

In the Matter of the

) Order

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) Case No. 2006-003

Green for Wisconsin Campaign Committee

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Use of Federally Converted Assets in Campaign

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For State Office

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This action was commenced on the motion of the State Elections Board pursuant to Wis. Stat. § 5.05.

FACTS

On or about January 25, 2005, Congressman Mark Green converted his federal campaign account, which included approximately \$1.3 million, to a newly-formed state campaign account – the Green for Wisconsin Committee. According to the accounting provided by Green’s campaign, of the \$1.3 million transferred, approximately \$500,000 was from PACs and other committees, with the balance being contributions from individuals.

At its January 26, 2005, meeting, the Elections Board voted to enact emergency rule Wis. Admin. Code § EIBd 1.395, which restricted a state campaign committee’s ability to spend any such funds transferred that would not have conformed to state campaign finance laws when raised. The Board found that “Restricting the use of such money to that money which has been contributed to the candidate’s federal committee, under circumstances in which the contribution would have complied with Wisconsin law if it had been given directly to the Wisconsin campaign committee, is found to be in the public interest.”

Emergency Rule Wis. Admin. Code § EIBd 1.395 took effect on or about February 3, 2005, and was suspended by the Legislature’s Joint Committee for Review of Administrative Rules (“JCRAR”) on February 9, 2005. JCRAR then introduced bills in both houses of the Legislature to overturn EIBd 1.395, but both bills died without action when the legislative session ended on July 12, 2006. Emergency rules are in effect for a period of 150 days, as per Wis. Stat. § 227.24(1)(c).

At its August 30, 2006, meeting, the Elections Board voted in favor of the following four motions:

MOTION 1:

That the Green for Wisconsin Committee be ordered to within 10 days of this date divest his campaign of all amounts received from PACs that were not registered in Wisconsin in compliance with applicable law, including but not limited to Chapter 11 of state statutes and Emergency Rule 1.395.

Motion carried, 5-2-1.

MOTION 2:

That, with respect to the previous motion, the facts alleged in the Wisconsin Democracy Campaign's filings with the Board are accepted as true and correct and the amount to be divested is \$467,844.60.

Motion carried, 5-2-1.

MOTION 3:

That the Green for Wisconsin Committee is ordered to divest itself of all PAC money received in excess of the PAC limit of \$485,190 including amounts received from his federal campaign fund, as such amounts are in violation of Emergency Rule 1.395, Chapter 11 of Wisconsin Statutes, and other applicable Wisconsin law.

Motion carried, 5-2-1.

MOTION 4:

To direct the Executive Director to retain counsel in anticipation of a lawsuit filed by the Green for Wisconsin Committee regarding the issue of divestment of campaign funds.

Motion carried, 5-2-1.

FINDINGS

Pursuant to the second motion adopted by the Board at its August 30, 2006 meeting, the Elections Board makes the following findings:

1. The Green for Congress Federal Campaign Committee converted to a state campaign committee, Green for Wisconsin Committee, on January 25, 2005.
2. At the time of its conversion, the Green for Congress Committee transferred to the Green for Wisconsin Committee aggregate contributions totaling \$1,285,973.
3. Of the \$1,285,973 converted from a federal campaign committee to a Wisconsin campaign committee, \$467,844 consisted of contributions from political committees that were not registered in Wisconsin at the time of the contribution and that could not make contributions to a Wisconsin candidate or committee at the time of contribution. Those contributions cannot be used for political

- purposes in Wisconsin as they were not made in accordance with applicable Wisconsin law.
4. The Elections Board's adoption of Wis. Admin. Code § EIBd 1.395 restricted the use of converted funds in Wisconsin if the contribution of those funds did not comply with Wisconsin's campaign finance laws.
 5. By having failed, either during the period February 4, 2005 – February 9, 2005 or during the period between July 12, 2006 and the date of the Board's August 30, 2006 meeting, to divest itself of converted funds that had been received from committees not registered in the State of Wisconsin, the Green For Wisconsin Committee has violated the Wisconsin Statutes and the Elections Board's rule Wis. Admin. Code § EIBd 1.395.

ORDER

1. The Green for Wisconsin Committee is ordered to divest itself, within 10 days of the date of this Order, of all amounts received from PACs that were not registered in Wisconsin in compliance with applicable law, including but not limited to Chapter 11 of state statutes and Emergency Rule Wis. Admin. Code § EIBd 1.395. For purposes of this order, divestiture consists of compliance with Wis. Stat. § 11.26(11), i.e., returning the contribution to the contributor; payment to the common school fund, or payment to a charitable organization recognized as such under sec. 501(c) of the Internal Revenue Code.
2. The Green for Wisconsin Committee is ordered to divest itself of all PAC money received in excess of the PAC limit of \$485,190 including amounts received from the federal campaign fund, as such amounts are in violation of Emergency Rule Wis. Admin. Code § EIBd 1.395, Chapter 11 of Wisconsin Statutes, and other applicable Wisconsin law.

Dated this 6th day of September 2006.

BY THE STATE ELECTIONS BOARD



Kevin J. Kennedy, Executive Director