



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV 16 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donna Knight, treasurer
Missouri Democratic State Committee
419 East High,
P.O. Box 719
Jefferson City, MO 65102

RE: MUR 5150

Dear Ms. Knight:

On November 7, 2000, the Federal Election Commission found reason to believe that Missouri Democratic State Committee, and you as treasurer, violated 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended (the "Act"); and the Commission's regulations at 11 C.F.R. § 102.5(a). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific and good cause must be demonstrated. In addition, the Office of General Counsel ordinarily will not give extensions beyond 20 days.

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

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.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions please contact Jamila Wyatt, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Missouri Democratic State Committee and Donna Knight,
as treasurer

I. GENERATION OF MATTER

This matter was generated by an audit of Missouri Democratic State Committee (the "Committee") and Donna Knight, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b).

II. FACTUAL AND LEGAL ANALYSIS

A. LAW

No person shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). No multicandidate political committee shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(C). No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Contributions which on their face exceed the contribution limitations, and those which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor may be either deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 C.F.R. §§ 110.1(b), 110.1(k), or 110.2(b),

21.04.403.2734

as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. *Id.*

A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution; and within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be reattributed to each contributor if equal attribution is not intended. 11 C.F.R. § 110.1(b)(5).

Committees that have established separate federal and non-federal accounts under 11 C.F.R. § 102.5(a)(1)(i) or (b)(1)(i) shall pay the expenses of joint federal and non-federal activity as follows: the committee shall pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense, or the committee shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.

11 C.F.R. § 106.5(g)(1)(i) and (ii).

Committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to 11 C.F.R. § 106.5 for the following categories of activity: administrative expenses including rent, utilities, office supplies, and salaries, except for such

21-04-403-2735

expenses directly attributable to a clearly identified candidate; and generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate. 11 C.F.R. § 106.5(a)(2).

B. ANALYSIS

The Commission found that the Committee received excessive contributions from 16 individuals and two political action committees totaling \$80,250 in violation of 2 U.S.C. § 441a(f). Of the \$80,250 in excessive contributions, the Committee transferred \$50,000 within 60 days of the receipt of the excessive contribution into a non-federal account, and reattributed, \$25,000 to spouses of the excessive contributors.¹ Following these transfers and reattributions, three contributors requested and received refunds of their excessive contributions totaling \$25,250.²

In addition, the Commission determined that the Committee made disbursements totaling \$223,458 for allocable expenses from its non-federal account. The Committee failed to have the federal accounts reimburse the non-federal account the \$37,734 ($\$223,458 \times .22$)³. 11 C.F.R. § 102.5(a); *see also* 11 C.F.R. § 106.5(g).

Finally, the Commission found that the Committee deposited \$39,584 into its federal account for allocable refunds and rebates received from vendors. The refunds and rebates were

¹ The Committee did not present any evidence that it notified any of the contributors within 60 days of its receipt of the excessive contribution that they may seek a refund. Nor did the Committee present any evidence that it notified the contributors of the transfers to its non-federal account, or of the reattributions of the excessive portion of the contributions to their spouses at the time of the transfers or reattributions.

² The Committee did not make these refunds within 60 days of receiving the excessive contribution, therefore, they are untimely.

³ Based on the ballot composition ratio, the allocation percentage for these expenses was 22% federal and 78% non-federal.

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related to disbursements for shared federal and non-federal expenses. The non-federal portion of the refunds and rebates totaled \$30,662 which consisted of \$2,172 for 11 refunds and rebates traced to the 1994 election cycle, and \$28,490 for the refunds and rebates related to the 1996 election cycle.⁴ The Committee did not reimburse or otherwise make any adjustments to its account for the non-federal share of these expenses. 11 C.F.R. § 102.5; *see also* 11 C.F.R. § 106.5(g).

Accordingly, the Commission found reason to believe that the Missouri Democratic State Committee and Donna Knight, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions. The Commission also found reason to believe that Missouri Democratic State Committee and Donna Knight, as treasurer, failed to allocate its federal and non-federal expenses and refunds and rebates related to federal and non-federal disbursements in violation of 11 C.F.R. § 102.5(a).

⁴ During the 1994 election cycle, the Committee's non-federal allocation was 71% ($\$3,059 \times .71 = \$2,172$). During the 1996 election cycle, the Committee's non-federal allocation was 78% ($\$36,525 \times .78 = \$28,490$).

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