



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

JUN 21 2006

Abbe David Lowell, Esq.
Pamela Marple, Esq.
Chadbourne & Parke LLP
1200 New Hampshire Avenue, NW
Washington, DC 20036

RE: MUR 5366
Tab Turner;
Turner & Associates, PA

Dear Mr. Lowell and Ms. Marple:

On June 5, 2006, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1572.

Sincerely,

A handwritten signature in black ink, appearing to read "Brant S. Levine".

Brant S. Levine
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:)
)
Tab Turner)
)
Turner & Associates) MUR 5366
)

CONCILIATION AGREEMENT

This matter was initiated by a complaint filed with the Federal Election Commission ("the Commission") by David Keene. The Commission found reason to believe that Tab Turner and his law firm, Turner & Associates, ("Respondents") knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U S C § 437g(a)(4)(A)(i).
- II Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III Respondents enter voluntarily into this agreement with the Commission as a means to resolve this matter
- IV. The pertinent facts in this matter are as follows:

Parties

- I Tab Turner is an attorney residing in North Little Rock, Arkansas.

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2. Tab Turner is the founder and president of Turner & Associates, P.A , a law firm employing approximately 12 individuals.
 - a. Turner has registered his law practice as a for-profit corporation with the State of Arkansas.
 - b. Turner & Associates maintains various bank accounts, which are used to pay firm expenses as well as all of Tab Turner's personal expenses. Although both corporate and personal expenses are paid out the same bank accounts, the firm maintains an accounting system to differentiate between corporate expenses and Turner's personal expenses.
3. Senator John Edwards was a candidate for President of the United States in the Democratic primaries for the 2004 election; his principal campaign committee was Edwards for President ("the Edwards Committee")
4. The Edwards Committee is a political committee within the meaning of 2 U.S.C § 431(4)

Applicable Law

5. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making a contribution in the name of another and from knowingly permitting his or her name to be used to make such a contribution. 2 U.S.C § 441f. In addition, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f; 11 C F R § 110 4(b)(1)(iii). This prohibition also applies to any person who provides the money to others to effect contributions in their names. 11 C.F.R. § 110.4(b)(2).

- 6 The Act also prohibits corporations from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). In addition, section 441b(a) prohibits any officer or director of any corporation from consenting to any expenditure or contribution by the corporation.
7. Corporations are also prohibited from facilitating the making of contributions, including using their resources or facilities to engage in fundraising activities in connection with any federal election. See 11 C.F.R. § 114.2(f)(1). The regulations define facilitation to include situations when officials of a corporation direct subordinates “to plan, organize or carry out the fundraising project as part of their work responsibilities using corporate ... resources.” 11 C.F.R. § 114.2(f)(2)(i)(A). Corporations are also prohibited from acting as a conduit for contributions to candidates. See 11 C.F.R. § 110.6(b)(2).
- 8 The Act defines contributions to include paying compensation for the personal services of another person which are rendered to a political committee without charge for any purpose. 2 U.S.C. § 431(8)(A)(ii).

Background

9. In 2002, John Edwards asked Tab Turner for support and assistance with Senator Edwards’s potential presidential campaign. Tab Turner, who had some prior fundraising experience, agreed to try and help raise funds to support Senator Edwards’s campaign.
- 10 Senator Edwards subsequently attended a dinner in Washington, D.C., that Turner hosted during a conference for the Association of Trial Lawyers of

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America. Senator Edwards and other officials raised funds at this event for the Democratic National Committee.

11. During the 2002 calendar year, Tab Turner made approximately \$20,000 in federal contributions and also donated approximately \$50,000 to the nonfederal accounts of committees that conducted joint federal and nonfederal activities. Tab Turner also hosted two fundraisers for federal candidates seeking election to the United States Senate.
12. Tab Turner generally knew that the law placed limits on the amount of individual contributions to federal candidates. Turner also generally knew that this limit increased from \$1,000 to \$2,000 in 2003. Turner contends, however, that he was unaware of the specifics of the rules and that he did not realize the law prohibited making contributions in the name of another or reimbursing employees.

Arkansas Fundraisers

13. In January 2003, Tab Turner agreed to host two fundraisers in Arkansas to benefit John Edwards's presidential campaign. These fundraisers occurred on the evening of February 22, 2003. Turner's original goal was to get 25 individuals to raise \$8,000 each, for a total of \$200,000, though this goal was not met. In the end, both fundraisers together raised a total of \$65,700.
14. Turner asked his assistant, Brenda Gwin, to coordinate with the Edwards Committee staff, who was planning the fundraisers, and to assist him in soliciting contributions. Gwin, as with other employees of the firm, regularly assisted Turner with his personal obligations as part of her job duties.

15. For the fundraisers, Gwin assisted Turner with sending out invitations, contacting potential contributors, preparing spreadsheets of contributions, and communicating with the Edwards Committee.
16. As the fundraisers approached, Gwin spent a substantial amount of her normal working hours coordinating with the Edwards Committee, with the amount of time she spent preparing for the fundraisers increasing as the fundraisers neared. During the two weeks preceding the fundraisers, Gwin spent more time preparing for the events, and she also asked for and received assistance from other employees in the office.
17. During the two weeks preceding the fundraising events, Gwin and other employees of Turner & Associates communicated with employees of the Edwards Committee at least daily, with the frequency of communications increasing as the fundraisers neared. Gwin and the other employees performed services at the request of the Edwards Committee, including contacting potential contributors, collecting and forwarding contribution checks, preparing the invitations, and other tasks related to the fundraisers. Gwin and the other employees performed these services during their normal working hours as part of their job duties and did not take leave or otherwise make up the time spent on fundraising activities.
18. Tab Turner notified two staffers of the Edwards Committee who were traveling to Arkansas for the fundraisers that he arranged for their hotel and rental car reservations. Turner contends that these staffers had asked him for assistance with finding local accommodations. The expenses for these items

totaled \$2,357 88 and were paid using a credit card billed to Turner & Associates. The credit card bill was paid out the firm's general treasury, and the firm's accounting records reflect that these expenses were recorded as personal to Turner. Tab Turner later requested reimbursement for these expenses, and in July 2003, the Edwards Committee repaid Tab Turner

19. During the two months following the Arkansas fundraising events, staff of the Edwards Committee interacted with both Turner and Brenda Gwin to obtain their assistance in collecting outstanding contributions. With Tab Turner's implicit consent, Gwin spent part of her normal working hours performing services requested by the Edwards Committee, such as following up with donors and forwarding contribution checks to the campaign

Tab Turner's Contributions to Edwards Committee

20. The day before the fundraisers, Tab Turner asked Brenda Gwin to solicit four firm employees to make \$2,000 contributions to the Edwards Committee. Turner told Gwin that the employees would be reimbursed. Upon Gwin's request, four employees voluntarily wrote \$2,000 checks to the Edwards Committee. These employees each received \$2,000 from the law firm the following business day, via checks that contained the following on their memo line: "Political Reimb – Edwards Campaign." These funds were paid out of the firm's general treasury, and the firm's accounting records reflect that these expenses were recorded as personal to Turner.
- 21 The night of the fundraisers, Tab Turner contributed \$2,000 to the Edwards Committee using a credit card that was billed to the firm. Turner signed a

donor card provided by the Edwards Committee that asked for information and stated:

Please make personal checks payable to "Edwards for President."

Contributions to Edwards for President are for use in connection with the presidential primary and are subject to the prohibitions and limitations of the Federal Election Campaign Act. Contributions from corporations, labor unions, federal contractors, and foreign nationals are prohibited, and the Committee does not accept contributions from PACs, federal lobbyists and non-U.S. citizens. All contributions must be made from personal funds and may not be reimbursed by any other person.

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per election cycle.

22. Tab Turner also used his credit card to pay a \$2,000 contribution attributed to his brother and sister-in-law, Neal and Elizabeth Turner. Turner contends that he paid for this contribution because he owed his brother \$2,600
23. The credit card bill reflecting Tab Turner and his brother's contributions was paid out of the firm's general treasury, and the firm's accounting records reflect that these expenses were recorded as personal to Turner.
24. The Edwards Committee has since refunded all of the aforementioned contributions.

V. Respondents committed the following violations:

1. Respondents violated 2 U.S.C. §§ 441b(a) and 441f by making contributions in the name of another with corporate funds. The Commission has evidence it believes is sufficient to demonstrate that these violations were knowing and willful, but Respondents do not admit to the knowing and willful aspect of these violations.

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- 2 Respondents violated 2 U.S.C. § 441b(a) by making prohibited in-kind and facilitated contributions to Edwards for President.
- VI Respondents agree to take the following actions:
1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of fifty thousand dollars (\$50,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).
 - 2 Respondents will cease and desist from violating 2 U.S.C. §§ 441b(a) and 441f.
- VII. The Commission, on request of anyone filing a complaint under 2 U.S.C § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia
- VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.
- IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

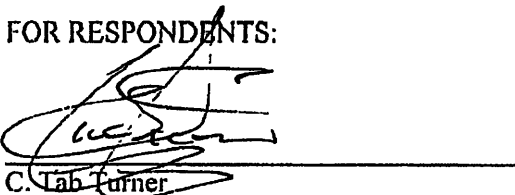
X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY:  6/21/06
Rhonda J. Vording Date
Associate General Counsel

FOR RESPONDENTS:

 4/12/06
C. Tab Turner Date

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