §§ 30116(f) and 30118(a), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

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. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

In order 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 to 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

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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probable cause to believe that you violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530 or cgallagher@fec.gov within seven days of receipt of this letter. 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* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, 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.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

Charlette Mimiassie, Treasurer
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We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter
Chair

Enclosures
Factual and Legal Analysis

cc: Keith L. T. Wright
Wright 2016
2160 Madison Ave., Suite 11G
New York, NY 10037

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Wright 2016 and Charlette Mimiasie
4 in her official capacity as treasurer

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7 **I. INTRODUCTION**

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9 This matter was generated based on information ascertained by the Federal Election
10 Commission (“Commission”) in the normal course of carrying out its supervisory
11 responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Commission’s Reports Analysis Division
12 (“RAD”) referred Wright 2016 and Charlette Mimiasie in her official capacity as treasurer
13 (“Committee”) to the Office of General Counsel for failing to timely refund, redesignate, or
14 reattribute \$9,250 in excessive and prohibited 2016 primary election contributions and failing to
15 timely refund \$117,450 in 2016 general election contributions after the candidate’s loss in the
16 primary election.¹ For the reasons set forth below, the Commission finds reason to believe that
17 the Committee violated 52 U.S.C. §§ 30116(f) and 30118(a).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. Background**

20 The Committee is the principal campaign committee for Keith Wright, an unsuccessful
21 candidate in the June 28, 2016, Democratic Primary in New York’s 13th Congressional District.²
22 The Committee received its last contribution on June 28, 2016.³

23 **1. Excessive and Prohibited 2016 Primary Contributions**

¹ RAD Referral 17L-39 (Wright 2016) (Oct. 10, 2017) (“Referral”), incorporated herein by reference.

² *See* Statement of Candidacy, Keith L.T. Wright (June 15, 2015); Amended Statement of Organization, Wright 2016 (Jan. 12, 2017).

³ Referral at Attach. 3.

1 As detailed in the Referral, the Committee received \$9,250 in excessive or prohibited
2 contributions.⁴ On July 28, 2015, RAD sent a Request for Additional Information (“RFAI”) to
3 the Committee referencing its receipt of prohibited contributions disclosed on the 2015 July
4 Quarterly Report and requested that the Committee refund those contributions.⁵ In response, on
5 October 15, 2015, the Committee filed an Amended 2015 July Quarterly Report, which included
6 notations that the funds were either refunded or consisted of federally permissible funds.⁶ On the
7 same day, the Committee filed its 2015 October Quarterly Report disclosing refunds of certain
8 prohibited contributions, but \$1,000 was untimely refunded and \$500 was not refunded.⁷

9 Subsequently, on September 20, 2016, RAD sent the Committee an RFAI referencing,
10 *inter alia*, the 2016 July Quarterly Report, which disclosed the receipt of \$7,750 in excessive or
11 prohibited contributions.⁸ The Committee did not respond to the RFAI and has not refunded,
12 redesignated, or reattributed the contributions.⁹

2. Failure to Refund 2016 General Election Contributions

13 During the 2016 election cycle, the Committee received \$117,450 in contributions
14 designated for the 2016 general election.¹⁰ After Wright lost the primary election, RAD’s
15 September 20, 2016, RFAI requested that the Committee refund or redesignate the general

⁴ *Id.* at 1-2, Attach. 2.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.*, Attach. 2.

⁸ *Id.*

⁹ Referral, Attach. 2.

¹⁰ Referral at 3-4, Attach. 3.

1 election contributions.¹¹ Ultimately, the Committee untimely refunded \$21,050 in general
2 election contributions, as disclosed in its 2016 Year-End and 2017 July Quarterly Reports.¹² In
3 response to later RAD inquiries, the treasurer stated that the Committee did not have sufficient
4 funds to refund all the general election contributions.¹³

5 **B. Legal Analysis**

6 During the 2016 election cycle, an authorized committee was permitted to accept a total
7 of \$2,700 per election from any individual and \$5,000 from a multicandidate committee.¹⁴ A
8 primary election and a general election are each considered a separate “election,” and the
9 individual contribution limits are applied separately with respect to each election.¹⁵ Candidates
10 and their political committees are prohibited from knowingly accepting excessive contributions
11 and contributions made with corporate or labor union treasury funds.¹⁶

12 The Commission’s regulations permit a candidate or his or her authorized committee to
13 receive contributions for the general election prior to the primary election.¹⁷ If, however, the
14 candidate does not become a candidate in the general election, the committee must: (1) refund
15 the contributions designated for the general election; (2) redesignate such contributions in
16 accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5); or (3) reattribute such contributions in

¹¹ *Id.* at 4; *see also* RFAI at 5 (Sept. 20, 2016).

¹² Referral at 5.

¹³ *Id.*

¹⁴ 52 U.S.C. § 30116(a)(1)(A), (a)(2)(A); 11 C.F.R. §§ 110.1(a)-(b), 110.2(b)(1).

¹⁵ 52 U.S.C. §§ 30101(l)(A), 30116(a)(6); 11 C.F.R. §§ 100.2, 110.1, 110.2.

¹⁶ 52 U.S.C. §§ 30116(f), 30118(a).

¹⁷ *See* 11 C.F.R. § 102.9(e)(l). The committee must use an acceptable accounting method to distinguish between primary and general election contributions. *Id.*

1 accordance with 11 C.F.R. § 110.1(k)(3).¹⁸ The committee must do so within 60 days of the date
2 that the committee has actual notice of the need to redesignate, reattribute, or refund the
3 contributions, such as the date the candidate loses the primary or withdraws from the campaign.¹⁹

4 In this matter, the Committee accepted \$9,250 in excessive or prohibited contributions,
5 and failed to refund, or untimely refunded, \$117,450 in general election contributions after
6 Wright lost the primary election. The Committee does not dispute its failure to make the
7 appropriate refunds.²⁰

8 Therefore, there is reason to believe that Wright 2016 and Charlette Mimiasie in her
9 official capacity as treasurer violated 52 U.S.C. §§ 30116(f) and 30118(a).

¹⁸ See 11 C.F.R. § 102.9(e)(3). See also Advisory Op. 1992-15 (Russo for Congress Committee) at 2 (“[n]onetheless, the Commission concludes that for losing primary candidates like Mr. Russo, who receive contributions before the primary election that are designated for the general election, redesignation within 60 days of the primary election date would be permissible.”); Advisory Op. 2007-03 (Obama for America) at 3 (“If a candidate fails to qualify for the general election, any contributions designated for the general election that have been received from contributors who have already reached their contribution limit for the primary election would exceed FECA’s contribution limits.”).

¹⁹ Advisory Op. 2008-04 (Dodd); Advisory Op. 1992-15 (Russo). The Commission’s regulations include procedures for reattributing or redesignating a contribution. See generally 11 C.F.R. § 110.1(b), (k). For example, a joint contribution may be attributed equally to each person on the negotiable instrument, and a portion of a joint contribution may be reattributed to another person on the negotiable instrument to avoid being excessive. 11 C.F.R. § 110.1(k)(2), (3). Similarly, a contribution may be designated to a particular election, but it may be redesignated to another election to avoid being excessive. 11 C.F.R. § 110.1(b)(2), (3), (5). The committee must notify contributors of the proposed reattribution or redesignation in writing and inform them that they may request a refund of the excessive portion of the contribution instead. 11 C.F.R. §§ 110.1(b)(5), 110.1(k)(3).

²⁰ Resp. at 1 (Nov. 5, 2017).