

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: January 26, 2006

ANALYST: Karen Trainer

- I. COMMITTEE: North Carolina Democratic Party-Federal
(C00165688)
Ralph Campbell Jr., Treasurer (03/01/05-Present)
James B. Stephenson, Treasurer (01/30/01-03/01/05)
220 Hillsborough Street
Raleigh, NC 27603
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(6)(B)(iii)
2 U.S.C. §434(g)(1)
11 C.F.R. §104.4(c)
- III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 24-Hour Notices)

North Carolina Democratic Party-Federal ("the Committee") failed to file seven (7) 24-Hour Notices to support seven (7) independent expenditures totaling \$59,488.00 made after the 20th day but more than 24 hours before the 2004 General Election (Attachment 2).

On February 2, 2004 and August 27, 2004, Prior Notices listing the official filing dates for monthly filers were sent to the Committee. The notices included a section titled *48- and 24-Hour Reports on Independent Expenditures* which read as follows, "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate" (Attachment 3).

26190264695

On December 2, 2004, the Committee filed an original 2004 30 Day Post-General Report which included a Schedule E (Itemized Independent Expenditures) disclosing two (2) independent expenditures totaling \$ 41,500.00 made on behalf of one (1) federal candidate. Based on the information and expenditures disclosed on this report, it appeared that the Committee was required to file two (2) 24-Hour Notices with the Commission (Image 24981538570)¹

On December 15, 2004, the Committee filed an Amended 2004 30 Day Post-General Report which included a Schedule E (Itemized Independent Expenditures) and a memo Schedule E disclosing eight (8) independent expenditures totaling \$63,460.00 made on behalf of one (1) federal candidate. Based on the information and expenditures disclosed on this report, it appeared that the Committee was required to file seven (7) 24-Hour Notices totaling \$59,488.00 with the Commission (Images 24981790734-24981790737).

On December 15, 2004, the Committee filed a miscellaneous electronic submission which stated "we have discovered that on or after October 21, 2004, the North Carolina Democratic Party made independent expenditures on behalf of Kerry-Edwards that exceeded the threshold for filing 24-hour reports. All independent expenditures were disclosed on the next regular disclosure report. However, through inadvertent oversight, no 24-hour reports were filed. Please know that we regret the oversight and will make every effort in the future to be in full compliance" (Image 24981790832).

On February 11, 2005, a Request for Additional Information ("RFAI") was sent to the Committee referencing the Amended 2004 30 Day Post-General Report, received 12/15/04. Among other matters, the RFAI noted that the Committee may have failed to file one or more of the required 24-Hour Notices for independent expenditures disclosed on the report. Furthermore, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration (Image 25038733168).

On March 3, 2005, the Committee filed a second amendment to the 2004 30 Day Post-General Report. All Schedule E (Itemized Independent Expenditures) entries that were previously disclosed as memos were now disclosed as regular entries. However, the Amendment disclosed no changes in the amounts and dates of expenditures made by the Committee on Schedule E (Image 25990175902-25990175905).

On March 3, 2005, the Committee filed a miscellaneous electronic submission in response to the RFAI dated February 11, 2005 which stated, "Please refer to our letter filed with the FEC on December 15, 200[4] (FEC-156603) regarding the filing of 24-hour notices reports for Independent Expenditures." (Image 25990175325)

¹ Please note, the 2004 30 Day Post-General Report, filed on 12/02/04, included one (1) independent expenditure totaling \$40,000.00 on Schedule E that was later reclassified as Federal Election Activity on Schedule B, supporting Line 30(b), of the Amended 2004 30 Day Post-General Report, received on 12/15/04.

On March 23, 2005, the Reports Analysis Division ("RAD") analyst called and left a voicemail message for Scott Falmlen, the Executive Director of the Committee, regarding the 2004 Amended 30 day Post-General Report. The Analyst stated that the Committee's failure to file 24-Hour Notices for independent expenditures disclosed on the report was a matter referable to the Office of General Counsel (OGC). The Analyst further explained that although the Committee had responded on December 15, 2004 and March 3, 2005, the matter was still referable, but that any clarifying information could still be submitted. Mr. Falmlen returned the Analyst's call and stated that the Committee had simply made a mistake and did not have any further information to submit regarding the issue (Attachment 4).

To date, no further communications have been received from the Committee regarding this matter.

26190264697