



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6616
 Steelman for U.S. Senate, et al.)
)

**STATEMENT OF REASONS
OF CHAIR ELLEN L. WEINTRAUB AND
COMMISSIONER STEVEN T. WALTHER**

The complaint in this matter alleges that Steelman for U.S. Senate (“Stelman Committee”), through its agent, Steven Tilley, violated the restrictions of the Federal Election Campaign Act (“the Act”) that apply particularly to federal candidates and their agents.¹ Tilley, the Missouri House Speaker, served as the Steelman Committee’s campaign chairman. The complaint specifically alleges that Tilley directed funds from one non-federal committee he controlled, Friends of Tilley, through another non-federal committee he allegedly controlled, Missouri Leadership Committee, to make a \$25,000 contribution to an FEC-registered independent expenditure-only committee, Now or Never PAC, which then supported Sarah Steelman, a candidate in the 2012 primary election for U.S. Senate from Missouri. The Office of General Counsel (“OGC”) recommended that the Commission find no reason to believe that the respondents violated 2 U.S.C. § 441i(e).² However, because the facts before us present a sufficient

¹ The complaint also alleges that Missouri Leadership Committee failed to register and report as a political committee in violation of 2 U.S.C. §§ 433 and 434. The Commission unanimously agreed that Missouri Leadership Committee was not a political committee, but could not agree on a rationale. See Certification in MUR 6616, dated May 7, 2013. We supported the Office of General Counsel’s reasoning on this issue. See First General Counsel’s Report (“FGCR”) at 8-11. Documents related to this matter are available at <http://eqs.nictusa.com/eqs/searcheqs>.

² The Act and Commission regulations prohibit federal candidates, federal officeholders, agents acting on their behalf, and entities that are directly or indirectly established, financed, maintained or controlled by, or acting on behalf of federal candidates or officeholders from soliciting, receiving, directing, transferring, or spending funds in connection with an election for federal office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act. 2 U.S.C. § 441i(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61. Agents of federal candidates and officeholders are prohibited from engaging in these activities when “acting on behalf of a federal candidate or individual holding federal office.” 11 C.F.R. §

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basis to open a limited investigation,³ we could not support OGC's recommendation to find no reason to believe a violation occurred.⁴

The Commission has clarified that the solicitation restrictions under section 441i(e) of the Act remain applicable to contributions solicited by federal candidates, officeholders, and other covered persons after *Citizens United* and *SpeechNow.org*.⁵ Such persons may solicit for independent expenditure-only political committees only contributions of \$5,000 or less, and not from prohibited sources.⁶ Tilley is an agent of Steelman because he was the chairman of the Steelman Committee.⁷ Thus, as an agent of a candidate for federal office, Tilley would be prohibited from soliciting, directing, or transferring non-federal funds on her behalf. The allegation that Tilley arranged a \$25,000 contribution to Now or Never PAC, a super PAC that supported Steelman, was not one that we believed should be dismissed without any inquiry.

While Tilley had no formal role with the Missouri Leadership Committee, the complaint alleges that Tilley was an agent of and exercised control over Missouri Leadership Committee funds.⁸ The complaint cites a 2009 article that asserts that Tilley used committees, like Missouri Leadership Committee, to direct funds to those that support his leadership ambitions.⁹ Missouri Leadership Committee has been characterized by the St. Louis Post-Dispatch as a "Missouri political action committee that for years has been a conduit for Missouri House Speaker Steve Tilley."¹⁰ There are

300.60(c). "Agent" has been defined as "any person who has actual authority, either express or implied," "to solicit, receive, direct, transfer, or spend funds in connection with any election. *Id.* § 300.2(b)(3).
³ "Reason to believe" is a threshold determination that by itself does not establish that the law has been violated. See Guidebook for Complainants and Respondents on the FEC Enforcement Process, May 2012, available at http://www.fec.gov/en/respandent_guide.pdf. In fact, a "reason to believe" determination indicates only that the Commission has found sufficient legal justification to open an investigation to determine whether there is probable cause to believe that a violation of the Act has occurred. See 72 F.R. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (March 16, 2007).

⁴ We voted to find reason to believe that the Steelman Committee, Steven Tilley, Friends of Tilley, and Missouri Leadership Committee violated 2 U.S.C. § 441i(e) in connection with the allegations in this matter and to authorize OGC to conduct a limited investigation. We also voted to take no action at this time as to Now or Never PAC. Vice Chairman McGahn and Commissioners Hunter and Petersen voted against the motion. Subsequently, the Commission failed, by a vote of 3-2, to support OGC's recommendation to find no reason to believe that the respondents violated 2 U.S.C. § 441i(e). Certification in MUR 6616, dated May 7, 2013.

⁵ Advisory Op. 2011-12 (Majority PAC), available at <http://saos.nictusa.com/saos/searchao>.

⁶ *Id.* at 4.

⁷ See Friends of Tilley Amended Response at 8; Jo Mannies, *Missouri House Speaker Tilley endorses Steelman for U.S. Senate*, ST. LOUIS BEACON, February 29, 2012, available at https://www.stlbeacon.org/#!/content/22903/tilley_stelman_022912. Tilley is also an agent of Friends of Tilley, as it was a non-federal candidate committee created to support Tilley. Friends of Tilley Response, John R. Crouch Amended Declaration ¶ 3.

⁸ Complaint at 3.

⁹ See *Greasing the Wheels: The Steve Tilley Money Machine*, JUNE 15, 2009, available at <http://www.firedupmissouri.com/content/greasing-wheels-steve-tilley-money-trail-0>.

¹⁰ See *Editorial: Trail of Dirty Money Continues to Pull Missouri Into the Mud*, ST. LOUIS POST-DISPATCH, July 19, 2012, available at http://www.stltoday.com/news/opinion/columns/the-platform/editorial-trail-of-dirty-money-continues-to-pull-missouri-into/article_a553acac-a696-5cee-ad14-089b2f9f82c6.html.

also several additional publicly available articles that discuss Tilley's financial ties to Missouri Leadership Committee.¹¹ Based on these articles, particularly the Post-Dispatch editorial, the Commission had reason to investigate. The St. Louis Post-Dispatch is the leading newspaper in St. Louis and is likely to be well-informed about Missouri's prominent political players. Additional factual support should not be necessary to open a limited investigation.¹²

While the Steelman Committee specifically denies exercising any control over the non-federal funds received by Now or Never PAC from Missouri Leadership Committee,¹³ counsel's response makes no mention of Tilley's role with respect to either the Steelman Committee or Missouri Leadership Committee. Additionally, while counsel for Tilley and Missouri Leadership Committee argues that Tilley's roles in the organizations do not reflect that Tilley exercised control over the contribution at issue,¹⁴ neither Tilley nor Missouri Leadership Committee specifically deny that Tilley exercised direction or control of the funds. Nor is an affidavit provided by anyone with personal knowledge detailing Tilley's role with Missouri Leadership Committee.

While some cases require detailed fact finding, the Commission need not, and should not, conduct an extensive investigation in matters where a few, pointed questions would suffice. In this case, an investigation would have required only that we ask those questions necessary to determine whether Tilley was an agent of or exercised control over Missouri Leadership Committee. As we have said before,¹⁵ such an investigation is particularly warranted in light of the United States District Court for the District of Columbia's admonition to the Commission against relying on conclusory denials in lieu of relevant facts.¹⁶ When the Commission is presented with such conclusory denials from respondents in the face of a specific factual allegation, the bar for choosing to take no further action is especially high. For these reasons, we voted to find reason to believe that the respondents violated 2 U.S.C. § 441i(e) and authorized OGC to conduct a limited investigation.

¹¹ See, e.g., *Tony Messenger, Developer's PACs Funnel Cash*, ST. LOUIS POST-DISPATCH, Apr. 26, 2009, available at http://stltoday.com/news/local/metro/developer-s-pacs-funnel-cash-ten-committees-his-firm-funds/article_4bb355e3-685e-5713-bcf8-2fb8371b85f4.html (stating that Tilley raises money for Missouri Leadership Committee); David A. Lieb, *Mo. Lawmaker Says FBI Asking About Sales Tax Bill*, THE SEATTLE TIMES, Dec. 1, 2009, available at http://seattletimes.com/html/business/technology/2010395506_apusmissourisalextaxesin.html (stating that Missouri Leadership Committee's treasurer, a friend of Tilley, has made donations to Tilley's campaign committee and that Tilley has raised money for and made donations to Missouri Leadership Committee).

¹² It is noteworthy that Friends of Tilley and Missouri Leadership Committee submitted nearly identical responses through the same counsel. If there was not a common decision-maker behind both of these committees, it seems unlikely that they would have chosen to mount a joint defense. Tilley, himself, also did not submit his own affidavit refuting this proposition, instead he chose to join the Friends of Tilley response.

¹³ Steelman Response at 1.

¹⁴ Friends of Tilley Response at 8-9; Missouri Leadership Committee Response at 16-19.

¹⁵ See, e.g., Statement of Reasons of Chair Ellen L. Weintraub and Commissioners Cynthia L. Bauerly and Steven T. Walther in MUR 6368 (Friends of Roy Blunt, et al.), available at <http://eqs.nictusa.com/eqsdocsMUR/13044330712.pdf>.

¹⁶ See *La Botz v. FEC*, 889 F.Supp.2d 51, 61-62 (D.D.C. 2012).

MUR 6616 (Steelman, et al.)
Statement of Reasons of Chair Weintraub and Commissioner Walther

6/13/13
Date

Ellen L. Weintraub
Ellen L. Weintraub
Chair

6/14/13
Date

Steven T. Walther
Steven T. Walther
Commissioner

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