



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

Via Electronic Mail
Chris@ashby.law

February 14, 2022

Chris Ashby, Esq.
602 Cameron Street
Suite 102
Alexandria, Virginia 22314

RE: MUR 7958 (formerly Pre-MUR 616)
Steven Watkins, Sr. *et al*

Dear Mr. Ashby:

On August 30, 2018, you notified the Federal Election Commission (the "Commission"), in a *sua sponte* submission, that your clients, Steven Watkins, Sr., Diane Watkins, Caroline and Andrew Wise, violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). Following discussions with Commission's Office of General Counsel, the original *sua sponte* submission was supplemented with additional information in 2019 and 2020.

On January 27, 2022, the Commission found reason to believe that Steven Watkins, Sr. violated 52 U.S.C. §§ 30116(a) and 30122 and 11 C.F.R. § 110.4(a)(1)(i) by making excessive contributions in the names of other persons. The Commission also dismissed and closed the file as to your clients, Diane Watkins, Andrew Wise, and Caroline Wise. The Factual and Legal Analysis, which formed a basis for the Commission's reason to believe finding, is enclosed for your information.

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 probable cause to believe that you violated the law.

MUR 7958 (Watkins) (previously Pre-MUR 638)

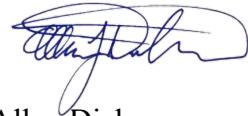
RTB letter w/CA

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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.

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 We look forward to your response.

On behalf of the Commission,



Allen Dickerson
Chairman

Enclosures:

1. Factual and Legal Analysis

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).

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR 7958
Formerly Pre-MUR 616

RESPONDENT: Steven C. Watkins Sr.

I. INTRODUCTION

13 In this *sua sponte* submission, Steven C. Watkins Sr. (“Watkins Sr.”) disclosed that he
14 provided funds or arranged to make \$10,800 of excessive contributions in the names of other
15 persons to the 2018 congressional campaign of his son, Steve Watkins, Jr. and his principal
16 campaign committee, Steve Watkins for Congress (the “Committee”).¹ Specifically, Watkins Sr.
17 gave his daughters, Caroline Wise and Diane Watkins, Wise’s husband Andrew Wise, and Diane
18 Watkins’s boyfriend Benjamin Knopke the funds used to make \$10,800 in general election
19 contributions to the Committee.

20 After Watkins Sr. advised the Committee that he was the true source of the funds used to
21 make contributions, the Committee: (1) returned \$5,400 in general election contribution checks
22 from Andrew and Caroline Wise; (2) refunded the \$2,700 general election contribution from
23 Diane Watkins; and (3) refunded the \$5,400 in contributions from Benjamin Knopke.

24 Based on the available information, the Commission finds reason to believe that Steven C.
25 Watkins Sr. violated 52 U.S.C. §§ 30116(a) and 30122 by making excessive contributions to the
26 Committee in the names of other persons.

¹ See Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Aug. 30, 2018); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 16, 2018) (including sworn affidavits from Steven C. Watkins Sr., Andrew Wise and Caroline Wise; Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (May 24, 2019) (“Supplemental Submission #2”); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (June 18, 2019) (including sworn affidavit from Steven C. Watkins Sr.) (“Supplemental Submission #3”).

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1 **II. FACTUAL BACKGROUND**

2 On November 7, 2017, Steve Watkins, Jr. (“the Candidate”) filed a Statement of
 3 Candidacy to run for the House of Representatives in Second Congressional District of Kansas
 4 and designated the Committee to Elect Steve Watkins and Steven G. Martin in his official
 5 capacity as treasurer as his principal campaign committee.²

6 Watkins Sr., the Candidate’s father, a Topeka, Kansas, area physician, and his wife,
 7 Barbara Watkins, each made the maximum allowable primary and general election contributions
 8 to the Committee on December 7, 2017, and May 29, 2018, respectively.³

Caroline Wise and Diane Watkins are the daughters of Watkins Sr., and they are the
 Candidate’s sisters.⁴ Andrew Wise is Caroline Wise’s husband, and Benjamin Knopke is Diane
 Watkins’s boyfriend.⁵

9 **A. General Election Contributions by the Daughters and Their
 10 Significant Others**

12 In early February 2018, Watkins Sr. states that he learned that an individual could make
 13 two \$2,700 contributions to the Committee, one for the primary and one for the general election.⁶
 14 Watkins Sr. then suggested that his daughters and their significant others, who already had made

² Statement of Candidacy, Steve Watkins, Jr. (Nov. 11, 2017); Statement of Organization, Committee to Elect Steve Watkins (Nov. 11, 2017).

³ 2017 Year-End Report, Committee to Elect Steve Watkins (Jan. 31, 2018) (“2017 Year-End Report”);
 2018 July Quarterly Report, Committee to Elect Steve Watkins (July 15, 2018) (“2018 July Quarterly Report”).

⁴ Submission at 1.

⁵ *Id.*

⁶ Submission at 2.

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1 \$2,700 primary election contributions, make \$2,700 general election contributions, and he agreed
 2 to provide funds for this purpose.⁷

3 On or about February 16, 2018, Watkins Sr. gave four \$2,700 checks (total \$10,800) to
 4 his daughters and their significant others.⁸ On or about February 21, 2018, and March 19, 2018,
 5 respectively, Diane Watkins and Knopke used the money Watkins Sr. provided to make \$2,700
 6 general election contributions to the Committee.⁹ Caroline Wise states that in March 2018, she
 7 used the funds her father provided to make general election contributions on behalf of herself
 8 and Andrew Wise.¹⁰ She gave the checks to Watkins Sr. for delivery to the Committee, but he
 9 did not deliver them until late May or early June 2018.¹¹

10 Watkins Sr. states that on June 10, 2018, he learned that it was illegal to reimburse
 11 contributions, and he told the Wises to ask the Committee to return their un-deposited
 12 contributions, which they did.¹² And, in fact, the Committee returned those checks.¹³ Watkins
 13 Sr. states that at the time he provided funds to the conduits to make the contributions to the
 14 Committee, he was unaware that federal law prohibited reimbursement of federal
 15 contributions.¹⁴ Diane Watkins, Knopke, Andrew Wise, Caroline Wise, Dennis Sumner and

⁷ Submission at 2.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ Caroline Wise Aff. ¶ 4; Andrew Wise Aff. ¶ 4.

¹¹ *Id.*

¹² Submission at 3-4; *see also* Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

¹³ Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

¹⁴ *Id.* at 2.

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1 Kathryne Sumner also claim to have been unaware the law prohibited them using funds provided
 2 by another person to make federal contributions.¹⁵

3 **B. Committee Refunds of Contributions**

4 Watkins Sr. states that he told his son about the contribution reimbursements for the first
 5 time on or about June 10, 2018.¹⁶ Watkins, Jr. attests that he did not know about his father's
 6 actions before that time.¹⁷ As soon as he learned of his father's actions, Watkins Jr. instructed
 7 the Committee to refund contributions to Diane Watkins and Benjamin Knopke.¹⁸ In addition,
 8 the Committee returned the un-deposited general election contribution checks from the Wises
 9 totaling \$5,400.¹⁹

10 **III. LEGAL ANALYSIS**

11 The Act and Commission regulations prohibit any person, including a corporation, from
 12 making of a contribution in the name of another to a federal political committee or allowing their
 13 name to be used in the making of a contribution.²⁰ Further, it is unlawful for a federal committee
 14 to knowingly accept a contribution made by one person in the name of another.²¹ Under the Act,

¹⁵ *Id.* at 2; *see also* Suppl. Submission #2, Caroline Wise Aff. ¶ 6; Andrew Wise Aff. ¶ 6; Benjamin Knopke Aff. ¶ 5. Diane Watkins provided a very brief affidavit that attests to the accuracy of the previous information submitted in the submission and supplemental submissions. Suppl. Submission, Diane Watkins Aff., generally.

¹⁶ Submission at 4.

¹⁷ *Id.*

¹⁸ *Id.*; *see also* 2018 July Quarterly Report (Disbursements).

¹⁸ *Id.*; *see also* 2018 July Quarterly Report (Disbursements).

¹⁹ Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

²⁰ 52 U.S.C. §§ 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii).

²¹ *Id.*; 11 C.F.R. §§ 110.4(b)(1)(iv), 114.2(d).

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1 an individual may not make a contribution to a candidate with respect to any election in excess
 2 of the legal limit, which was \$2,700 per election during the 2017-2018 election cycle.²²

3 **A. There is Reason to Believe that Watkins Sr. Made Contributions to the**
 4 **Committee in the Names of his Daughters and their Significant Others**

5 Watkins Sr. admits that he gave his daughters and their significant others the \$10,800

6 they used to make general election contributions in their own names to the Committee, and that
 7 he did so after making the maximum legal contribution to the Committee in his own name.

8 Further, each of the conduits acknowledges using the funds received from Watkins Sr. to make
 9 these contributions in their own names to the Committee.²³ Accordingly, the Commission finds
 10 reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. §§ 30116(a) and 30122 by
 11 making excess contributions in the name of another to the Committee.

12 **B. Knowing and Willful Consideration**

13 The Act prescribes additional monetary penalties for violations that are knowing and
 14 willful.²⁴ A violation of the Act is knowing and willful if the “acts were committed with full
 15 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”²⁵ This
 16 does not require proving knowledge of the specific statute or regulation the respondent allegedly
 17 violated.²⁶ Instead, it is sufficient to demonstrate that a respondent “acted voluntarily and was

²² See *Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

²³ See Submission at 2-3; Caroline Wise Aff. ¶4; Andrew Wise Aff. ¶4; Benjamin Knopke Decl. ¶4; Diane Watkins Aff., generally.

²⁴ 52 U.S.C. § 30109(a)(5)(B), (d).

²⁵ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

²⁶ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only

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1 aware that his conduct was unlawful.”²⁷ This may be shown by circumstantial evidence from
 2 which the respondents’ unlawful intent reasonably may be inferred.²⁸ For example, a person’s
 3 awareness that an action is prohibited may be inferred from “the elaborate scheme for disguising
 4 . . . political contributions.”²⁹

5 The Commission does not make knowing and willful findings here, given the *sua sponte*
 6 nature of this proceeding, Watkins Sr.’s stated unfamiliarity with federal campaign finance laws,
 7 and the contributors’ lack of significant prior giving to federal candidates.

that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

²⁷ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 108-36 (D.P.R. 2009), *United States v. Feiger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

²⁸ Cf. *United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contribution scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

²⁹ *Hopkins*, 916 F.2d. at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).