



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 28, 2021

Via Electronic Mail

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Alan L. Hale, Esq.
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Hale Westfall LLP
1400 16th Street, Suite 400
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RE: MUR 7729
Hale Westfall

Dear Messrs. Hale and Westfall:

On April 28, 2020, the Federal Election Commission notified Hale Westfall of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 24, 2021, the Commission found, on the basis of the information in the complaint, and information provided by Hale Westfall, that there is no reason to believe Hale Westfall violated 52 U.S.C. § 30102(b)(3) and 52 U.S.C. § 30104(b). Accordingly, the Commission closed its file in this matter as it pertains to Hale Westfall. The Factual and Legal Analysis, explaining the Commission's findings, is enclosed.

The Commission reminds you that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

MUR 7729 (Hale Westfall)
Alan L. Hale, Esq.
Richard A. Westfall, Esq.
Page 2

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1616 or drigsby@fec.gov.

Sincerely,

Mark Allen

Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

Respondent: Hale Westfall

MUR 7729

I. INTRODUCTION

This matter arose from a Complaint filed by Rebuilding America Now and Chris Marston in his official capacity as treasurer (the “Committee”) alleging that Hale Westfall failed to account properly for contributions and expenditures and falsely reported the Committee’s receipts and disbursements.

Because the information available to the Commission indicates that Hale Westfall did not participate in the actions alleged in the Complaint, the Commission finds that there is no reason to believe that Hale Westfall violated 52 U.S.C. §§ 30102(b)(3) and 30104(b).

II. FACTUAL SUMMARY

A. Complaint

The Committee is an independent expenditure-only political committee that was established in 2016.¹ Ryan Call served as treasurer of the Committee from June 2016 to June 2019² and he also was employed as an attorney at Hale Westfall. Hale Westfall is a law firm based in Denver, Colorado, which provided legal and compliance services to the Committee; Ryan Call, the former treasurer of the Committee, was the primary attorney at the law firm working with the Committee.³

¹ See Statement of Organization (June 12, 2016).

² See *id.*; Amended Statement of Organization (June 4, 2019).

³ See Compl., Ex. 2 (Apr. 22, 2020).

The Committee filed the Complaint against Hale Westfall, where Call was employed during the time of the events at issue. The Committee alleges that it entered into an agreement with Hale Westfall in which the law firm was retained to serve as treasurer of the Committee, manage disbursements, handle banking responsibilities, conduct reconciliations and prepare disclosure reports to the Commission with Call serving as the primary attorney.⁴ The Complaint alleges that Hale Westfall failed to properly account for receipts and disbursements and maintain records of all transactions, and falsely reported the Committee's receipts and disbursements.⁵ The Complaint also claims that Hale Westfall failed to properly supervise Call and ensure compliance with the Act.⁶ As a result, the Complaint alleges, Call was able to misappropriate \$278,169.45 over nearly a three-year period.⁷

B. Response to Complaint

Hale Westfall denies the contention in the Complaint that it was the treasurer of the Committee on the basis that the engagement letter between the Committee and Hale Westfall indicates that Call was the treasurer of the Committee.⁸ Hale Westfall denies that it failed to properly account for the Committee's contributions and expenditures and denies that it engaged in false reporting of the Committee's receipts and disbursements.⁹ The firm claims that Committee is trying to hold it responsible when the Committee's internal controls were

⁴ Compl at 1-2 (Apr. 21, 2020). The engagement letter refers to Call, the signatory on the engagement letter on behalf of Hale Westfall, as the treasurer of the Committee. *Id.*, Ex. 2 at 1.

⁵ Compl. at 2-4.

⁶ *Id.* at 2.

⁷ *Id.*, Ex. 4.

⁸ Hale Westfall Resp. at 2 (May 13, 2020). *See* Compl., Ex. 2 at 1.

⁹ *Id.* at 4.

insufficient to uncover the embezzlement until two years later.¹⁰ Hale Westfall also asserts that the Commission should dismiss this matter as to Hale Westfall or find no reason to believe that it violated federal election law.¹¹

Hale Westfall further claims that when the Committee sent a memorandum to it on July 29, 2019, with questions about Call and seeking missing documentation about the Committee's finances, the firm took corrective action by requesting that Call provide responsive explanations and documentation to the Committee.¹² On September 9, 2019, Hale Westfall asserts, it submitted a detailed response to the Committee's July 29, 2019, memorandum, and engaged in best efforts to provide information and documentation that it possessed to the Committee.¹³ Hale Westfall further claims that it was unaware of the separate contract that Call had entered into with the Committee until a few days before the end of his employment at the firm.¹⁴ When Call told Hale Westfall that he had hired an attorney to represent him and could no longer answer any questions from Hale Westfall about the Committee, Hale Westfall terminated his employment on August 16, 2019.¹⁵ Finally, Hale Westfall claims that it has no responsibility for funds misappropriated by Call because such misappropriation is an intentional tort.¹⁶ Hale

¹⁰ *Id.* at 6.

¹¹ *Id.*

¹² *Id.* at 4, Attach. B.

¹³ *Id.* at 5, Attach. C.

¹⁴ *Id.* at 5.

¹⁵ *Id.*

¹⁶ *Id.*

Westfall asserts that any funds misappropriated by Call were neither misappropriated within the scope of his employment with Hale Westfall nor for the benefit of Hale Westfall.¹⁷

III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the “Act”), provides that each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104.¹⁸

The Act also requires that a political committee’s funds shall be segregated from and may not be commingled with, the personal funds of any individual.¹⁹

Call, not Hale Westfall, was the Committee treasurer of record.²⁰ There was an engagement letter between the Committee and Hale Westfall designating Call as the primary attorney providing compliance-related services. Hale Westfall asserts that it was unaware of any embezzlement by Call, and the Commission has no information to the contrary. The law firm states that when the Committee informed it of the activities of Call, it cooperated with the Committee to gather available information and documentation about Call’s activities. Further, Hale Westfall asserts that it was unaware of Call’s separate contract with the Committee paying

¹⁷ *Id.* at 6.

¹⁸ 52 U.S.C. § 30104(a). *See also* 52 U.S.C. § 30104(b).

¹⁹ 52 U.S.C. § 30102(b)(3).

²⁰ *See* Rebuilding America Now Statement of Organization at 3 (June 12, 2016).

MUR 7729 (Hale Westfall)
Factual and Legal Analysis
Page 5 of 5

him \$5,000 per month until he informed the firm about it near the end of his employment with the law firm.

Because Hale Westfall was not the treasurer of the Committee and the Act's commingling provision applies to the personal funds of individuals,²¹ Hale Westfall does not appear to have liability under the Act in this matter. Accordingly, the Commission finds that there is no reason to believe that Hale Westfall violated the 52 U.S.C. §§ 30102(b)(3) and 30104(b).

²¹ See 52 U.S.C. § 30102(b)(3).