FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1310

Date Filmed May 29, 1981 Camera No. --- 2

Cameraman JDC

8 1 0 4 0 2 5 0 0 3 7

MUR 1310

MUR 1310 - Gaum

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
   - ☐ Show to whom and date delivered. ..... ___¢
   - ☐ Show to whom, date and address of delivery. ..... ___¢
   - ☐ RESTRICTED DELIVERY
     Show to whom and date delivered. ..... ___¢
   - ☐ RESTRICTED DELIVERY.
     Show to whom, date, and address of delivery. $___

   (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

   Earl E Munn

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	999359	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☒ Authorized agent

P Brooks

4. DATE OF DELIVERY

11 MAY 1981

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK

MAY 11 1981

WASH DC

CLERK'S INITIALS

81 MAY 14 AM 11:25

☆GPO: 1979-300-400

PS Form 3811, Jan. 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

8104025038

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 5, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Cecil E. Munn, Esquire
Cantey, Hanger, Gooch, Munn
and Collins
1800 First National Bank Building
Fort Worth, TX 76102

RE: MUR 1310

Dear Mr. Munn:

On April 30, 1981, the Commission determined there is probable cause to believe that your client, Mr. Walter Royal Davis, violated 2 U.S.C. § 432(b)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by failing to forward contributions collected on behalf of a political committee within ten days of his receipt of such contributions. However, upon consideration of the circumstances surrounding this violation (i.e., that Mr. Davis was unfamiliar with this provision of the Act and that he was out of the country at the time contributions were received in his office), and in acknowledgement of Mr. Davis' good faith efforts to correct such violation, the Commission has determined to take no further action and close its file.

The file will be made part of the public record within 30 days. Should you wish to submit any material to appear on the public record, please do so within ten days.

If you have any questions, please direct them to Beverly B. Kramer at 202/523-4529.

Sincerely,

Charles N. Steele
General Counsel

Enclosure: Dissenting Statement

8 1 0 4 0 2 5 2 0 3 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DISSENTING STATEMENT

OF

COMMISSIONERS THOMAS E. HARRIS AND ROBERT O. TIERNAN

IN THE MATTER UNDER REVIEW (MUR) 1310: W.R.Davis

We do not doubt that W. R. Davis is, as his sarcastic and sexist ("a cute redhead named Maizie...") attorney portrays him, a nice guy. We also do not believe that the FEC is harassing Mr. Davis ("Is it too much to ask this Federal Commission to show a stature of at least a local police Officer"). The majority of the FEC has determined that there is probable cause to believe that Mr. Davis has violated 2 U.S.C. §434(b)(1), but has also voted to close the file. We object to the latter determination.

W. R. Davis collected approximately $58,000 in contributions to George Bush's Presidential campaign and held them while he waited for a chance to be personally thanked for his efforts. (It had been my intention to give them to George Bush or his representative someday when he or the representative came to my office.") When the opportunity did not arise, the checks were mailed to the Bush campaign. Mr. Davis had waited for six months before he transmitted the checks to the campaign.

The majority of the Commission and Mr. Davis himself seem to have missed the point. In order to satiate his ego, Mr. Davis has thwarted the fundamental purposes of the FECA. By holding onto the checks from February until July, Mr. Davis has frustrated the Congressional purpose of timely disclosure of campaign contributions.

In addition, Mr. Davis still does not understand that the purpose of the ten day transmittal requirement was to guard against the very actions which he undertook. The contribution limitations took the "fat cat contributor" out of the electoral process and the transmittal requirement was to remove the "fat cat collector" as well.

8 1 0 4 0 2 5 2 0 4 0

As Mr. Davis acknowledges, ("I am sure that I am in violation of the regulations..."), there is probable cause to believe the Act had been violated. The majority's decision to close the file forecloses the opportunity to have this matter placed on the public record in the normal course of business, i.e. via a conciliation agreement and civil penalty. Holding $58,000 in an envelope for six months is not a trivial matter. A conciliation agreement setting forth the facts and elements of the violation is the proper way to close out this matter. As it stands now, the Counsel has recommended probable cause to believe that Davis has violated §434(b)(1) and the record is void of a reason for the Commission's vote to close the file. We, as two Commissioners, do not want the public to think that ignorance of the law and cutesy defense briefs mitigate a serious violation of the Act.

5-4-81
Date

Thomas E. Harris
Thomas E. Harris

5-4-1981
Date

Robert O. Tiernan
Robert O. Tiernan

8 1 0 1 2 2 5 2 0 4 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DISSENTING STATEMENT

OF

COMMISSIONERS THOMAS E. HARRIS AND ROBERT O. TIERNAN

IN THE MATTER UNDER REVIEW (MUR) 1310: W.R.Davis

We do not doubt that W. R. Davis is, as his sarcastic and sexist ("a cute redhead named Maizie...") attorney portrays him, a nice guy. We also do not believe that the FEC is harassing Mr. Davis ("Is it too much to ask this Federal Commission to show a stature of at least a local police Officer"). The majority of the FEC has determined that there is probable cause to believe that Mr. Davis has violated 2 U.S.C. §434(b)(1), but has also voted to close the file. We object to the latter determination.

W. R. Davis collected approximately $58,000 in contributions to George Bush's Presidential campaign and held them while he waited for a chance to be personally thanked for his efforts. (It had been my intention to give them to George Bush or his representative someday when he or the representative came to my office.") When the opportunity did not arise, the checks were mailed to the Bush campaign. Mr. Davis had waited for six months before he transmitted the checks to the campaign.

The majority of the Commission and Mr. Davis himself seem to have missed the point. In order to satiate his ego, Mr. Davis has thwarted the fundamental purposes of the FECA. By holding onto the checks from February until July, Mr. Davis has frustrated the Congressional purpose of timely disclosure of campaign contributions.

In addition, Mr. Davis still does not understand that the purpose of the ten day transmittal requirement was to guard against the very actions which he undertook. The contribution limitations took the "fat cat contributor" out of the electoral process and the transmittal requirement was to remove the "fat cat collector" as well.

8 1 0 4 0 2 5 2 0 4 2

As Mr. Davis acknowledges, ("I am sure that I am in violation of the regulations..."), there is probable cause to believe the Act had been violated. The majority's decision to close the file forecloses the opportunity to have this matter placed on the public record in the normal course of business, i.e. via a conciliation agreement and civil penalty. Holding $58,000 in an envelope for six months is not a trivial matter. A conciliation agreement setting forth the facts and elements of the violation is the proper way to close out this matter. As it stands now, the Counsel has recommended probable cause to believe that Davis has violated §434(b)(1) and the record is void of a reason for the Commission's vote to close the file. We, as two Commissioners, do not want the public to think that ignorance of the law and cutesy defense briefs mitigate a serious violation of the Act.

5-4-81
Date

Thomas E. Harris
Thomas E. Harris

5-4-1981
Date

Robert O. Tiernan
Robert O. Tiernan

8 1 0 1 2 5 2 0 4 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
W. R. Davis)

MUR 1310 (80)

CERTIFICATION

I, Lena L. Stafford, Recording Secretary for the Federal Election Commission's Executive Session on April 30, 1981, do hereby certify that the Commission took the following actions in MUR 1310:

1. Decided in a vote of 4-2 to FIND PROBABLE CAUSE TO BELIEVE that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

   Commissioners Harris, Reiche, Thomson, and Tiernan voted affirmatively in this decision, and Commissioners Aikens and McGarry dissented.

2. Decided in a vote of 4-2 to

   a. Close the file in the above-titled matter.

   b. Approve and send the letter attached to the General Counsel's Report dated April 15, 1981, to Mr. Cecil Munn, attorney for Mr. W. R. Davis.

   Commissioners Aikens, McGarry, Reiche, and Thomson voted affirmatively in these decisions, and Commissioners Harris and Tiernan dissented.

Attest:

5-4-81
Date

Lena L. Stafford
Recording Secretary

8 1 0 1 0 2 5 2 0 4 4

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: RECIPIENTS OF COMPLIANCE MATTERS

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: APRIL 21, 1981

SUBJECT: OMISSION FROM GENERAL COUNSEL'S APRIL 15, 1981 REPORT REGARDING MUR 1310

The General Counsel's April 15, 1981 Report regarding MUR 1310 for the Executive Session Agenda April 28, 1981, was circulated at 11:00, April 21, 1981.

The attached two pages of the report were omitted in photocopy and are attached.

The staff apologizes for this omission.

7810402520 4 7

April 20, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1310

Please have the attached General Counsel's Report placed on the Executive Session Agenda for 4-28-81.

Thank you.

8 1 0 4 0 2 5 2 0 4 6

BEFORE THE FEDERAL ELECTION COMMISSION
April 15, 1981

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

In the Matter of)
) MUR 1310 (80)
W. R. Davis)

81 APR 20 P 3: 33

EXECUTIVE SESSION
28 APR 1981

GENERAL COUNSEL'S REPORT

On the basis of information ascertained in the conduct of a post-primary audit of the George Bush for President Committee ("the Committee"), the Commission, on December 2, 1980, found reason to believe that Mr. W. R. Davis violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically, the Commission determined that Mr. Davis violated this provision of the Act by failing to forward contributions collected on behalf of the Committee (approximately $58,000) within ten days of his receipt of such contributions.

On December 23, 1980, Mr. Davis submitted a written reply to the Commission's notification of an alleged violation of 2 U.S.C. § 432(b)(1). Therein, Mr. Davis admitted the finding of fact and described the circumstances under which such violation occurred. Specifically, Mr. Davis stated that he did not read the Federal Election Campaign Act prior to collecting contributions for the Committee and therefore had no knowledge of any provision which required him to transfer contributions collected for an authorized committee within ten days of his receipt. Moreover, Mr. Davis disclosed that he was out of the country and, as a result, the subject contributions accumulated until they were mailed on July 24, 1980.

8 1 0 1 0 2 5 0 4 7

On March 12, 1981, the Office of General Counsel notified Mr. Davis that it was prepared to recommend that the Commission proceed to a finding of probable cause to believe a violation of the Act had occurred. Included in this notification was the General Counsel's Brief which set forth the factual and legal issues of the case. See Brief of OGC.

On March 26, 1981, Mr. Cecil E. Munn, attorney for Mr. Davis, replied to the brief of the General Counsel. See Attachment #1. This report will address the factual and legal issues raised in Mr. Munn's response.

II. Legal Analysis

All funds that individuals contribute for use in federal election campaigns should be readily accounted for on the public record. To ensure this disclosure, 2 U.S.C. § 432(b)(1) imposes the duty on every person who receives contributions for an authorized committee to forward to the treasurer such contributions within ten days of receipt. In accordance with 11 C.F.R. § 103.3 and 2 U.S.C. § 434, the treasurer is required to deposit such contributions into a designated campaign depository and to disclose the receipt of such contributions in reports which are placed upon the public record.

In the instant case, the General Counsel takes the position that Mr. W. R. Davis has violated 2 U.S.C. § 432(b)(1) by failing to transfer 55 to 60 checks collected on behalf of

8 1 0 1 7 2 5 0 4 8

the George Bush for President Committee within 10 days of his receipt. The Brief of the General Counsel alleges that the checks were all dated February 11, 1980, and were not transferred to their intended recipient until July 24, 1980.

In reply to the brief of the General Counsel, Mr. Munn does not dispute that a violation has occurred, however, he calls the Commission's attention to the fact that checks were not all dated February 11, 1980. According to both Mr. Munn and Mr. Davis, the checks contained various dates and accumulated over a period of time.

In addition, Mr. Munn calls the Commission's attention to the circumstances surrounding the violations and delineates the reasons for which the Commission should take no further action. Mr. Munn states that Mr. Davis was unaware of the requirements of 2 U.S.C. § 432(b)(1) and that his failure to transfer contributions to the Committee within ten days of receipt was inadvertent and due in part to the fact that Mr. Davis was travelling at the time contributions were received. Furthermore, Mr. Munn calls to the Commission's attention the fact that Mr. Davis responded in good faith to the Commission's notification of findings in this matter by admitting a violation had occurred and by seeking guidance to correct the violation.

Based upon the circumstances presented in the replies of Mr. Munn and Mr. Davis, the Office of General Counsel recommends that the Commission find probable cause to

believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1) and close the file in this matter.

Recommendation

1. Find probable cause to believe that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

2. Close the file in this matter.

3. Approve and send the attached letter to Mr. Cecil Munn, attorney for Mr. W. R. Davis.

20 April 1981
Date

Charles N. Steele
General Counsel

Attachments

Brief
Letter to Cecil Munn

8 1 0 4 0 5 2 0 5 0

BEFORE THE FEDERAL ELECTION COMMISSION
February 10, 1981

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

GENERAL COUNSEL'S BRIEF

I. Background

On the basis of information ascertained in the conduct of a post-primary audit of the George Bush For President Committee ("the Committee"), the Commission, on December 2, 1980, found reason to believe Mr. W. R. Davis violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically, the Commission determined that Mr. Davis violated this provision of the Act by failing to forward contributions collected on behalf of the George Bush For President Committee within ten days of his receipt of such contributions.

II. Legal Analysis

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50, the name and address of the person making the contribution and the date of receipt.

The Act, as amended in 1979, imposed the duties of 2 U.S.C. § 432(b)(1) on every person receiving contributions for an

8 1 0 4 0 2 5 2 0 5 1

authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2). 1/

During the post-primary audit of the George Bush For President Committee, Mr. W. Garrett Boyd, treasurer of the Committee, informed auditors that on July 24, 1980, the Committee received an envelope containing 55-60 contributor checks (each in the amount of $500 or more) totalling approximately $58,000. The checks had been collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. According to audit records, all checks were dated February 11, 1980 and were made payable to the George Bush For President Committee. The checks were not forwarded to the treasurer of the Committee until five months after Mr. Davis' receipt of such contributions.

Based upon the foregoing, the Commission found reason to believe that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1). On December 4, 1980, the Commission notified Mr. Davis of this finding in accordance with 2 U.S.C. § 437g(a)(2).

On December 23, 1980, Mr. Davis responded to the Commission's notification of findings with respect to this matter. See Attachment #1. In reply, Mr. Davis admits the finding of

---

1/ These provisions of the Act require the treasurer of a political committee to keep an account of -
(1) all contributions received by or on behalf of such political committee; and
(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person.

8 1 0 4 0 2 5 2 0 5 2

fact but calls the attention of the Commission to the mitigating factors of the case.

In his written reply to the Commission, Mr. Davis states that he did not read the Federal Election Campaign Act prior to collecting contributions for the George Bush For President Committee and therefore had no knowledge of any provision which required him to transfer contributions collected for an authorized committee within ten days of his receipt. It had been his intention to give the contributions to George Bush or his representative when either individual came by Mr. Davis' office. However, Mr. Davis states that he was out of the country and, as a result, the checks accumulated until they were mailed to the Committee on July 24, 1980.

Although, Mr. Davis offers an explanation which may be taken into account as a mitigating factor, the delay in transmitting the campaign funds is a violation of the Act. Therefore, the Office of General Counsel recommends the Commission find probable cause to believe Mr. Davis violated 2 U.S.C. § 432(b)(1).

Recommendation

Find probable cause to believe that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

11 March 1981
Date

Charles N. Steele
General Counsel

Attachments

Attachment #1 - December 23, 1980 reply from Mr. W. R. Davis

BCC 3623

ATTACHMENT #1

W. R. Davis
P. O. BOX 1727
Midland, Texas 79702

December 16, 1980

80 DEC 23 P 1:24
GENERAL COUNSEL

Mr. John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1310

Dear Mr. McGarry:

I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

Let me try to reconstruct to the best of my memory what happened. I have a rather wide acquaintance of people across the United States. From time to time in my conversations with them, I asked them to mail me a check made out to the George Bush Campaign along with their current address. My secretary, who by the way is named Maisie - not Marcie - accumulated these checks for me while I was out of the country.

It had been my intention to give them to George Bush or his representative someday when he or the representative came by my office. Unfortunately, due to being out of my office these checks accumulated and were mailed on July 24, 1980. I do not have copies of the checks, but I don't believe they are all dated February 11, 1980. I believe they have a number of different dates as people sent them to me at different times. At any rate I did not have any knowledge of a law which existed which required me to turn them in in ten days.

8 1 0 1 0 2 5 2 0 5 4

December 16, 1980

Mr. John Warren McGarry

I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

I would be happy to ask for a refund of this money if that would correct the violation but beyong that I just don't know what to do.

To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

Kindest regards,

W. R. Davis

WRD:lc

8 1 0 4 0 2 5 2 0 5 5

CCCII
1455

CANTEY, HANGER, GOOCH, MUNN & COLLINS
ATTORNEYS AT LAW
1600 FIRST NATIONAL BANK BUILDING
FORT WORTH, TEXAS 76102

AC 817 336-8605
METRO LINE 429-3615
TWX 910/893-5049

81 MAR 26 A11:59

J. A. GOOCH
EMORY CANTEY
CECIL E. MUNN
WHITFIELD J. COLLINS
JACK G. WESSLER
CHARLES L. STEPHENS
WILLIAM S. DAVID
SLOAN S. BLAIR
EDWARD L. KEMBLE
H. CARTER BURDETTE
IRA BUTLER, JR.
WILLIAM L. HUGHES, JR.
ESTIL VANCE, JR.
ALLAN HOWETH
RICHARD L. GRIFFITH
ROBERT S. TRAVIS
HARRY E. BARTEL
TOLBERT L. GREENWOOD
JOHN F. TAYLOR
DENIS L. TOOTHE
WILLIAM W. SNIDER
S. G. JOHNDROE, III

KIRK R. MANNING
STEPHEN A. MADSEN
MARK G. HILL
MICHAEL A. McCONNELL
WILLIAM S. RATLIFF, III
EVELYN R. LEOPOLD
ROD PATTERSON
DONALD K. SUCKMAN
JOHN F. GRAY
GARY L. INGRAM
T. TABER CHAMBERLAIN, JR.
RALPH H. SUGGINS, III
LINDA TODD-BRUSE
LYNETTE GUY WILLIAMSON
E. CARTER GROOK, JR.
STEPHEN L. TATUM
PAUL BOUDLOCHE

OF COUNSEL
IRA BUTLER
S. G. JOHNDROE, JR.

March 23, 1981

CERTIFIED MAIL NO. 2316504
RETURN RECEIPT REQUESTED

Secretary
Federal Election Commission
Washington, D.C. 20463

W. R. Davis
MUR 1310

81 APR 9 P4:05
GENERAL COUNSEL

Dear Sir:

In response to the invitation contained in the letter dated March 12, 1981 from Charles N. Steele, Esq., General Counsel of the Federal Election Commission, to W. R. Davis, we are pleased to enclose the original and eleven copies of a reply brief submitted on Mr. Davis's behalf.

For our records would you kindly place your filing stamp on one of the extra copies and return it to us.

If you wish to correspond with Mr. Davis in the next few weeks, his mailing address is as follows:

W. R. Davis
Hotel Okura
3AOI-CHO
Akasaka
Minato-Ku, Tokyo
Japan

To reach him by telephone at that hotel, you should call 81 plus 3 plus 5820111. If he is not at the hotel, you may locate him through the Nippon Steel Company or the Mitsui Trading Company right there in Japan.

Sincerely yours,

Cecil E. Munn

CEMbr
Encs.

81040205056

RECEIVED
FEC
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMITTEE

81 MAR 26 A11: 59

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

WHERE HAS COMMON SENSE GONE?

(A Reply To The General Counsel's Brief)

---

8 1 0 4 0 2 5 2 0 5 7

Cecil E. Munn
Cantey, Hanger, Gooch, Munn & Collins
1800 First National Bank Building
Fort Worth, Texas 76102
817/335-9595

March 23, 1981

Attorneys for W. R. Davis

BEFORE THE FEDERAL ELECTION COMMITTEE

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

WHERE HAS COMMON SENSE GONE?

If ever there was a tempest in a teapot, this it it. Traffic policemen, given much more serious innocent "violations", have had the good judgment to warn the citizen to be more careful next time and then to forget the incident. Is it too much to ask this Federal Commission to show a stature at least equal to the local police officers?

The Heinous Allegations

According to a December 4, 1980 "Internally Generated MUR" (whatever that may be), the George Bush for President Committee on July 24, 1980 received from Citizen W. R. Davis's secretary (a cute redhead named Maizie but libelously referred to in the MUR as Marcie) a group of campaign contribution checks allegedly "all dated February 11, 1980".

That allegation is absolutely false - which must surely violate some federal statute or regulation somewhere prohibiting the making of false allegations against the citizen.

8 1 0 4 0 2 5 2 0 5 8

How do I know its false? Because one of those checks was from my beloved wife. Here's a copy of it:

JY '80' 29 23

MR. OR MRS. CECIL E. MUNN
[illegible] RIDGE ROAD
FORT WORTH, TEXAS 76107

No. 24

Feb 13 1980

PAY TO THE ORDER OF George Bush for President Campaign Fund $ See

Twenty three and no/100 DOLLARS

FOR

MR. OR MRS. CECIL E. MUNN

THE FORT WORTH NATIONAL BANK FORT WORTH TEXAS

⑆111900057⑆ ⑈ 83392⑈ ⑈0000050000⑈

JY '80' 29

PAY ANY BANK P.S.A.
FORT WORTH, TEXAS

JY '80'

DALLAS
1110-0000-6

Don't you see it was dated February 13th - <u>not</u> February 11th?

The plot thickens. It seems that, according to the MUR allegations, a Mr. W. Garrett Boyd, treasurer of the Committee, and a Mr. Jeb Bush, the son of the now Vice President of the United States, consulted with members of the Commission's audit staff as to whether, in light of the fact that Citizen Davis had not mailed the checks more promptly, they could be lawfully cashed.

Faced with that earth shaking decision the auditors went into consultation with the Office of General Counsel and then - here it comes - "advised the Committee that they could accept the contribution." Right there the Federal Election Commission became an accessory to the crime - a particeps criminis in Blackstonian jurisprudence. They put their foot right in it.

Under the lucid provisions of the Federal Election Campaign Act of 1971, as amended, and more precisely 2 USC §437g(a)(4)(A)(i) it is the solemn duty of the Commission, "except as provided in clause (ii)" of §437(g)(A)(4)(A), to "attempt... to correct or prevent such violation by informal methods." In this potentially precedent making case the auditors and Office of General Counsel of the Commission had a long dreamed of golden opportunity both to "prevent" a violation by simply telling the Committee not to cash the checks under penalty of being drawn and quartered and also to "correct" the violation by ordering the checks returned. But alas, succumbing to human avarice, they shamefully

8 1 0 4 0 0 5 2 0 6 0

turned their backs and, walking away with heads bowed, muttered back, "Cash them. Cash them." Oh! Why should the spirit of mortal be proud? William Knox: Mortality.

Then to compound the evil conspiracy hatched in Washington, the money safely in the Committee's warm hands with the overt blessing of the Federal Election Commission itself, Mr. John Warren McGarry, Vice-Chairman (Chairperson?) of the Commission, on December 4th transmitted to Citizen Davis the ominous MUR 1310. Hypocritically, it now appears, his letter advised the citizen, "Under the Act, you have an opportunity to demonstrate that no action should be taken against you."

Comforted by that assurance that he had not yet been eternally damned by his alleged indiscretion, Citizen Davis hastened to accept what he thought was a good faith proposition for absolution from his sins.

The Citizen's Response

On December 16th (heavens above, again he exceeded the 10 day time limit) Citizen Davis wrote to Vice-Chairman McGarry humbly confessing his ignorance which, while in theory not an excuse, in fact was the reason for not adhering to the strict standards of punctuality so characteristic of the Federal Government personnel by whom he was now beset:

> I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this

facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

How naive was the citizen to presume that a heartless federal agency could "appreciate" such a simplistic reason for being unaware of every nuance of the law.

Citizen Davis went on to explain that he had been travelling and inadvertently neglected to pass along the checks with his customary promptness, honestly not knowing that there was any big deal about seeing that they were rushed to Bush.

Practicing law, as these layman will do, Citizen Davis undertook to adjudge himself guilty before being tried:

> I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

As we shall see, he was wrong. Innocent - not guilty - was the proper plea.

Being a contrite man, he continued his response, offering to do the right thing if only the Commission would tell him how:

> I would be happy to ask for a refund of this money if that would correct the violation but beyond that I just don't know what to do.
>
> To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

8 1 0 4 0 2 5 2 0 6 2

Since ten (10) day deadlines seemed so critical in this chain of horrors, Citizen Davis expected a reply from the Commission within ten (10) days. But that was not to be.

The Dropping Of The Other Shoe

Vice-Chairman McGarry never did answer Citizen Davis's question or his letter. He ignored the citizen with an apparent silent contempt.

Eighty-six (86) days passed. Then at long last on March 12, 1981, Charles N. Steele, the General Counsel himself, wrote to Citizen Davis with this crushing indictment:

> After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Steele letter was as cold as iron. It not only did not answer Citizen Davis's question, it totally ignored it. But there was still a ray of hope that Citizen Davis might be spared. Tucked neatly in with the Steele letter was "General Counsel's Brief" to which the Steele letter demanded that Citizen Davis file, within fifteen (15) days, ten (10) copies of a reply explaining his alleged defalcations or begging for mercy as he chose.

But Citizen Davis was caught off base again. He ain't here. The good citizen is in Japan trying his best to obtain a supply of tubular steel (not Steele) to be used in the exploration for new sources of petroleum energy. If he is successful, perhaps some good Americans, who would otherwise be cold and stranded, may be warm and mobile. And, should

8 1 0 4 0 2 5 2 0 6 3

his efforts be profitable, his government may enjoy more tax dollars with which to pay its debts or, if deemed more prudent, to finance such investigations as this one and clamp down upon those citizens who overstep the ten (10) day limits imposed upon them.

In Citizen Davis's absence, the undersigned - his lawyer and, more to the point this time, his friend - has assumed the awesome responsibilities of preparing and filing this response in the citizen's behalf. Citizen Davis would no doubt reserve the right to disclaim this humble effort.

The Legal Defense

The statute (I found it, I found it - it is in 2 USC §432(b)(1) on p. 87 of the pocket part) contains this mandate:

> Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

First defense. Well one thing I'll tell you for sure. That Bush bunch never had my wife's money longer than ten (10) days. It remained right there in her little bank account until July 29, 1980 - five (5) days after the Commission's auditors and General Counsel said it was okay for the Bush bunch to bag it. Had it gone out of her account earlier, her checks for more pressing bills would probably have bounced, bringing down upon her the wrath of the law.

8104025064

There was no contribution from Carolyn Munn until July 29th and then only because she hadn't stopped payment on the lost check. Until it was presented for payment and honored that little check wasn't worth the paper it was written on.

Second defense. The accuser is as guilty as the accused - particeps criminis. Supra. Even Lady Equity requires that her suitors approach with clean hands.

Third defense. The rationale for the statutory prohibition is set out in the General Counsel's Brief:

> The Act, as amended in 1979, imposed the duties of 2 U.S.C. § 432(b)(1) on every person receiving contributions for an authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2).

But the treasurer ain't complaining so whose hurt? Cessante ratione legis cessat, et ipso lex.

Fourth defense. Citizen Davis had no mens rea. As was proclaimed in that landmark decision of Brown v. State, 7 Penn. (Del.) 159, 74 Atl.Rep. 836 - written back in those days when our government was operated within its income and to serve, not harass, the citizen:

> If one violate the law through the deception and falsehood of another, and it is shown that the person charged with violating the law exercised the care and made the inquiries required of him by the law, such person in the eye of the law is innocent of wrongdoing, and has committed no legal offense; for to make one guilty, one must have a mens rea, or guilty mind, unless the statute expressly or by necessary implication dispenses with the requisite.

8 1 0 4 0 2 5 2 0 6 5

Citizen Davis is just too good a man knowingly to violate those hallowed government restraints of which he stands accused. He is no common criminal. This supporting character testimony, as engraved upon the dedicatory scroll presented earlier this year upon the occasion of a $250,000 scholarship's being established in his honor, is perhaps relevant:

> THE WARMTH AND WISDOM OF WALTER ROYAL DAVIS ARE THE INSPIRATION FOR THIS FUND ESTABLISHED AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL IN HIS NAME - AND WITHOUT HIS KNOWLEDGE - BY A GROUP OF HIS FRIENDS WHO ADMIRE, RESPECT AND LOVE HIM.
>
> WALTER DAVIS IS AN EXTRAORDINARY MAN OF SIMPLE STRENGTHS - IMAGINATION, LOYALTY, RESOURCEFULNESS, TENACITY, HARD WORK, SOUND JUDGMENT, INNATE WISDOM AND AN INCOMPARABLE CAPACITY TO CARE. INJUSTICE DISTURBS HIS SOUL.
>
> HE IS ABLE TO HOLD STRONG CONVICTIONS OF WHAT IS RIGHT AND REASONABLE WITHOUT SILENCING THOSE WHO DISAGREE AND HE ENCOMPASSES IN THE WARMTH OF HIS FRIENDSHIP, MEN AND WOMEN OF GREAT DIFFERENCES. HE IS A MAN OF STATURE WHO ACHIEVED HIS OWN WITHOUT DIMINISHING THAT OF HIS FELLOW MAN.
>
> HE IS A HIGHLY EDUCATED MAN. HIS CLASSROOM HAS BEEN EXPERIENCE. THOUGH NEVER HAVING ATTENDED ANY COLLEGE AS A STUDENT HIMSELF, HIS BELIEF THAT A PART OF EDUCATION IS LEARNING THE VALUE OF HARD WORK HAS LEAD HIM TO HELP HUNDREDS OF DESERVING YOUNG PEOPLE WHO SHARE THAT COMMITMENT TO ENJOY THE FORMAL EDUCATIONAL OPPORTUNITIES WHICH HE MISSED.
>
> OVER THE PAST EIGHT YEARS, HE HAD CONTRIBUTED HIS TALENTS TO THE POLICY COMMITTEE OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL AS A MEMBER, AND FOR TWO YEARS AS THE CHAIRMAN OF ITS BOARD OF TRUSTEES.
>
> THE HOPE OF THOSE OF US PRIVILEGED TO PARTICIPATE IN THIS CREATION IS THAT THIS FUND WILL FROM TIME TO TIME BE INCREASED BY THE CONTRIBUTION OF OTHERS AND

8 1 0 4 0 2 5 2 0 6 6

WILL BE USED BY THE UNIVERSITY FOR THE PRESERVATION AND PERPETUATION OF THOSE HIGH PRINCIPLES WHICH MOTIVATE THE NOBLE MAN IN WHOSE HONOR THE FUND IS ESTABLISHED.

Surely Washington, unlike death, is not a status in which the evil that men do must live after them while the good is interred with his bones.

Need more be said? Quod demonstrandi causa additur rei satis demonstratae, frustra fit.

Conclusion

The foregoing analysis, though perhaps written in the vernacular, is factually correct and legally sound.*

With postage rates having skyrocketed this very morning because of a cruel inflation fed by government excesses, perhaps both Citizen Davis, Vice President Bush and the American public would all be better served if this entire inane investigation is dropped.

Come on now, we beseech the Commission on bended knee, how about it?

Cecil E. Munn
Cecil E. Munn
Cantey, Hanger, Gooch, Munn & Collins
1800 First National Bank Building
Fort Worth, Texas 76102
817/335-9595

Attorney for Citizen
W. R. Davis

*cf. Edwin Neuman's Strictly Speaking.

8 1 0 4 0 2 5 2 0 6 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Cecil E. Munn, Esquire
Cantey, Hanger, Gooch, Munn
and Collins
1800 First National Bank Building
Fort Worth, TX 76102

RE: MUR 1310

Dear Mr. Munn:

On 1981, the Commission determined there is probable cause to believe that your client, Mr. Walter Royal Davis, violated 2 U.S.C. § 432(b)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by failing to forward contributions collected on behalf of a political committee within ten days of his receipt of such contributions. However, upon consideration of the circumstances surrounding this violation (i.e., that Mr. Davis was unfamiliar with this provision of the Act and that he was out of the country at the time contributions were received in his office), and in acknowledgement of Mr. Davis' good faith efforts to correct such violation, the Commission has determined to take no further action and close its file.

The file will be made part of the public record within 30 days. Should you wish to submit any material to appear on the public record, please do so within ten days.

If you have any questions, please direct them to Beverly B. Kramer at 202/523-4529.

Sincerely,

Charles N. Steele
General Counsel

8 1 0 1 0 2 5 2 0 6 8

CCCent 1455

CANTEY, HANGER, GOOCH, MUNN & COLLINS
ATTORNEYS AT LAW
1600 FIRST NATIONAL BANK BUILDING
FORT WORTH, TEXAS 76102

AC 817 335-6605
METRO LINE 429-3815
TWX 910/893-5049

81 MAR 26 A11: 59

J. A. GOOCH
EMORY CANTEY
CECIL E. MUNN
WHITFIELD J. COLLINS
JACK O. WEBBLER
CHARLES L. STEPHENS
WILLIAM B. DAVIS
SLOAN B. BLAIR
EDWARD L. KEMBLE
H. CARTER BURDETTE
IRA BUTLER, JR.
WILLIAM L. HUGHES, JR.
ESTIL VANCE, JR.
ALLAN HOWETH
RICHARD L. GRIFFITH
ROBERT S. TRAVIS
HARRY E. BARTEL
TOLBERT L. GREENWOOD
JOHN F. TAYLOR
DENIS L. TOOTHE
WILLIAM W. SNIDER
S. G. JOHNDROE, III

KIRK R. MANNING
STEPHEN A. MADDEN
MARK G. HILL
MICHAEL A. McCONNELL
WILLIAM B. RATLIFF, III
EVELYN R. LEOPOLD
ROB PATTERSON
DONALD R. BUCKMAN
JOHN F. GRAY
GARY L. INGRAM
T. TABER CHAMBERLAIN, JR.
RALPH H. DUGGINS, III
LINDA TODD-BRUSE
LYNETTE GUY WILLIAMSON
E. CARTER CROOK, JR.
STEPHEN L. TATUM
PAUL BOUDLOCHE

OF COUNSEL
IRA BUTLER
S. G. JOHNDROE, JR.

March 23, 1981

CERTIFIED MAIL NO. 2316504
RETURN RECEIPT REQUESTED

Secretary
Federal Election Commission
Washington, D.C. 20463

W. R. Davis
MUR 1310

Dear Sir:

In response to the invitation contained in the letter dated March 12, 1981 from Charles N. Steele, Esq., General Counsel of the Federal Election Commission, to W. R. Davis, we are pleased to enclose the original and eleven copies of a reply brief submitted on Mr. Davis's behalf.

For our records would you kindly place your filing stamp on one of the extra copies and return it to us.

If you wish to correspond with Mr. Davis in the next few weeks, his mailing address is as follows:

W. R. Davis
Hotel Okura
3AOI-CHO
Akasaka
Minato-Ku, Tokyo
Japan

To reach him by telephone at that hotel, you should call 81 plus 3 plus 5820111. If he is not at the hotel, you may locate him through the Nippon Steel Company or the Mitsui Trading Company right there in Japan.

Sincerely yours,

Cecil E. Munn

CEMbr
Encs.

81 APR 9 04:05
GENERAL COUNSEL

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMITTEE

81 MAR 26 A11: 59

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

WHERE HAS COMMON SENSE GONE?

(A Reply To The General Counsel's Brief)

---

8 1 0 4 0 2 5 2 0 7 0

Cecil E. Munn
Cantey, Hanger, Gooch, Munn & Collins
1800 First National Bank Building
Fort Worth, Texas 76102
817/335-9595

March 23, 1981

Attorneys for W. R. Davis

BEFORE THE FEDERAL ELECTION COMMITTEE

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

WHERE HAS COMMON SENSE GONE?

If ever there was a tempest in a teapot, this it it. Traffic policemen, given much more serious innocent "violations", have had the good judgment to warn the citizen to be more careful next time and then to forget the incident. Is it too much to ask this Federal Commission to show a stature at least equal to the local police officers?

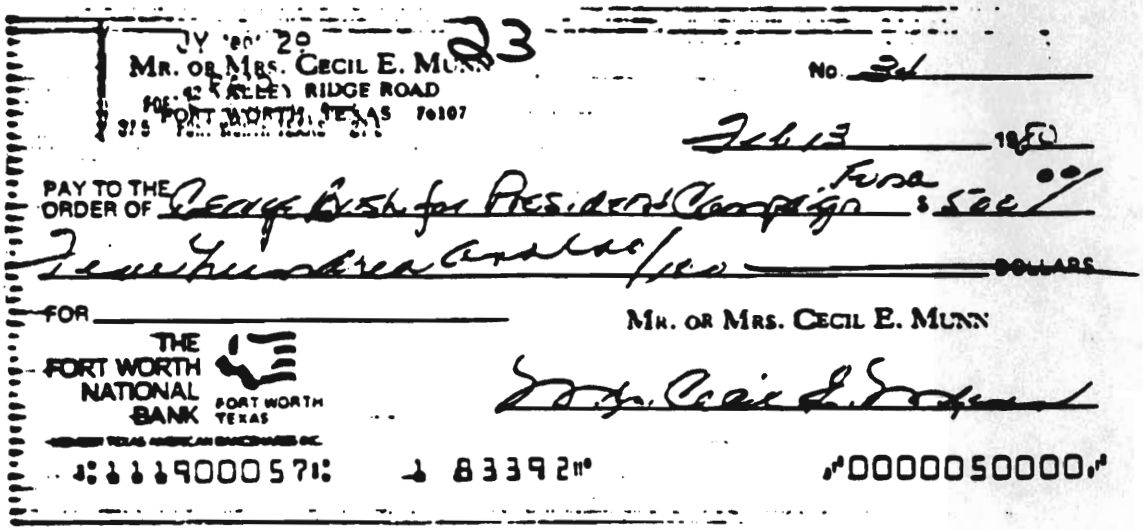
The Heinous Allegations

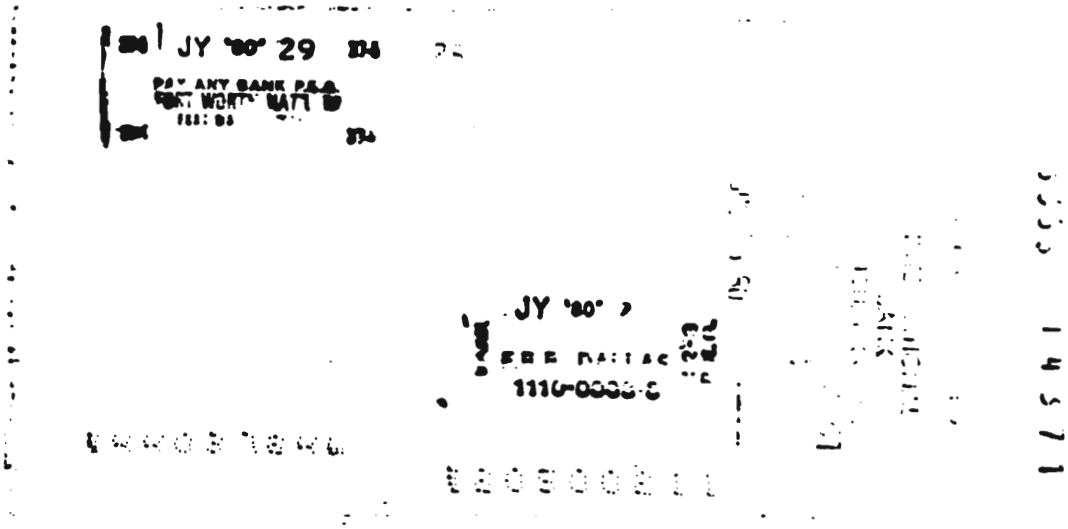
According to a December 4, 1980 "Internally Generated MUR" (whatever that may be), the George Bush for President Committee on July 24, 1980 received from Citizen W. R. Davis's secretary (a cute redhead named Maizie but libelously referred to in the MUR as Marcie) a group of campaign contribution checks allegedly "all dated February 11, 1980".

That allegation is absolutely false - which must surely violate some federal statute or regulation somewhere prohibiting the making of false allegations against the citizen.

8 1 0 4 0 2 5 0 7 1

How do I know its false? Because one of those checks was from my beloved wife. Here's a copy of it:


JY '80' 20
MR. OR MRS. CECIL E. MUNN
RIDGE ROAD
FORT WORTH, TEXAS 76107
No. 23
Feb 13 1980
PAY TO THE ORDER OF George Bush for Presidents Campaign Fund $ See
Ten Hundred and no/100 DOLLARS
FOR
MR. OR MRS. CECIL E. MUNN
THE FORT WORTH NATIONAL BANK FORT WORTH TEXAS
⑆111900057⑆ 83392⑈ ⑈0000050000⑈


JY '80' 29
JY '80'
1110-0000-6

Don't you see it was dated February 13th - <u>not</u> February 11th?

The plot thickens. It seems that, according to the MUR allegations, a Mr. W. Garrett Boyd, treasurer of the Committee, and a Mr. Jeb Bush, the son of the now Vice President of the United States, consulted with members of the Commission's audit staff as to whether, in light of the fact that Citizen Davis had not mailed the checks more promptly, they could be lawfully cashed.

Faced with that earth shaking decision the auditors went into consultation with the Office of General Counsel and then - here it comes - "advised the Committee that they could accept the contribution." Right there the Federal Election Commission became an accessory to the crime - a particeps criminis in Blackstonian jurisprudence. They put their foot right in it.

Under the lucid provisions of the Federal Election Campaign Act of 1971, as amended, and more precisely 2 USC §437g(a)(4)(A)(i) it is the solemn duty of the Commission, "except as provided in clause (ii)" of §437(g)(A)(4)(A), to "attempt... to correct or prevent such violation by informal methods." In this potentially precedent making case the auditors and Office of General Counsel of the Commission had a long dreamed of golden opportunity both to "prevent" a violation by simply telling the Committee not to cash the checks under penalty of being drawn and quartered and also to "correct" the violation by ordering the checks returned. But alas, succumbing to human avarice, they shamefully

8 1 0 4 0 2 5 2 0 7 3

turned their backs and, walking away with heads bowed, muttered back, "Cash them. Cash them." Oh! Why should the spirit of mortal be proud? William Knox: Mortality.

Then to compound the evil conspiracy hatched in Washington, the money safely in the Committee's warm hands with the overt blessing of the Federal Election Commission itself, Mr. John Warren McGarry, Vice-Chairman (Chairperson?) of the Commission, on December 4th transmitted to Citizen Davis the ominous MUR 1310. Hypocritically, it now appears, his letter advised the citizen, "Under the Act, you have an opportunity to demonstrate that no action should be taken against you."

Comforted by that assurance that he had not yet been eternally damned by his alleged indiscretion, Citizen Davis hastened to accept what he thought was a good faith proposition for absolution from his sins.

The Citizen's Response

On December 16th (heavens above, again he exceeded the 10 day time limit) Citizen Davis wrote to Vice-Chairman McGarry humbly confessing his ignorance which, while in theory not an excuse, in fact was the reason for not adhering to the strict standards of punctuality so characteristic of the Federal Government personnel by whom he was now beset:

> I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this

8 1 0 4 0 2 5 2 0 7 4

facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

How naive was the citizen to presume that a heartless federal agency could "appreciate" such a simplistic reason for being unaware of every nuance of the law.

Citizen Davis went on to explain that he had been travelling and inadvertently neglected to pass along the checks with his customary promptness, honestly not knowing that there was any big deal about seeing that they were rushed to Bush.

Practicing law, as these layman will do, Citizen Davis undertook to adjudge himself guilty before being tried:

> I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

As we shall see, he was wrong. Innocent - not guilty - was the proper plea.

Being a contrite man, he continued his response, offering to do the right thing if only the Commission would tell him how:

> I would be happy to ask for a refund of this money if that would correct the violation but beyond that I just don't know what to do.
>
> To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

8 1 0 4 0 2 5 2 0 7 5

Since ten (10) day deadlines seemed so critical in this chain of horrors, Citizen Davis expected a reply from the Commission within ten (10) days. But that was not to be.

The Dropping Of The Other Shoe

Vice-Chairman McGarry never did answer Citizen Davis's question or his letter. He ignored the citizen with an apparent silent contempt.

Eighty-six (86) days passed. Then at long last on March 12, 1981, Charles N. Steele, the General Counsel himself, wrote to Citizen Davis with this crushing indictment:

> After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Steele letter was as cold as iron. It not only did not answer Citizen Davis's question, it totally ignored it. But there was still a ray of hope that Citizen Davis might be spared. Tucked neatly in with the Steele letter was "General Counsel's Brief" to which the Steele letter demanded that Citizen Davis file, within fifteen (15) days, ten (10) copies of a reply explaining his alleged defalcations or begging for mercy as he chose.

But Citizen Davis was caught off base again. He ain't here. The good citizen is in Japan trying his best to obtain a supply of tubular steel (not Steele) to be used in the exploration for new sources of petroleum energy. If he is successful, perhaps some good Americans, who would otherwise be cold and stranded, may be warm and mobile. And, should

8 1 0 1 0 2 5 2 0 7 6

his efforts be profitable, his government may enjoy more tax dollars with which to pay its debts or, if deemed more prudent, to finance such investigations as this one and clamp down upon those citizens who overstep the ten (10) day limits imposed upon them.

In Citizen Davis's absence, the undersigned - his lawyer and, more to the point this time, his friend - has assumed the awesome responsibilities of preparing and filing this response in the citizen's behalf. Citizen Davis would no doubt reserve the right to disclaim this humble effort.

The Legal Defense

The statute (I found it, I found it - it is in 2 USC §432(b)(1) on p. 87 of the pocket part) contains this mandate:

> Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

First defense. Well one thing I'll tell you for sure. That Bush bunch never had my wife's money longer than ten (10) days. It remained right there in her little bank account until July 29, 1980 - five (5) days after the Commission's auditors and General Counsel said it was okay for the Bush bunch to bag it. Had it gone out of her account earlier, her checks for more pressing bills would probably have bounced, bringing down upon her the wrath of the law.

8 1 0 4 0 2 5 2 0 7 7

There was no contribution from Carolyn Munn until July 29th and then only because she hadn't stopped payment on the lost check. Until it was presented for payment and honored that little check wasn't worth the paper it was written on.

Second defense. The accuser is as guilty as the accused - particeps criminis. Supra. Even Lady Equity requires that her suitors approach with clean hands.

Third defense. The rationale for the statutory prohibition is set out in the General Counsel's Brief:

> The Act, as amended in 1979, imposed the duties of 2 U.S.C. § 432(b)(1) on every person receiving contributions for an authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2).

But the treasurer ain't complaining so whose hurt? Cessante ratione legis cessat, et ipso lex.

Fourth defense. Citizen Davis had no mens rea. As was proclaimed in that landmark decision of Brown v. State, 7 Penn. (Del.) 159, 74 Atl.Rep. 836 - written back in those days when our government was operated within its income and to serve, not harass, the citizen:

> If one violate the law through the deception and falsehood of another, and it is shown that the person charged with violating the law exercised the care and made the inquiries required of him by the law, such person in the eye of the law is innocent of wrongdoing, and has committed no legal offense; for to make one guilty, one must have a mens rea, or guilty mind, unless the statute expressly or by necessary implication dispenses with the requisite.

8 1 0 4 0 2 5 0 7 8

Citizen Davis is just too good a man knowingly to violate those hallowed government restraints of which he stands accused. He is no common criminal. This supporting character testimony, as engraved upon the dedicatory scroll presented earlier this year upon the occasion of a $250,000 scholarship's being established in his honor, is perhaps relevant:

> THE WARMTH AND WISDOM OF WALTER ROYAL DAVIS ARE THE INSPIRATION FOR THIS FUND ESTABLISHED AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL IN HIS NAME - AND WITHOUT HIS KNOWLEDGE - BY A GROUP OF HIS FRIENDS WHO ADMIRE, RESPECT AND LOVE HIM.
>
> WALTER DAVIS IS AN EXTRAORDINARY MAN OF SIMPLE STRENGTHS - IMAGINATION, LOYALTY, RESOURCEFULNESS, TENACITY, HARD WORK, SOUND JUDGMENT, INNATE WISDOM AND AN INCOMPARABLE CAPACITY TO CARE. INJUSTICE DISTURBS HIS SOUL.
>
> HE IS ABLE TO HOLD STRONG CONVICTIONS OF WHAT IS RIGHT AND REASONABLE WITHOUT SILENCING THOSE WHO DISAGREE AND HE ENCOMPASSES IN THE WARMTH OF HIS FRIENDSHIP, MEN AND WOMEN OF GREAT DIFFERENCES. HE IS A MAN OF STATURE WHO ACHIEVED HIS OWN WITHOUT DIMINISHING THAT OF HIS FELLOW MAN.
>
> HE IS A HIGHLY EDUCATED MAN. HIS CLASSROOM HAS BEEN EXPERIENCE. THOUGH NEVER HAVING ATTENDED ANY COLLEGE AS A STUDENT HIMSELF, HIS BELIEF THAT A PART OF EDUCATION IS LEARNING THE VALUE OF HARD WORK HAS LEAD HIM TO HELP HUNDREDS OF DESERVING YOUNG PEOPLE WHO SHARE THAT COMMITMENT TO ENJOY THE FORMAL EDUCATIONAL OPPORTUNITIES WHICH HE MISSED.
>
> OVER THE PAST EIGHT YEARS, HE HAD CONTRIBUTED HIS TALENTS TO THE POLICY COMMITTEE OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL AS A MEMBER, AND FOR TWO YEARS AS THE CHAIRMAN OF ITS BOARD OF TRUSTEES.
>
> THE HOPE OF THOSE OF US PRIVILEGED TO PARTICIPATE IN THIS CREATION IS THAT THIS FUND WILL FROM TIME TO TIME BE INCREASED BY THE CONTRIBUTION OF OTHERS AND

8 1 0 4 0 2 5 2 0 7 9

WILL BE USED BY THE UNIVERSITY FOR THE PRESERVATION AND PERPETUATION OF THOSE HIGH PRINCIPLES WHICH MOTIVATE THE NOBLE MAN IN WHOSE HONOR THE FUND IS ESTABLISHED.

Surely Washington, unlike death, is not a status in which the evil that men do must live after them while the good is interred with his bones.

Need more be said? Quod demonstrandi causa additur rei satis demonstratae, frustra fit.

Conclusion

The foregoing analysis, though perhaps written in the vernacular, is factually correct and legally sound.*

With postage rates having skyrocketed this very morning because of a cruel inflation fed by government excesses, perhaps both Citizen Davis, Vice President Bush and the American public would all be better served if this entire inane investigation is dropped.

Come on now, we beseech the Commission on bended knee, how about it?

Cecil E. Munn
Cecil E. Munn
Cantey, Hanger, Gooch, Munn & Collins
1800 First National Bank Building
Fort Worth, Texas 76102
817/335-9595

Attorney for Citizen
W. R. Davis

*cf. Edwin Neuman's Strictly Speaking.

8 1 0 4 0 2 5 2 0 8 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. R. Davis
309 N. Marienfield
Midland, TX 79701

RE: MUR 1310

Dear Mr. Davis:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on December 2, 1980, found reason to believe that you had violated section § 432(b)(1) of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies, if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days, to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Should you have any questions, please contact Beverly Brown at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

8 1 0 4 0 0 5 2 0 8 2

MUR 1310 - B Brown

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
- ☐ Show to whom and date delivered.....¢
- ☐ Show to whom, date and address of delivery.....¢
- ☐ RESTRICTED DELIVERY
  Show to whom and date delivered.....¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery.$____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
W. R. Davis

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 948355 | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Sherry Kuntzman

DATE OF DELIVERY 3-12-81

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

☆GPO : 1980-326-845

March 12, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1310

Please have the attached Memo and Brief distributed to the Commission on an informational basis. Thank you.

8 1 0 4 0 2 5 2 0 8 3

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

81 MAR 12 P12: 38

March 12, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR #1310

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on March 12 , 1981. Following receipt of the Respondent's reply to this notice, this office will make a further report to the Commission.

Attachments

Brief
Letter to Respondent, Mr. W. R. Davis

8 1 0 1 1 5 0 0 8 4

BEFORE THE FEDERAL ELECTION COMMISSION
February 10, 1981

In the Matter of	)	
	)	MUR 1310 (80)
	)	
W. R. Davis	)	

GENERAL COUNSEL'S BRIEF

I. Background

On the basis of information ascertained in the conduct of a post-primary audit of the George Bush For President Committee ("the Committee"), the Commission, on December 2, 1980, found reason to believe Mr. W. R. Davis violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically, the Commission determined that Mr. Davis violated this provision of the Act by failing to forward contributions collected on behalf of the George Bush For President Committee within ten days of his receipt of such contributions.

II. Legal Analysis

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50, the name and address of the person making the contribution and the date of receipt.

The Act, as amended in 1979, imposed the duties of 2 U.S.C. § 432(b)(1) on every person receiving contributions for an

8 1 0 4 0 2 5 2 0 8 5

authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2). 1/

During the post-primary audit of the George Bush For President Committee, Mr. W. Garrett Boyd, treasurer of the Committee, informed auditors that on July 24, 1980, the Committee received an envelope containing 55-60 contributor checks (each in the amount of $500 or more) totalling approximately $58,000. The checks had been collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. According to audit records, all checks were dated February 11, 1980 and were made payable to the George Bush For President Committee. The checks were not forwarded to the treasurer of the Committee until five months after Mr. Davis' receipt of such contributions.

Based upon the foregoing, the Commission found reason to believe that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1). On December 4, 1980, the Commission notified Mr. Davis of this finding in accordance with 2 U.S.C. § 437g(a)(2).

On December 23, 1980, Mr. Davis responded to the Commission's notification of findings with respect to this matter. See Attachment #1. In reply, Mr. Davis admits the finding of

---

1/ These provisions of the Act require the treasurer of a political committee to keep an account of -
(1) all contributions received by or on behalf of such political committee; and
(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person.

8 1 0 4 0 5 0 0 8 6

fact but calls the attention of the Commission to the mitigating factors of the case.

In his written reply to the Commission, Mr. Davis states that he did not read the Federal Election Campaign Act prior to collecting contributions for the George Bush For President Committee and therefore had no knowledge of any provision which required him to transfer contributions collected for an authorized committee within ten days of his receipt. It had been his intention to give the contributions to George Bush or his representative when either individual came by Mr. Davis' office. However, Mr. Davis states that he was out of the country and, as a result, the checks accumulated until they were mailed to the Committee on July 24, 1980.

Although, Mr. Davis offers an explanation which may be taken into account as a mitigating factor, the delay in transmitting the campaign funds is a violation of the Act. Therefore, the Office of General Counsel recommends the Commission find probable cause to believe Mr. Davis violated 2 U.S.C. § 432(b)(1).

Recommendation

Find probable cause to believe that Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

11 March 1981
Date

Charles N. Steele
General Counsel

Attachments

Attachment #1 - December 23, 1980 reply from Mr. W. R. Davis

BCC# 3623

ATTACHMENT #1

W. R. Davis
P. O. BOX 1727
Midland, Texas 79702

December 16, 1980

80 DEC 23 P 1:24
RECEIVED
GENERAL COUNSEL

Mr. John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1310

Dear Mr. McGarry:

I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

Let me try to reconstruct to the best of my memory what happened. I have a rather wide acquaintance of people across the United States. From time to time in my conversations with them, I asked them to mail me a check made out to the George Bush Campaign along with their current address. My secretary, who by the way is named Maisie - not Marcie - accumulated these checks for me while I was out of the country.

It had been my intention to give them to George Bush or his representative someday when he or the representative came by my office. Unfortunately, due to being out of my office these checks accumulated and were mailed on July 24, 1980. I do not have copies of the checks, but I don't believe they are all dated February 11, 1980. I believe they have a number of different dates as people sent them to me at different times. At any rate I did not have any knowledge of a law which existed which required me to turn them in in ten days.

8 1 0 4 0 2 5 2 0 8 8

December 16, 1980

Mr. John Warren McGarry

I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

I would be happy to ask for a refund of this money if that would correct the violation but beyong that I just don't know what to do.

To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

Kindest regards,

W. R. Davis

WRD:lc

8 1 0 4 0 2 5 2 0 8 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. R. Davis
309 N. Marienfield
Midland, TX 79701

RE: MUR 1310

Dear Mr. Davis:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on December 2, 1980, found reason to believe that you had violated section § 432(b)(1) of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies, if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days, to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Should you have any questions, please contact Beverly Brown at (202) 523-4529.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

8 1 0 4 0 2 5 2 0 9 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1310 (80)
W. R. Davis)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session of January 27, 1981, do hereby certify that the Commission failed by a vote of 3-3 to pass a motion to take the following actions in MUR 1310:

1. Close the file in this matter.

2. Send to Mr. Walter R. Davis the letter attached to the General Counsel's January 9, 1981 report.

Commissioners Aikens, McGarry, and Thomson voted affirmatively for the motion; Commissioners Harris, Reiche, and Tiernan dissented.

Attest:

1-28-81
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

8 1 0 4 0 2 5 2 0 9 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY
OFFICE OF THE SECRETARY TO THE COMMISSION

DATE: JANUARY 26, 1981

SUBJECT: ADDITIONAL OBJECTION TO MUR 1310
General Counsel's Report dated 1-9-81

You were notified previously of an objection by Commissioner Harris to the General Counsel's Report on MUR 1310.

Commissioner Reiche submitted his objection at 1:28, January 26, 1981. A copy of his vote sheet is provided.

This matter will be discussed in executive session on Tuesday, January 27, 1981.

ATTACHMENT:
Copy of Vote Sheet

81040252093

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY mc

DATE: JANUARY 26, 1981 MWE

SUBJECT: OBJECTION - MUR 1310 - General Counsel's Report dated 1-9-81; Signed 1-22-81; Received in OCS 1-22-81, 5:06

The above-named document was circulated on a 48 hour vote basis at 2:00, January 22, 1981.

Commissioner Harris submitted his objection at 10:30, January 26, 1981.

This matter will be placed on the Executive Session Agenda for Tuesday, January 27, 1981.

8 1 0 4 0 2 5 2 0 9 4

January 22, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1310

Please have the attached General Counsel's Report distributed to the Commission on a 48 hour tally basis.

Thank you.

Attachment

PAKayson

cc: B. Brown

6 1 0 4 0 2 5 2 0 9 5

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION
JANUARY 9, 1981

81 JAN22 P5:06

In the Matter of)
) MUR 1310 (80)
W. R. Davis)

GENERAL COUNSEL'S REPORT

I. Background

On the basis of information ascertained in the conduct of a post-primary audit of the George Bush For President Committee (the "Committee"), the Commission, on December 2, 1980, found reason to believe Mr. Walter R. Davis violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, the Commission determined that Mr. Davis violated this provision of the Act by failing to forward contributions collected on behalf of the George Bush for President Committee within ten days of his receipt of such contributions.

II. Legal Analysis

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50, the name and address of the person making the contribution and the date of receipt.

During the post-primary audit of the George Bush For President Committee, Mr. W. Garrett Boyd, treasurer of the

8 1 0 4 0 2 5 2 0 9 6

Committee, informed auditors that on July 24, 1980 the Committee received 55-60 contributor checks totalling approximately $58,000. The checks had been collected by Mr. W. R. Davis, a friend of the Bush family, having no connection with the campaign. All checks were dated February 11, 1980 and had not been transmitted to the Committee until five months after Mr. Davis' receipt of such contributions.

Based upon the forgoing facts, the Commission found reason to believe Mr. Davis violated 2 U.S.C. § 432(b)(1) of the Federal Election Campaign Act of 1971, as amended. On December 4, 1980, the Commission notified Mr. Davis of this finding.

On December 23, 1980, Mr. Davis responded to the Commission's notification of findings with respect to this matter. See Attachment #1. In reply, Mr. Davis admits the finding of fact but avers the violation was not knowingly or willfully committed.

Mr. Davis states that he had no knowledge of any law which required him to transfer contributions to a political committee within ten days of his receipt. It had been his intention to give the contributions to George Bush or his representative when either individual came by Mr. Davis' office. However, Mr. Davis was out of the country, and, as a result, the checks accumulated until they were mailed to the Committee on July 24, 1980.

8 1 0 4 0 2 5 0 0 9 7

In view of the circumstances presented in Mr. Davis' response, the Office of General Counsel recommends that the Commission close the file in this matter and send the attached letter to Mr. W. R. Davis regarding a violation of 2 U.S.C. § 432(b)(1).

Recommendation

1. Close the file in this matter.

2. Send the attached letter to Mr. Walter R. Davis regarding a violation of 2 U.S.C. § 432(b)(1).

22 January 1981
Date

Charles N. Steele
General Counsel

Attachments

Attachment #1 - Letter from Mr. W. R. Davis received December 23, 1980

Attachment #2 - Letter to Mr. W. R. Davis

8 6 0 5 0 0 4 0 1 8

3623..

ATTACHMENT #1

W. R. Davis
P. O. BOX 1727
Midland, Texas 79702

December 16, 1980

80 DEC 23 P 1:24

Mr. John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1310

Dear Mr. McGarry:

I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

Let me try to reconstruct to the best of my memory what happened. I have a rather wide acquaintance of people across the United States. From time to time in my conversations with them, I asked them to mail me a check made out to the George Bush Campaign along with their current address. My secretary, who by the way is named Maisie - not Marcie - accumulated these checks for me while I was out of the country.

It had been my intention to give them to George Bush or his representative someday when he or the representative came by my office. Unfortunately, due to being out of my office these checks accumulated and were mailed on July 24, 1980. I do not have copies of the checks, but I don't believe they are all dated February 11, 1980. I believe they have a number of different dates as people sent them to me at different times. At any rate I did not have any knowledge of a law which existed which required me to turn them in in ten days.

December 16, 1980

Mr. John Warren McGarry

I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

I would be happy to ask for a refund of this money if that would correct the violation but beyong that I just don't know what to do.

To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

Kindest regards,

W. R. Davis

WRD:lc

ATTACHMENT #2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. W. R. Davis
309 N. Marienfeld
Midland, TX 79701

RE: MUR 1310

Dear Mr. Davis:

On December 2, 1980, the Commission found reason to believe that you violated 2 U.S.C. § 432(b)(1), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act") in connection with the above-referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that failure to forward contributions received on behalf of an authorized political committee, within 10 days of your receipt, nevertheless appears to be a violation of 2 U.S.C. § 432(b)(1) and you should take immediate steps to ensure that this activity does not occur in the future.

If you have any questions, please direct them to Beverly Brown, the staff member assigned to this matter, at (202) 523-4529.

Sincerely,

8104025101

GCC# 3623

W. R. Davis
P. O. BOX 1727
Midland, Texas 79702

December 16, 1980

80 DEC 23 P 1:24

Mr. John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Re: MUR 1310

Dear Mr. McGarry:

I am sorry to say that I did not read the Federal Election Campaign laws compiled by the Federal Election Commission prior to collecting money for George Bush for President Campaign. In fact, and I don't mean this facetiously, but if I read all the regulations that applied to all of the businesses I am in, I can assure you I couldn't make enough money to pay income taxes. It is impossible for me, even with a staff of accountants and good law firms, to keep up with matters of this kind. I am sure you can appreciate that fact.

Let me try to reconstruct to the best of my memory what happened. I have a rather wide acquaintance of people across the United States. From time to time in my conversations with them, I asked them to mail me a check made out to the George Bush Campaign along with their current address. My secretary, who by the way is named Maisie - not Marcie - accumulated these checks for me while I was out of the country.

It had been my intention to give them to George Bush or his representative someday when he or the representative came by my office. Unfortunately, due to being out of my office these checks accumulated and were mailed on July 24, 1980. I do not have copies of the checks, but I don't believe they are all dated February 11, 1980. I believe they have a number of different dates as people sent them to me at different times. At any rate I did not have any knowledge of a law which existed which required me to turn them in in ten days.

December 16, 1980

Mr. John Warren McGarry

I am sure that I am in violation of the regulations requiring them to be mailed in ten days. I really don't know what to do about this as I had no intention of violating any rules or regulations.

I would be happy to ask for a refund of this money if that would correct the violation but beyong that I just don't know what to do.

To the best of my knowledge, this is all fact and please advise me as to what your commission wants me to do or what you intend to do.

Kindest regards,

W. R. Davis

WRD:lc

W. R. Davis
P. O. BOX 1727
Midland, Texas 79702

MIDLAND, TX.
1 PM
DEC
1980

CERTIFIED
P05 5396215
MAIL

Mr. John Warren McGarry
Vice Chairman
Fedearl Election Commission
Washington, D. C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. W. R. Davis
309 N. Marienfeld
Midland, Tx 79701

RE: MUR 1310

Dear Mr. Davis:

On December 2 , 1980, the Federal Election Commission determined that there is reason to believe that you violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amende ("the Act") by failing to forward contributions received on behalf of the George Bush For President Committee within 10 days of your receipt of such contributions. The General Counsel'f factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

The investigation now being conducted will be 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 investigation to be made public.

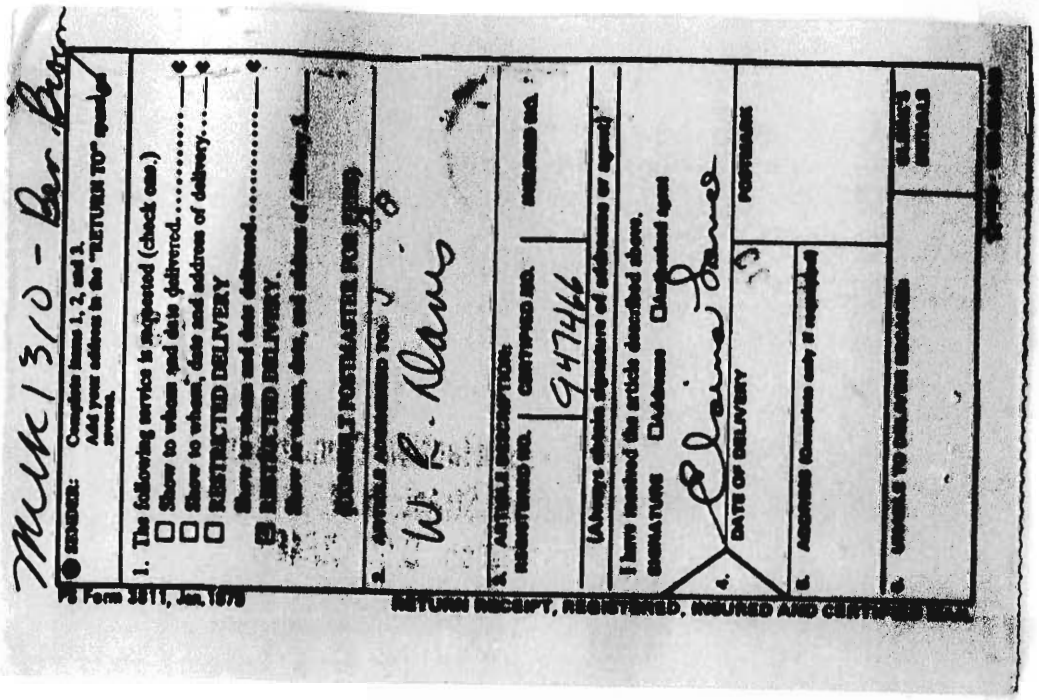
For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beverly Brown, the staff member assigned to this matter, at 202/523-4529.

Sincerely,

John Warren McGarry
Vice-Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Federal Election Campaign Act of 1971, as amended



FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE December 4, 1980

MUR NO. 1310

STAFF MEMBER(S) & TEL. NO.
Beverly Brown/(202) 523-4529
Hal Ponder/(202) 523-4166

RESPONDENT: W. R. Davis

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

8 1 0 4 0 2 5 1 0 7

SUMMARY OF ALLEGATIONS

On October 3, 1980, the Audit Division referred to the Office of General Counsel a matter concerning the delayed transmittal of contributions collected on behalf of the George Bush For President Committee (the "Committee") by Mr. W. R. Davis, an unauthorized agent. The matter, involving a violation of section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"), was discovered in the conduct of the post-primary audit of the George Bush for President Committee, such audit having been undertaken pursuant to 26 U.S.C. § 9038(a).

FACTUAL AND LEGAL ANALYSIS

On July 24, 1980, the George Bush For President Committee received by certified mail an envelope containing approximately 55-60 contributor checks totalling an estimated $58,000. The checks were made payable to the Committee and were all dated February 11, 1980. A cover memo which accompanied the checks was addressed to "Jeff" Bush (apparently intended for Jeb Bush, the candidate's son). The memo, signed by "Marcie", referred only to the approximate amount of funds enclosed and a telephone discussion between the addressee and the memo's author.

Upon receipt of this envelope, Mr. W. Garrett Boyd, treasurer of the Committee, and Jeb Bush consulted with members of the Commission's audit staff who were at the Committee's headquarters conducting a post-primary audit. Through discussion, Mr. Bush and Mr. Boyd revealed that the contributor's checks were collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. It was not until July 21, 1980 that the Committee had knowledge of the activity conducted by Mr. Davis. On this date Jeb Bush received a telephone call from Mr. Davis' secretary. The secretary stated that she had contributor checks for the Committee but did not indicate that the checks were received in February. In view of these circumstances, Committee officials raised questions as to whether any violation results from the deposit and delayed disclosure of contributions transmitted by an unauthorized agent five months after such agent received the contributions, or whether such funds may be lawfully accepted by the Committee. The auditors, after consultation with the Office of General Counsel, advised the Committee that they could accept the contribution, if otherwise permissible, but that the matter raises legal questions with regard to Mr. Davis' activity.

2 U.S.C. § 432(b)(1) imposes the duty on every person receiving a contribution for an authorized political committee to, no later than 10 days after receipt of the contribution, forward to the treasurer such contribution, and, if the amount of the contribution exceeds $50, to forward to the treasurer the name and address of the contributor and the date of receipt. 1/ In that Mr. Davis failed to transfer contributions received on behalf of the Committee until five months after his receipt of such contributions it appears he violated this provision of the Act. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

Recommendation

Find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

1/ The Act, as amended in 1979, imposed this duty upon every person receiving contributions for an authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2) in situations where someone other than the treasurer receives contributions for the reporting committee.

8 0 1 0 1 1 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
W. R. Davis)

MUR 1310

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on December 2, 1980, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1310:

1. Find reason to believe Mr. W. R. Davis violated 2 U.S.C. §432(b)(1).

2. Approve and send the letter to Mr. W. R. Davis with the General Counsel's Factual and Legal Analysis, as submitted with the General Counsel's November 17, 1980 report, as amended to correct the cite in footnote 1/.

Attest:

12/2/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

8 1 0 4 0 2 5 2 1 0 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 2, 1980

MEMORANDUM TO: THE FILE

FROM: Beverly Brown

SUBJECT: MUR 1310
Amended Language to Footnote #1
Appearing in the First General
Counsel's Report on MUR 1310

In Executive Session held on December 2, 1980, the Commission directed the Office of General Counsel to amend the language contained in footnote #1 which appears on page 2 of the First General Counsel's Report on MUR 1310 and on page 2 of the General Counsel's Factual and Legal Analysis. The attached pages contain substitute language to footnote #1 and should be made part of the permanent record.

8 1 0 4 0 2 5 2 1 1 0

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Date and Time of Transmittal
By OGC To The Commission ____

MUR 1310
Staff Member
Beverly Brown

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: W. R. Davis

RELEVANT STATUTE: 2 U.S.C. § 432(b)(1)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 3, 1980, the Audit Division referred to the Office of General Counsel a matter concerning the delayed transmittal of contributions collected on behalf of the George Bush For President Committee (the "Committee") by Mr. W. R. Davis, an unauthorized agent. (See Exhibit A). The matter, involving a violation of section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"), was discovered in the conduct of the post-primary audit of the George Bush for President Committee, such audit having been undertaken pursuant to 26 U.S.C. § 9038(a).

FACTUAL AND LEGAL ANALYSIS

On July 24, 1980, the George Bush For President Committee received by certified mail an envelope containing approximately 55-60 contributor checks totalling an estimated $58,000. The checks were made payable to the Committee and were all dated February 11, 1980. A cover memo which accompanied the checks was addressed to "Jeff" Bush (apparently intended for Jeb Bush, the candidate's son). The memo, signed by "Marcie", referred only to the approximate amount of funds enclosed and a telephone discussion between the addressee and the memo's author. (See Exhibit "A", Attachment II).

8 1 0 4 0 2 5 2 1 1 1

Upon receipt of this envelope, Mr. W. Garrett Boyd, treasurer of the Committee, and Jeb Bush consulted with members of the Commission's audit staff who were at the Committee's headquarters conducting a post-primary audit. Through discussion, Mr. Bush and Mr. Boyd revealed that the contributor's checks were collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. It was not until July 21, 1980 that the Committee had knowledge of the activity conducted by Mr. Davis. On this date Jeb Bush received a telephone call from Mr. Davis' secretary. The secretary stated that she had contributor checks for the Committee but did not indicate that the checks were received in February. In view of these circumstances, Committee officials raised questions as to whether any violation results from the deposit and delayed disclosure of contributions transmitted by an unauthorized agent five months after such agent received the contributions, or whether such funds may be lawfully accepted by the Committee. The auditors, after consultation with the Office of General Counsel, advised the Committee that they could accept the contribution, if otherwise permissible, but that the matter raises legal questions with regard to Mr. Davis' activity.

2 U.S.C. § 432(b)(1) imposes the duty on every person receiving a contribution for an authorized political committee to, no later than 10 days after receipt of the contribution, forward to the treasurer such contribution, and, if the amount of the contribution exceeds $50, to forward to the treasurer the name and address of the contributor and the date of receipt. 1/ In that Mr. Davis failed to transfer contributions received on behalf of the Committee until five months after his receipt of such contributions it appears he violated this provision of the Act. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

1/ The Act, as amended in 1979, imposed this duty upon every person receiving contributions for an authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2) in situations where someone other than the treasurer receives contributions for the reporting committee.

Recommendation

1. Find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

2. Approve and send the attached letter to Mr. W. R. Davis with the General Counsel's Factual and Legal Analysis.

Attachments

Exhibit A - 5 pages
Letter to Mr. W. R. Davis with attached General Counsel's Factual and Legal Analysis

8 1 0 4 0 2 5 2 1 1 3

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE

MUR NO. 1310

STAFF MEMBER(S) & TEL. NO.
Beverly Brown/(202) 523-4529
Hal Ponder/(202) 523-4166

RESPONDENT: W. R. Davis

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

8 1 0 1 0 2 5 2 1 1 4

SUMMARY OF ALLEGATIONS

On October 3, 1980, the Audit Division referred to the Office of General Counsel a matter concerning the delayed transmittal of contributions collected on behalf of the George Bush For President Committee (the "Committee") by Mr. W. R. Davis, an unauthorized agent. The matter, involving a violation of section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"), was discovered in the conduct of the post-primary audit of the George Bush for President Committee, such audit having been undertaken pursuant to 26 U.S.C. § 9038(a).

FACTUAL AND LEGAL ANALYSIS

On July 24, 1980, the George Bush For President Committee received by certified mail an envelope containing approximately 55-60 contributor checks totalling an estimated $58,000. The checks were made payable to the Committee and were all dated February 11, 1980. A cover memo which accompanied the checks was addressed to "Jeff" Bush (apparently intended for Jeb Bush, the candidate's son). The memo, signed by "Marcie", referred only to the approximate amount of funds enclosed and a telephone discussion between the addressee and the memo's author.

Upon receipt of this envelope, Mr. W. Garrett Boyd, treasurer of the Committee, and Jeb Bush consulted with members of the Commission's audit staff who were at the Committee's headquarters conducting a post-primary audit. Through discussion, Mr. Bush and Mr. Boyd revealed that the contributor's checks were collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. It was not until July 21, 1980 that the Committee had knowledge of the activity conducted by Mr. Davis. On this date Jeb Bush received a telephone call from Mr. Davis' secretary. The secretary stated that she had contributor checks for the Committee but did not indicate that the checks were received in February. In view of these circumstances, Committee officials raised questions as to whether any violation results from the deposit and delayed disclosure of contributions transmitted by an unauthorized agent five months after such agent received the contributions, or whether such funds may be lawfully accepted by the Committee. The auditors, after consultation with the Office of General Counsel, advised the Committee that they could accept the contribution, if otherwise permissible, but that the matter raises legal questions with regard to Mr. Davis' activity.

2 U.S.C. § 432(b)(1) imposes the duty on every person receiving a contribution for an authorized political committee to, no later than 10 days after receipt of the contribution, forward to the treasurer such contribution, and, if the amount of the contribution exceeds $50, to forward to the treasurer the name and address of the contributor and the date of receipt. 1/ In that Mr. Davis failed to transfer contributions received on behalf of the Committee until five months after his receipt of such contributions it appears he violated this provision of the Act. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

Recommendation

Find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

.....

1/ The Act, as amended in 1979, imposed this duty upon every person receiving contributions for an authorized committee in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2) in situations where someone other than the treasurer receives contributions for the reporting committee.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MWE

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY mc

DATE: NOVEMBER 19, 1980

SUBJECT: OBJECTION - MUR 1310 - First General Counsel's Report dated 11-17-80; Received in OCS 11-17-80, 4:10

The above-named document was circulated on a 48 hour vote basis at 11:00, November 18, 1980.

Commissioner Tiernan submitted an objection at 5:48, November 18, 1980.

This matter will be placed on the Executive Session Agenda for Tuesday, December 2, 1980.

8 1 0 4 0 2 5 2 1 1 6

November 17, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1310

Please have the attached First GC Report distributed to the Commission once 48 hour tally basis. Thank you.

8 1 0 4 0 2 5 2 1 1 7

RECEIVED
COMMISSION SECRETARY
80 NOV 17 P4: 10

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Date and Time of Transmittal
By OGC To The Commission 11-17-80

MUR 1310
Staff Member
Beverly Brown

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: W. R. Davis

RELEVANT STATUTE: 2 U.S.C. § 432(b)(1)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 3, 1980, the Audit Division referred to the Office of General Counsel a matter concerning the delayed transmittal of contributions collected on behalf of the George Bush For President Committee (the "Committee") by Mr. W. R. Davis, an unauthorized agent. (See Exhibit A). The matter, involving a violation of section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"), was discovered in the conduct of the post-primary audit of the George Bush for President Committee, such audit having been undertaken pursuant to 26 U.S.C. § 9038(a).

FACTUAL AND LEGAL ANALYSIS

On July 24, 1980, the George Bush For President Committee received by certified mail an envelope containing approximately 55-60 contributor checks totalling an estimated $58,000. The checks were made payable to the Committee and were all dated February 11, 1980. A cover memo which accompanied the checks was addressed to "Jeff" Bush (apparently intended for Jeb Bush, the candidate's son). The memo, signed by "Marcie", referred only to the approximate amount of funds enclosed and a telephone discussion between the addressee and the memo's author. (See Exhibit "A", Attachment II).

8 1 0 4 0 2 5 2 1 1 8

Upon receipt of this envelope, Mr. W. Garrett Boyd, treasurer of the Committee, and Jeb Bush consulted with members of the Commission's audit staff who were at the Committee's headquarters conducting a post-primary audit. Through discussion, Mr. Bush and Mr. Boyd revealed that the contributor's checks were collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. It was not until July 21, 1980 that the Committee had knowledge of the activity conducted by Mr. Davis. On this date Jeb Bush received a telephone call from Mr. Davis' secretary. The secretary stated that she had contributor checks for the Committee but did not indicate that the checks were received in February. In view of these circumstances, Committee officials raised questions as to whether any violation results from the deposit and delayed disclosure of contributions transmitted by an unauthorized agent five months after such agent received the contributions, or whether such funds may be lawfully accepted by the Committee. The auditors, after consultation with the Office of General Counsel, advised the Committee that they could accept the contribution, if otherwise permissible, but that the matter raises legal questions with regard to Mr. Davis' activity.

2 U.S.C. § 432(b)(1) imposes the duty on every person receiving a contribution for an authorized political committee to, no later than 10 days after receipt of the contribution, forward to the treasurer such contribution, and, if the amount of the contribution exceeds $50, to forward to the treasurer the name and address of the contributor and the date of receipt. 1/ In that Mr. Davis failed to transfer contributions received on behalf of the Committee until five months after his receipt of such contributions it appears he violated this provision of the Act. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

1/ The Act, as amended in 1979, imposed this duty upon fundraising agents in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2) in situations where someone other than the treasurer receives contributions on behalf of the reporting committee.

Recommendation

1. Find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

2. Approve and send the attached letter to Mr. W. R. Davis with the General Counsel's Factual and Legal Analysis.

Attachments

Exhibit A - 5 pages
Letter to Mr. W. R. Davis with attached General Counsel's Factual and Legal Analysis

8 1 0 4 0 2 5 2 1 2 0

EXHIBIT "A"

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1980

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: DELAYED TRANSMITTAL OF CONTRIBUTIONS COLLECTED BY UNAUTHORIZED AGENT (POSSIBLE VIOLATION 2 U.S.C. 432(b)(1))

The following matter is being forwarded to your office for possible MUR action:

On July 24, 1980, during the post-primary audit of the George Bush For President Committee ("the Committee"), Treasurer W. Garrett Boyd showed the auditors a certified mail envelope containing approximately 55-60 checks totaling approximately $58,000 along with a cover note (incorrectly addressed to Jeff Bush instead of Jeb Bush). See Attachments I, II, and III. The checks were made payable to the Committee and were all dated February 11, 1980. Mr. Boyd said the money had been collected by a Mr. W. R. Davis of Midland, Texas without the Committee's knowledge. On July 21, 1980, Mr. Davis' secretary called George Bush, Jr. (candidate's son who also lives in Midland, TX.) who referred her to Jeb Bush (candidate's son who works in the Committee headquarters in Houston, Texas). She said she had checks for the Committee but did not say they were dated 5 months earlier.

The Auditors then discussed the matter with Mr. Boyd and Mr. Jeb Bush who stated that Mr. Davis is a friend of the Bush family but he did not have any connection with the campaign and no one knew he was collecting funds for the Committee. Mr. Boyd and Mr. Jeb Bush wanted to know if the contributions were acceptable by the Committee. However, they said candidate George Bush did not want to keep the money if there were any legal problems.

8 1 0 1 0 2 5 2 1 2 1

The Auditors advised the Committee to wait while inquiries were made to FEC officials in Washington, D.C. Discussions between FEC auditors and the Office of General Counsel resulted in the opinion that it was all right for the Committee to accept the contributions if they were otherwise acceptable. However, they agreed it was possible that Mr. Davis had violated Section 432(b)(1) of Title 2 of the United States Code which requires every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50, the name and address of the person making the contribution and the date of receipt. The auditors advised the Committee of this informal decision contingent upon a final Commission decision.

If there are any questions regarding this matter, contact either Stephen Sanford or Patrick Parrish at extension 3-4155.

Attachments as stated

8 1 0 4 0 2 5 2 1 2 2

Attachment I

MIDLAND 1980 79701

CERTIFIED
No. 364396
MAIL

Jeff Bush
George Bush for President
710 North Post Oak Road
Houston, Texas 77024

8 1 0 4 0 2 5 2 1 2 3

Address on this copy is
309 N. Marienfield
Midland, TX 79701
Certified date is July 21, 1980

S 245
7-24-80

Address is fcb, not Jeff Bush.
Audit Staff Notations

Attachment II

July 21, 1980

Dear Jeff:

I counted this again this morning and come up with $57,500 - twice. You can count it and at least we know there is $56 or $57. Enjoyed talking with you over the phone this morning and hope to see you again sometime in Midland.

Thanks -

Marie

Audit Staff Notation

8 1 0 1 0 2 5 2 1 2 4

Attachment III

W. R. OR J[illegible] ANN DAVIS
COMMUNITY ACCOUNT
309 NORTH MARIENFELD
MIDLAND, TEXAS 79701

1165

February 11 19 80

PAY TO THE ORDER OF George Bush for President $ 1,000.00

One Thousand and No/100 DOLLARS

FIRST IN DALLAS
Dallas, Texas 75283

For Contribution from W. R. Davis

⑈001165⑈ ⑆111000014⑆ ⑈32 0557 2⑈

8 1 0 4 0 2 5 2 1 2 5

One of approximately 55-60 checks in envelope.

Per Jeb Bush Mr. Davis was the collector.

Audit Staff Notations

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. W. R. Davis
309 N. Marienfeld
Midland, Tx 79701

RE: MUR 1310

Dear Mr. Davis:

On , 1980, the Federal Election Commission determined that there is reason to believe that you violated section 432(b)(1) of the Federal Election Campaign Act of 1971, as amende ("the Act") by failing to forward contributions received on behalf of the George Bush For President Committee within 10 days of your receipt of such contributions. The General Counsel'f factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

8 1 0 4 0 2 5 2 1 2 6

The investigation now being conducted will be 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 investigation 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 Beverly Brown, the staff member assigned to this matter, at 202/523-4529.

Sincerely,

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Federal Election Campaign Act of 1971, as amended

8 1 0 4 0 2 5 2 1 2 7

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE _____

MUR NO. 1310
STAFF MEMBER(S) & TEL. NO.
Beverly Brown/(202) 523-4529
Hal Ponder/(202) 523-4166

RESPONDENT: W. R. Davis

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On October 3, 1980, the Audit Division referred to the Office of General Counsel a matter concerning the delayed transmittal of contributions collected on behalf of the George Bush For President Committee (the "Committee") by Mr. W. R. Davis, an unauthorized agent. The matter, involving a violation of section 432(b)(1) of the Federal Election Campaign Act of 1971, as amended (the "Act"), was discovered in the conduct of the post-primary audit of the George Bush for President Committee, such audit having been undertaken pursuant to 26 U.S.C. § 9038(a).

FACTUAL AND LEGAL ANALYSIS

On July 24, 1980, the George Bush For President Committee received by certified mail an envelope containing approximately 55-60 contributor checks totalling an estimated $58,000. The checks were made payable to the Committee and were all dated February 11, 1980. A cover memo which accompanied the checks was addressed to "Jeff" Bush (apparently intended for Jeb Bush, the candidate's son). The memo, signed by "Marcie", referred only to the approximate amount of funds enclosed and a telephone discussion between the addressee and the memo's author.

8 1 0 1 0 2 5 2 1 2 3

Upon receipt of this envelope, Mr. W. Garrett Boyd, treasurer of the Committee, and Jeb Bush consulted with members of the Commission's audit staff who were at the Committee's headquarters conducting a post-primary audit. Through discussion, Mr. Bush and Mr. Boyd revealed that the contributor's checks were collected by Mr. W. R. Davis, a friend of the Bush family having no connection with the campaign. It was not until July 21, 1980 that the Committee had knowledge of the activity conducted by Mr. Davis. On this date Jeb Bush received a telephone call from Mr. Davis' secretary. The secretary stated that she had contributor checks for the Committee but did not indicate that the checks were received in February. In view of these circumstances, Committee officials raised questions as to whether any violation results from the deposit and delayed disclosure of contributions transmitted by an unauthorized agent five months after such agent received the contributions, or whether such funds may be lawfully accepted by the Committee. The auditors, after consultation with the Office of General Counsel, advised the Committee that they could accept the contribution, if otherwise permissible, but that the matter raises legal questions with regard to Mr. Davis' activity.

2 U.S.C. § 432(b)(1) imposes the duty on every person receiving a contribution for an authorized political committee to, no later than 10 days after receipt of the contribution, forward to the treasurer such contribution, and, if the amount of the contribution exceeds $50, to forward to the treasurer the name and address of the contributor and the date of receipt. 1/ In that Mr. Davis failed to transfer contributions received on behalf of the Committee until five months after his receipt of such contributions it appears he violated this provision of the Act. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

Recommendation

Find reason to believe Mr. W. R. Davis violated 2 U.S.C. § 432(b)(1).

1/ The Act, as amended in 1979, imposed this duty upon fundraising agents in recognition of the difficulties that treasurers experience in keeping an account of contributions as required by 2 U.S.C. § 432(c)(1) and (2) in situations where someone other than the treasurer receives contributions on behalf of the reporting committee.

8 1 0 1 0 5 1 2 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1980

MEMORANDUM

TO: Robert J. Costa

THROUGH: B. Allen Clutter
Staff Director

FROM: Charles N. Steele
General Counsel

SUBJECT: Delayed Transmittal of Contributions Collected by Unauthorized Agent - A-847

The Office of General Counsel has reviewed the above-named document. Based on information provided in this report, we have determined to initiate MUR action. The MUR number will be 1310.

8 1 0 4 0 2 5 2 1 3 0

A-847

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1980

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: DELAYED TRANSMITTAL OF CONTRIBUTIONS COLLECTED BY UNAUTHORIZED AGENT (POSSIBLE VIOLATION 2 U.S.C. 432(b)(1))

The following matter is being forwarded to your office for possible MUR action:

On July 24, 1980, during the post-primary audit of the George Bush For President Committee ("the Committee"), Treasurer W. Garrett Boyd showed the auditors a certified mail envelope containing approximately 55-60 checks totaling approximately $58,000 along with a cover note (incorrectly addressed to Jeff Bush instead of Jeb Bush). See Attachments I, II, and III. The checks were made payable to the Committee and were all dated February 11, 1980. Mr. Boyd said the money had been collected by a Mr. W. R. Davis of Midland, Texas without the Committee's knowledge. On July 21, 1980, Mr. Davis' secretary called George Bush, Jr. (candidate's son who also lives in Midland, TX.) who referred her to Jeb Bush (candidate's son who works in the Committee headquarters in Houston, Texas). She said she had checks for the Committee but did not say they were dated 5 months earlier.

The Auditors then discussed the matter with Mr. Boyd and Mr. Jeb Bush who stated that Mr. Davis is a friend of the Bush family but he did not have any connection with the campaign and no one knew he was collecting funds for the Committee. Mr. Boyd and Mr. Jeb Bush wanted to know if the contributions were acceptable by the Committee. However, they said candidate George Bush did not want to keep the money if there were any legal problems.

8 1 0 4 0 2 5 2 1 3 1

The Auditors advised the Committee to wait while inquiries were made to FEC officials in Washington, D.C. Discussions between FEC auditors and the Office of General Counsel resulted in the opinion that it was all right for the Committee to accept the contributions if they were otherwise acceptable. However, they agreed it was possible that Mr. Davis had violated Section 432(b)(1) of Title 2 of the United States Code which requires every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50, the name and address of the person making the contribution and the date of receipt. The auditors advised the Committee of this informal decision contingent upon a final Commission decision.

If there are any questions regarding this matter, contact either Stephen Sanford or Patrick Parrish at extension 3-4155.

Attachments as stated

8 1 0 4 0 2 5 2 1 3 2

Attachment I

MIDLAND JUL 21 1980 PM 79701

CERTIFIED
No. 354396
MAIL

Jeff Bush
George Bush for President
710 North Post Oak Road
Houston, Texas 77024

8104025213

Address on this copy is
309 N. Marienfield
Midland, TX 79701
Certified date is July 21, 1980

S 245
7-24-80

Address is Jeb, not Jeff Bush.
Audit Staff Notations

Attachment II

July 21, 1980

Dear Jeff:

I counted this again this morning and come up with $57,500 - twice. You can count it and at least we know there is $56 or $57. Enjoyed talking with you over the phone this morning and hope to see you again sometime in Midland.

Thanks -

Marvin

SIB addressed To Jeb, not Jeff Bush

Audit Staff Notation

8 1 0 1 2 2 5 2 1 3 4

Attachment III

W. R. OR JO ANN DAVIS
COMMUNITY ACCOUNT
309 NORTH MARIENFELD
MIDLAND, TEXAS 79701

1465

February 11 19 80

PAY TO THE ORDER OF George Bush for President $ 1,000.00

One Thousand and No/100 DOLLARS

FIRST IN DALLAS
First National Bank in Dallas • Dallas, Texas 75283

For Contribution from W. R. Davis

⑈001465⑈ ⑆111000012⑆ ⑈32 0557 20⑈

8 1 0 1 0 2 5 2 1 3 5

One of approximately 55-60 checks in envelope.
Per Jeb Bush Mr. Davis was the collector.
Audit Staff Notations

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1310

Date Filmed May 29, 1981 Camera No. --- 2

Cameraman GC

8 1 0 4 0 2 5 2 1 3 6