GCC#441

83 JUL 8 P12:41

83 JUL 8 P4:25

July 5, 1983

Dear Persons:

Enclosed is an article from the Miami Herald dated May 30, 1983. Within the article are a number of allegations dealing with the Federal Elections Campaign Laws: 2U.S.C. 441f. This letter is a complaint that these allegations be investigated and if substantiated, then prosecuted.

The integrity of the federal campaign laws are at stake. Thank you for your fine work in protecting the integrity of the election process.

Sincerely,

Paul Harvill

Paul Harvill

Subscribed and sworn to (affirmed) before me this 5th day of July A.D., 83

Jeanne B. Sewell

Notary Public

My Commission Expires:

Address:

913 Willow Av.
Tallahassee, FL 32303
(904) 386-4433

00007407313

Cloudy, Rain
Details on 2A

88 pages

Monday, May 30, 1983

# Tribe profits go politicking

Please return

Second of a series.

By FRED STRASSER
And JOHN MacCORMACK
Herald Staff Writers

## The Seminoles: Cashing in on Sovereignty

Six years ago, the Seminole Indian Tribe depended on handouts from politicians. Now, transformed by a potent commerce of cigarets and bingo, the Seminoles hand out the favors.

Drawing from a hidden lobbying fund, the tribe has become the biggest corporate political contributor in Florida — well ahead of runner-up Winn Dixie, long a power broker in the state.

The tribe has also poured tens of thousands of dollars into national political campaigns, contributions funneled through the checkbooks of individual Indians by the tribe's non-Indian lawyer.

Lobbyists Jack Shulitz and Barry Hornstein, whose other clients include Miller Brewing Co. and Honeywell, keep watch over the tribe's interests in Tallahassee.

They annual revenue: $192,000.

"We're no different from any corporation," said tribal Chairman James Billie. "It could be Coca Cola protecting their interests on the state level, on the Washington level or in Russia or wherever they are."

The peculiar economy of cigarets and bingo has created a tiny class of Seminole sheiks who hunt big game in Alaska and vacation in Paris; they return to sift through offers from white entrepreneurs struck with the profit potential of Indian land.

The richest of the new rich is former tribal Chairman Howard Tommie, who has interests in two smoke shops and the Hollywood bingo hall.

Tommie, who earned $200 a week when elected chairman in 1971, now draws $25,000 a month.

Please turn to SEMINOLES/17A

## A Chronology

- June 1977 — Marcellus Osceola opens first tax-free cigaret shop on Hollywood reservation.
- Aug. 31, 1977 — Stephen Whidden hired as tribal counsel.
- May 14, 1979 — James Billie elected to first term as chairman.
- Dec. 14, 1979 — Seminoles open Hollywood bingo hall, hours after a federal judge rules that Broward sheriff's deputies cannot interfere with the game.
- March 22, 1982 — U.S. Supreme Court declines to review an appeals court ruling on Seminole vs. Butterworth that allows Indians to regulate their own bingo.
- April 8, 1982 — Tribe announces plans to build bingo hall on new Tampa reservation.
- May 14, 1982 — Stephen Whidden hired as tribal counsel.
- Oct. 8, 1982 — Pan American International Management Corp. is incorporated in Texas.
- May 9, 1983 — James Billie re-elected tribal chairman.

# Lawyer taught Seminoles to play political hardball

By JOHN MacCORMACK
And FRED STRASSER
Herald Staff Writers

Stephen H. Whilden left Washington in 1977, a midlevel U.S. State Department official fed up with confronting the bureaucracy.

"Really, I wanted my own shop," he said.

He found it — through an ad in the Florida Bar Journal — at the Hollywood offices of the Seminole [illegible] It was a shop like few others. [illegible]re else, after all, could the [illegible]reign Service officer, then 37, have become the general counsel to a nation?

Whilden, thousands of dollars behind in child-support payments, was hired at $35,000 a year under a Catholic Services Bureau grant.

"He had an old, beat-up car, threadbare clothes, holes in his shoes — the whole poor attorney bit," said Fred Wessells, the U.S. Bureau of Indian Affairs superintendent for the Seminole reservation.

He arrived with the first stirrings of the tribe's economic boom and soon began crafting what amounted to a foreign policy, working closely with Seminole Tribal Chairman James Billie.

"Steve created policy," said former tribal Administrator Michael Tiger. "Billie told him to run with the ball."

It was an odd but effective pairing: a burly, hard-talking alligator wrestler and an urbane, cerebral Washington lawyer. Billie and Whilden shared only Vietnam War experiences and a determination to exploit the tribe's separate-nation status.

"The Indians can sit up there on the moral high ground and stay poor," Whilden said. "But if they want their fair share, they have to learn to use the modern tactical methods. They have to get into politics."

So he showed them where the game is played — in Washington and Tallahassee — and how it is played — just inside the rules.

"I always advocate the most extreme Indian position; then I can back off," Whilden said.

Today, a year after Whilden lost his job in a tribal power struggle, even his harshest foes mix disdain for the "White Chief" with a grudging gratitude.

"Whilden was a snake, but he was good as an instrument," said Marcellus Osceola, the tribal councilman who engineered Whilden's firing. "He tried to get the tribe to move. He served his purpose."

Whilden's political credentials and savvy impressed the Indians as much as his knowledge of law. He had worked in the Office of Management and Budget, served as a White House liaison in the final days of the Nixon Administration and spent two diplomatic tours in Vietnam.

Most taken was Billie, who became tribal chairman in 1979.

"I had to have that spear that penetrates situations and makes things work," said Billie. "That was Steve."

"It was almost like mental telepathy, we think so close. I worked with him day and night. It was almost like sleeping with him."

Whilden was a fierce advocate. He renegotiated unfavorable leases and contracts. He demanded compensation for land taken by the state and beat back an IRS attempt to tax tribal income. He explored development plans ranging from alligator farms to a landfill.

He used his diplomatic skills to lead the tribe's drive for new land.

"Part of my training from the Foreign Service," he said, smiling, "is to tell people only what they need to know."

In arranging land deals for the Seminoles, Whilden made public representations that didn't always tell the entire story.

- In November 1981, Whilden negotiated with state and local officials to have the Oak Ridge Country Club near Fort Lauderdale put under the tribe's control to provide "new housing for Seminoles."

PETE CROSS · Miami Herald Staff

Stephen H. Whilden: Former general counsel to the Seminole nation.

In fact, the 1,500-member tribe was attempting to swing a $15-million deal with Century Village developers to build 7,000 condo units on the golf course in defiance of county planning regulations.

- In March 1982, Whilden sought 800 acres for a new reservation in Fort Pierce, assuring St. Lucie County officials the land would never be used for smoke shops or bingo.

But in a letter written a month before, Whilden was already negotiating a 99-year lease with a private investor to build "a dog track, golf course and a mobile home park" on the same land.

- When Indian bones were discovered in downtown Tampa, he sought a new reservation for a sacred Seminole shrine. Once approval was granted, up went the shrine, a tax-free cigarette shop, and finally a bingo hall. Whilden says key officials in Tampa and Washington were told of the plans, but officials say the Seminoles disguised their intentions for the land.

Whilden denies misrepresenting the tribe's land-development plans.

"If we say we need [the land] for A and B, and later on we do A, B, C and D, it's shrewd negotiating," he said.

Whilden ultimately lost his post as tribal counsel. On a 3-2 tribal council vote last year and over Chairman Billie's objections, Whilden was fired.

"I fired Steve because I wanted an Indian to run the reservation," Osceola said.

Today, Whilden has become the nation's foremost impresario of Indian bingo, using the same political strategy as a bingo manager he used for the Seminoles.

In the last six months of 1982, Whilden plowed $26,500 into national politics — including $7,000 to the Democratic National Committee and $20,000 to the Republican National Committee. Jane Clare, his partner in his Pan American Management Co., made contributions of $11,000 throughout the year, including $5,000 to the Republican Party of Florida.

On Nov. 22, 1982, just before Pan Am disclosed plans for a bingo hall near Tucson, an official of the Republican National Committee arranged for Whilden to see the attorney general of Arizona.

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LES / From 1A

from his businesses while his
do the work.
cations in Monte Carlo, charters
for cross-country trips and has
sponsor international racing teams,
g the winner of the 1980 24 Hours
ans in France.
re a strong nation," Tommie said.
n't have to cater to anyone any-

a Seminole living in the lowliest
on an outlying reservation, can
$100 monthly as his share of the
ncome — a total outlay of $1.8 mil-
year to the 1,500 Indians.
federal grant pump, primed and set
by Tommie in the 1970s, brought
better education, water systems
ctricity to the tribe's poorer mem-

Federal money for the necessi-
ngo and cigaret money was avail-
r gymnasiums in Big Cypress and
half-million-dollar police force
ished multipurpose center in Hol-
.

brought an awful lot of self-es-
the tribe and tribal members," said
Tiger, an executive officer with
sion of Indian Health Services.
Seminoles' first cigaret shops
in 1977. Bingo followed on the Hol-
reservation in 1979, with the tribe
halls in Brighton and Tampa.
the bingo halls and cigaret shops
olely because of the peculiar rights
Indians by state and federal law.
experts don't know how far Indian
ignty extends, but other tribes now
the Seminole's federal court victory
ward County authorities, who
to block the opening of Hollywood

Indian ventures do not violate
al laws, state regulations must give
to tribal authority, the courts have
The result has been a windfall for
rida tribe.

## me soars

-equal profits from bingo and ciga-
ng the Seminoles $5 million a year
additional profit from land leases.
m and farming, the tribe's income —
ding federal grants — has increased
$1 million in 1979 to $8 million.
Seminole Tribe depended on federal
ate aid for more than 60 per cent of
come in 1977. Now government aid
nts for less than 20 per cent.
m years ago, we wrestled alligators,
a few dolls and sang songs for the
ts," said Max Osceola, former Semi-
superintendent for the federal Bureau
dian Affairs. "We've come from the
l age to the jet age in 10 years."
century ago, the Seminoles faced ex-
on. Fewer than 300 survived the fed-
government's campaign to rid the
of Indians. The rest had been killed or
ved to Oklahoma.
e Indians, who once controlled vast
in Central Florida, fled deep into the
glades. Now, the scattered tribe's
th and political savvy have inspired an
expa nist mood.

Under Billie, the tribe has added small reservations in Immokalee and Tampa, and prospected for additional real estate in Fort Pierce, Broward, Tallahassee and Pensacola.

But the Tampa land grab infuriated government officials, who say it may jeopardize future Seminole expansion.

The tribe sought the nine acres in Hillsborough County for a sacred shrine and cultural center. After getting federal approval, the tribe also threw up a 1,400-seat bingo hall and a cigaret shop.

State and Tampa officials, claiming a double-cross, are suing to dissolve the new reservation. Billie says the Indians are just playing the white man's game.

"The U.S. did not survive because it kissed people's asses," said Billie, who hops between outlying reservations in his own Cessna. "I, as a small nation, offended a few people.

"James Billie doesn't have two million Seminole Indians out there for political pull. I have 1,500. I'll play my cards the best way I can.

"I'd rather pay someone $100,000 a year to take care of my political situations off the reservation than lose $8 million," said Billie.

## Campaign clout

Last year, the Seminole Tribe led Florida in corporate donations, giving $48,300 to candidates for state offices — nearly triple its 1980 contributions.

The tribe spreads its money around: $24,550 to 42 House candidates, $18,250 to 17 Senate candidates and $5,500 to three candidates for Cabinet posts in 1982.

Ralph Haben, former House speaker and a close friend of tribal lobbyist Skelding, received $3,000 from the tribe during his unsuccessful campaign for comptroller last year. Skelding also contributed $3,000 — on the same day individual tribal members gave another $4,500.

The Seminoles and their friends also have been generous on the national level to

Max Osceola: "From the wheel age to the jet age."

both political parties. Chairman Billie, whose present salary is $52,000 a year, donated $29,000 in 1980, including $20,000 to the Democratic National Committee.

Stephen Whildon, then earning $33,000 as the tribe's attorney, contributed $13,700 in the same election.

Federal Election Commission records show large contributions by other Seminoles. Some say they did not give their own money.

The money came from a hidden tribal account known on the reservation as the "nickel fund." The tribe maintains the fund by taking a nickel for each carton of cigarets sold on the reservation.

The nickel levy is in addition to the 8 per cent tribal cigaret tax. Controlled by the tribal chairman, the fund does not appear in tribal budgets. Last year, sales of six million cartons added about $300,000 to the fund.

The nickel tax was set up in the late 1970s by Tommie to counter litigation threatening the first Indian smoke shops. Their legal status was soon resolved, and according to Tommie, the fund's purpose has since been perverted.

## Laundering money

"We were collecting a nickel fund when it was needed, but Steve Whildon and James Billie used it for all kinds of purposes, loans to tribal members and political contributions," Tommie said.

"They made me write checks and other people write checks and then they put the money back into our accounts. The nickel fund was never meant to do that. There's no litigation now. We have no need for it," he said.

Other Seminoles say their personal checkbooks were used to launder tribal funds, among them Marcellus Osceola, a smoke-shop owner and tribal councilman.

Steve would say, "Why don't you write a check out. I think they did it because the people that were accepting the money could only accept so much from certain corporations.

"I donated to Sen. Kennedy and a couple of other individuals," he said. "Me, my wife, my dad, my mom and a couple of

Billie promises to pursue projects that will expand the tribe's wealth and influence. If casino gambling is approved anywhere in Florida, Billie says, Indian casinos — the eternal nightmare of law enforcement — will not be far behind.

"There might be some political harassment — will not be far behind.

"There might be some political harassment, but I'm no damn fool," he said. "If the laws change, I'll be the first one to do it."

[illegible] contributions on the [illegible] from making contributions on the [illegible] level and limits individual contributions to $1,000 per candidate.

The law also forbids anyone or any type organization from contributing money for another person's name or allowing a name to be used by someone else.

Billie freely acknowledged the restrictions.

"I guess it's a common thing among the Indians all over the U.S," he said.

He left all political tactics to tribal attorney Whildon, he said.

Steve Whildon was the person who had asked in the State Department. The Seminole Tribe was just a very beginner. I told Steve Whildon, 'we want to be part of the Republicans. I want to know how everything works. I want to know all the tricks so he knew them," Billie said.

## [illegible] tactics

[illegible], who was fired from his post [illegible] not recall why the [illegible] contributions.

"[illegible] never necessary," he said. "[illegible] have been some reason [illegible] don't remember what it was. [illegible] could have operated on the [illegible] the same as it did on the [illegible]."

[illegible] that because Indian tribes were exempt from campaign disclosure requirements, he did not believe he had to file campaign disclosure reports that he [illegible] be prepared to [illegible] that," he added.

Craig Donnelly, director of the election crimes branch of the U.S. Justice Department, confirmed that federal election laws did not mention Indian tribes.

"I don't know whether a government can donate or not. It doesn't happen," he said.

However, he said that even if the source of campaign donations was lawful, they cannot be laundered through a "straw man" under any circumstances.

The source also would be limited to $1,000 per candidate, which the Seminoles exceeded in their 1979 donations to Sen. Edward Kennedy (D., Mass.).

"You've certainly got a very interesting set of facts," he said. "The guy who set this up certainly knows what he's doing."

Sharp, a Seminole who replaced Whildon as the tribe's attorney, said he became general counsel last June. Contribution is made in the name of the Seminole Tribe. There is no reimbursement."

Whatever the fallout, the Seminole rank and file gave Billie and his aggressive policies an overwhelming vote of confidence earlier this month, reelecting him to a four-year term with 60 per cent of the vote in a four-man race.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1983

Paul Harvill
913 Willow Avenue
Tallahassee, FL 32303

Dear Mr. Harvill:

This letter is to acknowledge receipt of your complaint which we received on July 8, 1983, against the Seminole Indian Tribe of Florida which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Steven Barndollar at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

90040790007

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stephen H. Whilden
Pan American Management
7407 E. Hillsbourgh
Tampa, FL 33610

Re: MUR 1557

Dear Mr. Whilden:

This letter is to notify you that on July 8, 1983, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1557. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

00004047008

If you have any questions, please contact Anne Weissenborn, the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

00004079009

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Howard E. Tommie
363 Sheridan Street
Suite 212
Hollywood, FL 33021

Re: MUR 1557

Dear Mr. Tommie:

This letter is to notify you that on July 8, 1983, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1557. Please refer to this number in all future correspondence.

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

11006704000

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James E. Billie
6350 NW 32nd Street
Hollywood, FL 33024

Re: MUR 1557

Dear Mr. Billie:

This letter is to notify you that on July 8, 1983, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1557. Please refer to this number in all future correspondence.

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If you have any questions, please contact Anne Weissenborn, the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marcellus Osceola
6341 NW 34th Street
Hollywood, FL 33024

Re: MUR 1557

Dear Mr. Osceola:

This letter is to notify you that on July 8, 1983, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1557. Please refer to this number in all future correspondence.

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

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GCC # 570

LAW OFFICES

MADIGAN, PARKER, GATLIN, SWEDMARK & SKELDING

FORUM BUILDING, 318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JOHN A. MADIGAN, JR.
JULIUS F. PARKER, JR.
B. KENNETH GATLIN
GAYLE SMITH SWEDMARK
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. MCVOY
BEN E. GIRTMAN
RONALD A. LABASKY
KEITH C. TISCHLER
ROBERT S. COHEN

MILLARD F. CALDWELL
OF COUNSEL

RALPH H. HABEN, JR.
OF COUNSEL

JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

July 29, 1983

Mr. Thomas J. Whitehead
Assistant General Counsel
Federal Election Commission
Washington, DC 20463

RE: MUR 1557
Marcellus Osceola

Dear Mr. Whitehead:

This will confirm our telephone conversation of today's date. Mr. Osceola received the notice of complaint on July 18, 1983, and by my calculations his response would be due on Tuesday, August 2. I will be unable to file an answer or response on his behalf by that date, and this will confirm that you have consented to a 15 day extension, which would make the answer due on August 17.

I understand that Ann Weissenborn will be back in the office next week and I will contact her before filing a response. The designation of counsel has been forwarded to Marcellus and he will return it directly to Ms. Weissenborn.

Thank you for your help and cooperation.

Sincerely,

Jack M. Skelding, Jr.

cc: Mr. Marcellus Osceola
Mr. Jim Shore

1 P4:37

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1557

NAME OF COUNSEL: Jack M. Skelding, Jr.

ADDRESS: P. O. Box 669
Tallahassee, FL 32302-0669

TELEPHONE: (904) 222-3730

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Signature

NAME: Marcellus Osceola

ADDRESS: 6341 NW 34th Street
Hollywood FL 33024

HOME PHONE 305) 961-9574

BUSINESS PHONE: 305) 792-0920

Gen # 596

Thomas J. Whitehead, Esq.
Assistant General Counsel
FEC

Dear Mr. Whitehead:

I hereby request a ten-day extension of the response period to your letter of July 14, 1983.

Stephen H. Wilder

AUG 3 AM 8:09

3100470018

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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

FIRST GENERAL COUNSEL'S REPORT

83 AUG 10 P3: 20

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 8/10/83 - 3:20

MUR NO. 1557
DATE COMPLAINT RECEIVED BY OGC July 8, 1983
STAFF MEMBER
Anne A. Weissenborn

COMPLAINANT'S NAME: Paul Harvill

RESPONDENTS' NAMES: James E. Billie
Marcellus Osceola
Howard E. Tommie
Stephen Whilden

RELEVANT STATUTES: 2 U.S.C. §§ 441f, 441a(a)(3)

INTERNAL REPORTS CHECKED: G Index, Section I, 1979-80, 1981-82 for individual respondents

SUMMARY OF ALLEGATIONS

The complaint filed by Mr. Harvill alleges that certain individuals either connected with or members of the Seminole Tribe of Florida made contributions in the name of another in violation of 2 U.S.C. § 441f, and/or exceeded the contribution limitations of 2 U.S.C. § 441a(a)(3). The allegations in the complaint are based on a series of articles in the Miami Herald, dated May 29-31, 1983. The articles dealt with the economic rise of the Seminole Tribe of Florida through the sale of tax free cigarettes and the running of bingo halls on the reservations.

One article, dated May 30,1983, highlights the political activity on the state and federal level of the tribe itself and of certain members of the tribe. The author claims, based on FEC records, that James E. Billie, chairman of the Seminole tribe,

00040790019

donated $29,000 in 1980 with respect to federal elections, including $20,000 to the Democratic National Committee. One of the respondents, Marcellus Osceola, a member of the Seminole tribe and owner of the first tax free cigarette shop, is quoted as having said that he made contributions to federal candidates at the urging of Stephen Whilden, former counsel to the Seminoles, and was later reimbursed by Whilden with Seminole money. Howard E. Tommie is quoted as making similar accusations against both Whilden and Billie. Whilden is further accused of contributing in excess of $25,000 in 1982 to federal candidates and committees.

FACTUAL AND LEGAL ANALYSIS

James Billie, Marcellus Osceola, Howard Tommie and Stephen Whilden have been notified of this complaint on July 14, 1983. Counsel for Mr. Osceola has requested an extension of time until August 17 to file a response on his client's behalf. The same counsel apparently will be representing Mr. Billie, although as of August 4, 1983, Mr. Billie was not yet in receipt of his notification. Stephen Whilden has also requested a ten day extension of time within which to file his response. No response has been received from Howard Tommie.

Given the requests of two of the respondents for extensions of time, plus the necessity of at least preliminary research into the issue of the Commission's jurisdiction over the members and campaign activities of an Indian tribe, we anticipate forwarding

recommendations to the Commission after the receipt of the responses and the completion of the initial analysis.

Charles N. Steele
General Counsel

Aug 10, 1973
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

12047021

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: AUGUST 12, 1983

SUBJECT: MUR 1557 - First General Counsel's Report dated August 10, 1983

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00, August 11, 1983.

There were no objections to the First General Counsel's Report at the time of the deadline.

2004070024

Gen #636

STEPHEN HENNINGTON WHILDEN, P.A.
4406 S.W. 38th Terrace
Fort Lauderdale, Florida 33312
(305) 961-7778

AUG 9 P4:10

August 8, 1983

Anne Weissenborn, Esq.
Federal Election Commission
1325 K St NW 7th Floor
Washington, D.C. 20463

Re: MUR 1557

Dear Ms. Weissenborn:

No action should be taken against me or the Seminole Tribe of Florida in the referenced matter, for the following reasons:

1. I did not participate in any of the activities complained of, except, as General Counsel and legal advisor to the Seminole Tribe of Florida, to advise the Tribe on its participation in the political process;

2. The Tribe acted on advice of counsel.

3. My advice was solidly grounded on basic principles of Federal Indian law, which have been reaffirmed by a long line of U.S. Supreme Court cases, namely:

A. Indian sovereignty is inherent, not granted or delegated.
B. Indian sovereignty is limited only by treaties and special acts of Congress.
C. What powers are not <u>expressly</u> limited remain within the domain of tribal sovereignty.
D. Indian sovereignty cannot be limited by Acts of Congress which appears to do so; limitations must be explicit and doubts will be resolved in favor of the Indians.
E. Therefore, the Federal elections law does not apply in Indian Country because Congress did not explicitly include Indians in it.

STEPHEN HENNINGTON WHILDEN, P.A.
4406 S.W. 38th Terrace
Fort Lauderdale, Florida 33312
(305) 961-7778



With reference to points A-D above, I am enclosing some textbook materials to assist you with your research (Attachment A).

With reference to point E above, I am enclosing a copy of an IRS NOTAM dated October 30, 1980, wherein IRS reached the same conclusion regarding the Internal Revenue Code as I did regarding the Federal Election Code. (Attachment B)

It should be noted that at least since the 1982 election, the Tribe and all other parties have been operating in a manner consistent with the FEC and may be willing to consent to continue doing so.

I will handle my own case, at least for now.

Very truly yours,

Stephen H. Whilden

SHW/rh

enc: pp 122-126 Handbook of Federal Indian Law Cohen

cc: Jack Shelding, Esq.
Jim Shore, Esq.

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"A"

CHAPTER 7

# THE SCOPE OF TRIBAL SELF-GOVERNMENT[1]

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## SECTION 1. INTRODUCTION

The Indian's right of self-government is a right which has been consistently protected by the courts, frequently recognized and intermittently ignored by treaty-makers and legislators, and very widely disregarded by administrative officials. That such rights have been disregarded is perhaps due more to lack of acquaintance with the law of the subject than to any drive for increased power on the part of administrative officials.

The most basic of all Indian rights, the right of self-government, is the Indian's last defense against administrative oppression for it is a realm where the states are powerless to govern and where Congress, occupied with more pressing national affairs, cannot govern wisely and well, there remains a large no-man's land in which government can emanate only from officials of the Interior Department or from the Indians themselves. Self-government is thus the Indians' only alternative to rule by a government department.

Indian self-government, the decided cases hold, includes the power of an Indian tribe to adopt and operate under a form of government of the Indians' choosing, to define conditions of tribal membership, to regulate domestic relations of members, to prescribe rules of inheritance, to levy taxes, to regulate property within the jurisdiction of the tribe, to control the conduct of members by municipal legislation, and to administer justice.

Perhaps the most basic principle of all Indian law, supported by a host of decisions hereinafter analyzed, is the principle that *those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.* Each Indian tribe is given its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by specific treaties and laws designed to take from the Indian tribes a number of matters which, in the judgment of Congress, the Indian tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty.

The acts of Congress which appear to limit the powers of an Indian tribe are not to be unduly extended by doubtful inference.[2]

[1] This chapter is so largely based upon the opinion of Solicitor Margold, Powers of Indian Tribes (Op. Sol. I. D., M.27781, October 25, 1934, 55 I. D. 14) and on the article of F. S. Cohen, Indian Rights and the Federal Courts (1940), 24 Minn. L. Rev. 145, that quotation marks have been dispensed with as superfluous in incorporating considerable portions of these works in the present chapter.

[2] See *In re Mayfield, Petitioner*, 141 U. S. 107, 115, 116 (1891).

## SECTION 2. THE DERIVATION OF TRIBAL POWERS

From the earliest years of the Republic the Indian tribes have been recognized as "distinct, independent, political communities,"[1] and, as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by reason of their original tribal sovereignty. Thus treaties and statutes of Congress have been looked to by the courts as limitations upon original tribal powers, or, at most, evidences of recognition of such powers, rather than as the direct source of tribal powers. This is but an application of the general principle that "It is only by positive enactments, even in the case of conquered and subdued nations, that their laws are changed by the conqueror."[2]

In point of form it is immaterial whether the powers of an Indian tribe are expressed and exercised through customs handed down by word of mouth or through written constitutions and statutes. In either case the laws of the Indian tribe owe their force to the will of the members of the tribe.

[1] *Worcester v. Georgia*, 6 Pet. 515, 559 (1832).

[2] *Wall v. Williamson*, 8 Ala. 48, 51 (1845) upholding tribal law of divorce. And see Wharton, Conflict of Laws (3d ed. 1905), vol. 1, sec. 9, Wheaton, Elements of International Law (5th ed. by Phillipson, 1916) 66-68.

The earliest complete expression of these principles is found [illegible] the case of *Worcester v. Georgia*.[illegible] In that case the State of [illegible] sought to destroy the tribal government of the [illegible] a white man living among the [illegible] of the tribal authorities. The [illegible] of the United States held that his imprisonment [illegible] of the Constitution, that the state had no right [illegible] upon the federal power to regulate intercourse with [illegible] and that the Indian tribes were, in effect, subjects [illegible] law, to the exclusion of state law, and entitled to exer[illegible] inherent rights of sovereignty so far as might be [illegible] such federal law. The court declared, *per* [illegible]

> "The Indian nations had always been considered as [illegible] independent, political communities. * * *.
>
> * * * *
>
> [illegible] and the settled doctrine of the law of nations is, [illegible] power does not surrender its independence [illegible] right to self-government—by associating with a [illegible] taking its protection. A weak state, in [illegible] for its safety, may place itself under the [illegible] more powerful, without stripping itself [illegible] government, and ceasing to be a state. [illegible] in Europe. "Tributary states," says Vattel, "do not thereby [illegible] independent states, so long as [illegible] sovereign and independent author[illegible] the administration of the state." At the [illegible] more than one state may be considered as [illegible] of self-government under the guarantee [illegible] of one or more allies.
>
> [illegible] there is a distinct community, [illegible] with boundaries accurately [illegible] laws of Georgia can have no force, [illegible] Georgia has no right to [illegible] Cherokee citizens, or [illegible] Congress [illegible] between the United States and this [illegible] the United States. The act of the state of [illegible] the plaintiff in error was prose[illegible] and the judgment is mistaken. [illegible]

[illegible] of the tenets of Indian self-government [illegible] has been consistently followed by the [illegible] hundred years. The doctrine set forth [illegible] applied to an unbending series of new [illegible] cases that have come before the Supreme [illegible] in federal courts. The doctrine has not [illegible] respected in state courts and by admin[illegible] officials. It was of the decision in Worcester v. [illegible] that Justice [illegible] is reported to have said, "John [illegible] his decision, now let him enforce it." As a [illegible] the State of Georgia, unsuccessful defendant [illegible] did carry out the Supreme Court's decision, [illegible] plaintiff a guest of the Cherokee Nation, [illegible] languish in a Georgia prison, under a Georgia law [illegible] according to the Supreme Court decision, was unconstitutional.

[illegible] in which the doctrine of Indian self-government was [illegible] established has a certain prophetic character. Administra[illegible] officials for a century afterwards continued to ignore the [illegible] implications of the judicial doctrine of Indian self-government. [illegible] again and again, as cases came before the federal [illegible] administrative officials, state and federal, were forced [illegible] with the doctrine of Indian self-government and to [illegible] order to wrest of Indian tribes which they sought to acquire.

Finally, after 101 years, there appeared an administration that accepted the logical implications of Indian self-government.[1]

The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles. (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Conquest renders the tribe subject to the legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe,[2] *e. g.*, its power to enter into treaties with foreign nations, but does not by itself affect the internal sovereignty of the tribe, *i. e.*, its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress, but, save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government.

A striking affirmation of these principles is found in the case of *Talton v. Mayes*.[3] The question was presented in that case whether the Fifth Amendment of the Federal Constitution operated as a limitation upon the legislation of the Cherokee Nation. A law of the Cherokee Nation authorized a grand jury of five persons to institute criminal proceedings. A person indicted upon this procedure and held for trial in the Cherokee courts sued out a writ of habeas corpus, alleging that the law in question violated the Fifth Amendment to the Constitution of the United States, since a grand jury of five was not a grand jury within the contemplation of the Fifth Amendment. The Supreme Court held that the Fifth Amendment applied only to the acts of the Federal Government; that the sovereign powers of the Cherokee Nation, although *recognized* by the Federal Government, were not *created* by the Federal Government; and that the judicial authority of the Cherokees was, therefore, not subject to the limitations imposed by the Bill of Rights:

> "The question, therefore, is, does the Fifth Amendment to the Constitution apply to the local legislation of the Cherokee nation so as to require all prosecutions for offenses committed against the laws of that nation to be initiated by a grand jury organized in accordance with the provisions of that amendment. The solution of this question involves an inquiry as to the nature and origin of the power of local government exercised by the Cherokee nation and recognized to exist in it by the treaties and statutes above referred to. Since the case of *Barron v. Baltimore*, 7 Pet. 243, it has been settled that the Fifth Amendment to the Constitution of the United States is a limitation only upon the powers of the General Government, that is, that the amendment operates solely on the Constitution itself by qualifying the powers of the National Government which the Constitution called into being. * *
>
> The case in this regard therefore depends upon whether the powers of local government exercised by the Cherokee

[1] The most comprehensive piece of Indian legislation since the Act of June 30, 1834, 4 Stat. 735, is the Act of June 18, 1934, 48 Stat. 984, 25 U. S. C. 461-479, entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes," and commonly known as the Wheeler-Howard Act or Indian Reorganization Act. Since its enactment, this statute has been amended in minor particulars (Act of June 15, 1935, 49 Stat. 378, 25 U. S. C. 478a, 478b; Act of August 12, 1935, sec. 2, 49 Stat. 571, 586, 25 U. S. C. 477a; Act of August 28, 1937, 50 Stat. 862, 25 U. S. C. 467-468), and its more important provisions have been extended to Alaska (Act of May 1, 1936, 49 Stat. 1250, 48 U. S. C. 362) and Oklahoma (Act of June 26, 1936, 49 Stat. 1967, 25 U. S. C. 501-509).

[2] Certain external powers of sovereignty, such as the power to make war and the power to make treaties with the United States, have been prohibited by the Federal Government. See Chapter 14, sec. 3.

[3] See for example *Bell v. Atlantic & P. R. Co.*, 83 Fed. 417 (C. C. A. 8, 1897). Violence ch. per [illegible] 6.

[4] 164 U. S. 376 (1896).

nation are Federal powers created by and springing from the Constitution of the United States, and hence controllable by the Fifth Amendment to that Constitution or whether they are local powers not created by the Constitution, although subject to its general provisions and the exercise of [illegible] of Congress. [illegible] adjudicated [illegible] to be [illegible] assumed the former position in the negative. * * *

* * * * * *

True it is that in many adjudications of this court the fact has been fully recognized, that although possessed of these attributes of local self-government, when exercising their tribal functions, all such rights are subject to the supreme legislative authority of the United States. *Cherokee Nation v. Kansas Railway Co.*, 135 U.S. 641, where the cases are fully reviewed. But the existence of the right in Congress to regulate the manner in which the local powers of the Cherokee nation shall be exercised does not render such local powers Federal powers arising from and created by the Constitution of the United States. It follows that as the powers of local self government enjoyed by the Cherokee nation existed prior to the Constitution, they are not operated upon by the Fifth Amendment, which, as we have said, had for its sole object to control the powers conferred by the Constitution on the National Government. * * * (Pp. 382-384.)

The decision in *Talton v. Mayes* does not mean that Indian tribes are not subject to the Constitution of the United States. It remains true that an Indian tribe is subject to the Federal Constitution in the same sense that the city of New Orleans, for instance, is subject to the Federal Constitution. The Federal Constitution prohibits slavery absolutely. This absolute prohibition applies to an Indian tribe as well as to a municipal government and it has been held that slave-holding within an Indian tribe became illegal with the passage of the Thirteenth Amendment.[21] It is, therefore, always pertinent to ask whether an ordinance of a tribe conflicts with the Constitution of the United States.[22] Where, however, the United States Constitution imposes particular restraints upon federal courts or upon Congress, these restraints do not apply to the courts or legislatures of the Indian tribes.[23] Likewise, particular restraints upon the states are inapplicable to Indian tribes.

It has been held that the guaranty of religious liberty in the First Amendment of the United States Constitution does not protect a resident of New Orleans from religious oppression by municipal authorities.[24] Neither does it protect the Indian against religious oppression on the part of tribal authorities. As the citizen of New Orleans must write guaranties of religious liberty into his city charter or his state constitution, if he desires constitutional protection in this respect, so the members of an Indian tribe must write the guaranties they desire into tribal constitutions. In fact, many tribes have written such guaranties into tribal constitutions that are now in force.[25]

An extreme application of the doctrine of tribal [illegible] found in the case of *Ex parte Crow Dog*,[26] in which it was held that the murder of one Sioux Indian by another upon the Indian reservation was not within the criminal jurisdiction of any court of the United States, but that only the Indian tribe involved could punish the offender.

The contention that the United States courts had jurisdiction in a case of this sort was based upon the language of a treaty with the Sioux, rather than upon considerations applicable generally to the various Indian tribes. The most important of the treaty clauses upon which the claim of federal jurisdiction was based provided:

> * * * And Congress shall, by appropriate legislation, secure to them an orderly government; they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life. (P. 568.)

Commenting upon this clause, the Supreme Court declared:

> It is equally clear, in our opinion, that the treaties have no such effect as that claimed for them. They secure to these people, with whom the United States was contracting as a distinct political body, and with [illegible] government, by appropriate legislation, their property [illegible] framed and enacted, necessarily implies [illegible] to all the circumstances affecting the [illegible] among the arts of civilized life, which [illegible] purpose of all these arrangements [illegible] tribe among them was the highest [illegible] of self government, the regulation by the [illegible] own domestic affairs, the maintenance of [illegible] among their own members by the administration [illegible] own laws and customs. They were to be subject to the laws of the United States, and to the [illegible] citizens, but, as they had always been, so were they to be a guardian, not an enemy, [illegible] of the political community of the United States [illegible] voice in the selection of representatives and the [illegible]

[illegible]

[illegible] contain more or less similar guaranties, as follows: [illegible] the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Article VII; Confederated Tribes of the Grand Ronde Community, Article VIII; Hopi Tribe, Article IX; Lower Brule Sioux Tribe, Article VII; Makah Tribe, Article VII; Muckleshoot Indian Tribe, Article VII; Northern Cheyenne Tribe, Article V; Pajaro Tribe, Article VI; Pawnee Tribe, Article VII; Quileute Tribe, Article VII; Sac and Fox Tribe of Iowa, Article VI; Shoshone-Paiute Tribes of the Fort Hall Reservation, Article VII; Shoshone-Paiute Tribes of the Duck Valley Reservation, Article VII; Stockbridge Indians of the Stockbridge Reservation, Article VII; Tulalip Tribes, Article VII; Ute Indian Tribe, Article VII; Sac and Fox Tribe of Indians of Oklahoma, Article IX; Tonkawa Indians of Oklahoma, Article VII; Cuddle Indian Tribe of Oklahoma, Article X; Confederated Tribes of the Warm Springs Reservation of Oregon, Article VII; Tonkawa Tribe of Indians of Oklahoma, Article IX; Shoshone Indian Tribe of the Shoshone Reservation, Article VII; Absentee-Shawnee Tribe of Indians of Oklahoma, Article IX; Alabama Quassarte Tribal Town, Article IX; Citizen Band of Potawatomi Indians of Oklahoma, Article X; Thlopthlocco Tribal Town of Oklahoma, Article VII; Fort Gamble Indian Community of Washington, Article V; Eastern Shawnee Tribe of Oklahoma, Article IX; Shivwits Band of Paiute Indians of Shivwits Reservation, Utah, Article VI.

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[illegible] *In re Sah Quah*, 31 Fed. 327 (D. C. Alaska, 1886).

[illegible] *Ex parte Kuff v. Hurley*, 188 U.S. 218 (1907), discussed *infra*, sec. 4.

[illegible] In *United States v. Seneca Nation of New York Indians*, 274 Fed. 946 (D. C. W. D. N. Y. 1921), it was held that federal courts have no power to set aside action of a tribal council allegedly confiscatory of the property rights of a member of the tribe.

That the First Amendment guaranteeing religious liberty does not limit the action of a tribal council is the holding of Means Bad Heart Bull, Amicus v. Iron (Lower Brule Sioux).

[illegible] *Permoli v. First Municipality*, 3 How. 589 (1845).

A typical Indian bill of rights is the following, taken from the constitution of the Blackfeet Tribe approved December 13, 1935 by the Secretary of the Interior pursuant to sec. 16 of the Act of June 18, 1934 (48 Stat. 984, 987, 25 U.S.C. 476):

ARTICLE VIII—BILL OF RIGHTS

SECTION 1. *Suffrage.*—Any member of the Blackfeet Tribe, twenty-one (21) years of age or over, shall be eligible to vote at

[illegible] *United States v. Rogers*, 45 U.S. 567 (1846). Also see Chapter 18.

> of the laws, but as a dependent community who were in a state of pupilage, advancing from the condition of a savage tribe to that of a people who, through the discipline of labor and by education, it was hoped might become a self-supporting and self-governed society. * * * (Pp. [illegible])

In finally rejecting the argument for federal jurisdiction the Supreme Court declared:

> * * * It is a case where, against an express exception in the law itself, that law, by argument and inference only, is sought to be extended over aliens and strangers; over the members of a community separated by race, by tradition, by the instincts of a free though savage life, from the authority and power which seeks to impose upon them the restraints of an external and unknown code, and to subject them to the responsibilities of civil conduct, according to rules and penalties of which they could have no previous warning; which judges them by a standard made by others and not for them, which takes no account of the conditions which should except them from its exactions, and makes no allowance for their inability to understand [illegible] * * * (P. 571.)

The force of the decision in *Ex parte Crow Dog* was not weakened, although the scope of the decision was limited, by subsequent legislation which withdrew from the rule of tribal sovereignty a list of 7 major crimes, only recently extended to 10.[7] Over these specified crimes jurisdiction has been vested in the federal courts. Over all other crimes, including such serious crimes as kidnaping, attempted murder, receiving stolen goods, and forgery, jurisdiction resides not in the courts of nation or state but only in the Indian tribe itself.

We shall defer the question of the exact scope of tribal jurisdiction for more detailed consideration at a later point. We are concerned for the present only in analyzing the basic doctrine of tribal sovereignty. To this doctrine the case of *Ex parte Crow Dog* contributes not only an intimation of the vast and [illegible] content of criminal jurisdiction inherent in tribal sovereignty but also an example of the consistent manner in which the United States Supreme Court has opposed the efforts of lower courts and administrative officials to infringe upon tribal sovereignty and to assume tribal prerogatives without statutory justification. The legal powers of an Indian tribe, as viewed by the decisions of the highest courts, are far more extensive than the powers which most Indian tribes have been actually permitted by energetic officials to exercise in their own [illegible].

The acknowledgment of tribal sovereignty or autonomy by the courts of the United States[8] has not been a matter of lip service to a venerable but outmoded theory. The doctrine has been followed through the most recent cases, and from time to time carried to new implications. Moreover, it has been administered by the courts in a spirit of wholehearted sympathy and respect. The painstaking analysis by the Supreme Court of tribal laws and constitutional provisions in the *Cherokee Intermarriage Cases*,[9] is typical, and exhibits a degree of respect proper to the laws of a sovereign state.[10]

The sympathy of the courts towards the independent efforts of Indian tribes to administer the institutions of self-government has led to the doctrine that Indian laws and statutes are to be interpreted not in accordance with the technical rules of the common law, but in the light of the traditions and customs of the Indian people. An attempt in the case of *Ex parte Tiger*[11] to construe the language of the Creek Constitution in a technical sense was met by the appropriate judicial retort:

> * * * If the Creek Nation derived its system of jurisprudence through the common law, there would be much plausibility in this reasoning. But they are strangers to the common law.[12] They derive their jurisprudence from an entirely different source, and they are as unfamiliar with common-law terms and definitions as they are with Sanskrit or Hebrew. With them, "to indict" is to file a written accusation charging a person with crime. * * *

So, too, in the case of *McCurtain v. Grady*,[13] the court had occasion to note that:

> * * * The Choctaw constitution was not drawn by geologists or for geologists, or in the interest of science or with scientific accuracy. It was framed by plain people, who have agreed among themselves what meaning should be attached to it, and the courts should give effect to that interpretation which its framers intended it should have. * * *

The realm of tribal autonomy which has been so carefully respected by the courts has been implicitly confirmed by Congress in a host of statutes providing that various administrative acts of the President or the Interior Department shall be carried out only with the consent of the Indian tribe or its chiefs or council.[14]

The whole course of congressional legislation with respect to the Indians has been based upon a recognition of tribal autonomy, qualified only where the need for other types of governmental control has become clearly manifest. As was said in a report of the Senate Judiciary Committee in 1870:

> Their right of self government, and to administer justice among themselves, after their rude fashion, even to the extent of inflicting the death penalty, has never been questioned.[15]

It is a fact that state governments and administrative officials have frequently trespassed upon the realm of tribal autonomy, presuming to govern the Indian tribes through state law or departmental regulation or arbitrary administrative fiat,[16] but these trespasses have not impaired the vested legal powers of local self government which have been recognized again and again when these trespasses have been challenged by an Indian tribe. "Power and authority rightfully conferred do not ne-

---

[7] See sec. 3, *infra*.

[8] The doctrine of tribal sovereignty is well summarized in the following passage in the case of *In re Sah Quah*, 31 Fed. 327 (D. C. Alaska 1887):

> From the organization of the government to the present time, the various Indian tribes of the United States have been treated as free and independent within their respective territories, governed by their tribal laws and customs in all matters pertaining to their internal affairs, such as contracts and the manner of their enforcement, marriage, descents, and the punishment for crimes committed against each other. They have been excused from all allegiance to the municipal laws of the whites as proceeding or otherwise in relation to tribal affairs, subject, however, to such restraints as were from time to time deemed necessary for their own protection, and for the protection of the whites intercourse with them. (Cherokee Nat. v. Georgia, 5 Pet. 1, 16, 17; Worcester v. Georgia, 6 Pet. 515, 547.)

And in the case of *Indiana v. Martinez*, 174 Cal. 537, 163 Pac. 902, [illegible] it was said:

> * * * The Indian tribes recognized by the federal government are not subject to the laws of the state in which they are situated. They are under the control and protection of the United States, but they retain the right of local self government, and they enact and control their own local affairs and rights of persons and property, except as Congress has otherwise specially provided by law. * * *

See, also, to the same effect, Story, Commentaries on the Constitution of the United States (1891), sec. 1099; Kent, Commentaries on American Law (14th ed., 1896), 383-386.

[9] 203 U. S. 76 (1906). And see *Famous Smith v. United States*, 151 U. S. 50 (1894); 8 Op. A. G. 369 (1857).

[10] And see sec. 3 *infra*.

[11] 2 Ind. T. 41, 47 S. W. 304, 305 (1898).

[12] See *Wilson v. United States*, 142 Fed. 413 (C. C. S. D. 1905); *Henson v. Johnson*, 216 Pac. 808 (1926).

[13] 1 Ind. T. 107, 38 S. W. 65, 71 (1896).

[14] See sec. 16, *infra*; 25 U. S. C. 130, 132, 159, 162, 184, 218, 225, 229, 371, 397, 398, 402. These provisions are discussed later under relevant headings.

[15] Sen. Rept. No. 268, 41st Cong., 3d sess., p. 10.

[16] See Jackson, In Governing the Indian, Use the Indian! (1917), 23 Case & Comment 722.

exactly cease to exist in consequence of long nonuser.[7] The Wheeler-Howard Act,[8] by affording statutory recognition of those powers of local self-government and administrative assistance in developing adequate mechanisms for such government, may reasonably be expected to end the conditions that have in the past led the Interior Department and various state agencies to deal with matters that are properly within the legal competence of the Indian tribes themselves.[9]

Neither the allotting of land in severalty nor the grant of citizenship has destroyed the tribal relationship upon which local autonomy rests.[10] The extent, however, to which the foregoing principles may apply to scattered Indian groups which have never exercised powers of self-government presents questions to which no authoritative answers have yet been given.

Secretarial order approving a tribal constitution regularly contains this statement:

> All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and Bylaws are hereby declared inapplicable to the Indians.

[7] *United States ex rel. Standing Bear v. Crook*, 25 Fed. Cas. No. 14891 (C. C. Neb. 1879).

[8] Act of June 18, 1934, 48 Stat. 984, 25 U. S. C. 461 *et seq.* See fn. 7 *supra*.

[9] On the subordination of departmental regulations to the provisions of tribal constitutions, see 25 C. F. R. 71.4, 161.1, 171.13. And see Memo. Sol. I. D., November 11, 1935 (re Grazing Regulations). The Secretarial order approving a tribal constitution regularly contains this statement:

> All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and Bylaws are hereby declared inapplicable to the Indians.

[10] See Chapter 8, sec. 2C, and Chapter 14, secs. 1, 2.

[11] See Goodrich, The Legal Status of the California Indians (1926), 14 Calif. L. Rev. 83, 157.

## SECTION 3. THE FORM OF TRIBAL GOVERNMENT

Since any group of men, in order to act as a group, must act through forms which give the action the character and authority of group action, an Indian tribe must, if it has any power at all, have the power to prescribe the forms through which its will may be registered. The first element of sovereignty and the last which may survive successive statutory limitations of Indian tribal power, is the power of the tribe to determine and define its own form of government. Such power includes the right to define the powers and duties of its officials, the manner of their appointment or election, the manner of their removal, the rules they are to observe in their capacity as officials, and the forms and procedures which are to attest the authoritative character of acts done in the name of the tribe.[1]

Such power also includes the power to interpret its own laws and ordinances, which interpretations will be followed by the federal courts.[2]

The question of whether action taken in the name of an Indian tribe is tribal action, has been before state and federal courts on many occasions, and in every case the courts have held that the definition of the form of tribal government is a matter for the decision of the Indians themselves.

Such a decision for example is found in the case of *Pueblo of Santa Rosa v. Call*.[3] Certain attorneys claimed to represent an Indian pueblo and asserted ownership of a large area which the Federal Government considered public domain. The Indians themselves, apparently, denied the authority of the attorneys in question to put forward such a claim, but the attorneys justified their action on the basis of an alleged agreement with the "captain" of the Pueblo. When the case came before the Supreme Court, that body found that according to the custom of the Pueblo the "captain" would have no authority to act for the Pueblo in a matter of this sort, and that such action without the approval of the Pueblo council would be void. On the issue of fact the court found:

> * * * That Lucas was without power to execute the jurisdictional question for lack of authority from the Indian council, in contemplation of law, is established. (Pp. 328-329.)

The Supreme Court reversed the decision of the lower court which had dismissed the suit on the merits, and held:

> * * * the cause must be remanded to the court of first instance with directions to dismiss the bill on the ground that the suit was brought by such [illegible] without authority, but without prejudice to the bringing of any other suit hereafter by and with the authority of the alleged Pueblo of Santa Rosa. (P. 321.)

Specific statutes relating to particular tribes frequently specify the tribal council, committee, or official who is to pass upon

[1] 27 U. S. 305 (1927). To the same effect see 7 Op. A. G. 174 (1855), Memo. Sol. I. D., March 11, 1935.

In 5 Op. A. G. 79 (1849), the opinion is expressed that a contract to be executed by the "Creek Indians" would be valid "provided, that it, which and leaders thereof, if and such chiefs and [illegible] and [illegible] the whole or a majority of the council of the Creek nation."

In *Rollins and Cushman v. United States*, 23 C. Cls. [illegible] the court finds that a chief's authority to act in the name of the tribe "has been conferred by the tacit assent of the tribe and by their acquiescence in the results of his acts."

On the general question of how a tribe may [illegible] see Chapter 14, sec. 5.

In the case of *Mt. Pleasant v. Gilmore*, 274 N. Y. Supp. [illegible] it is held that the Tuscarora tribal council has never been endowed with probate jurisdiction, that no other body has been set up by the tribe to exercise probate powers, and hence that state courts may step in to remedy the lack. Whether or not the final conclusion is proper in the light of such cases as *Patterson v. Council of Seneca Nation*, 245 N. Y. 443, 157 N. E. 734 (1927), the opinion of the court indicates at least that the limitations which a tribe may impose upon the jurisdiction of its own governmental bodies and officers will be respected.

[2] "One of the current popular superstitions about Indians is the belief that every Indian, male over the age of 20 is either a chief or a Rain-Maker." This superstition is of great help to those Indians or pseudo-Indians who seek to earn a respectable living by either shake-down the sick or by selling their fellow reservation land to land speculators, the Federal Government, or by lecturing to women's clubs, [illegible] committees or by endowing indian lawyers with tribal business. It is generally very difficult to persuade those who have paid for or profited by such transactions with Indian "chiefs" that the Indian in question was not an officer of his tribe and had no tribal funds, tribal suits or tribal wisdom to give away. It is, therefore, a matter of some concern to an Indian tribe that it should have the right to define a framework of official action and to insist that acts of individuals and groups that do not fall within that framework are not acts of the tribe. This definition of a framework can be [illegible] in the form of a written constitution or it may take the form of the British Constitution, a disorderly mass of practices shading off into parliamentary procedure and court etiquette, but including at its core the essential factors that we invoke, consciously or unconsciously, to decide whether the acts of certain individuals are governmental or non-governmental or anti-governmental.

On the form of tribal organization, a leading authority says this of it:

> The "tribe" is something we conceive of rather abstractly. Yet these native peoples were as really and elaborately organized politically as many civilized peoples. * * * (P. 181.)
>
> * * * * *
>
> * * * The police of the Pueblos is [illegible] on their extremely elaborate and highly complex hierarchy, the political organization. (P. 206.) Malinowski, Crime and Punishment among Native Americans of the Pueblos (1937), 28 J. Crim. Law and Criminology 181.

[3] *Talton v. Mayes*, 163 U. S. 376 (1896). This rule has been generally followed by administrative authorities. See for example Memo. Sol. I. D., July 5, 1940 holding that the choice between two reasonable alternatives of a provision of the Constitution of the Mescalero Apache Tribe should be made by the tribe or its tribal council rather than by the Interior Department.

Internal Revenue Service "B"

Department of the Treasury

275 Peachtree St., NE, Atlanta, GA. 30043

District
Director

Seminole Tribe of Florida
Seminole Tribe of Florida, Inc.
6073 Sterling Road
Hollywood, Florida 33024

Person to Contact:
G. Hawk
Telephone Number:
(305) 653-3810
Refer Reply to:
7108
Date:

JUN 3 1981

Gentlemen:

As a result of our Request for Technical Advice in connection with our examination of your Form 990 for the year ended June 30, 1977, the National Office of Internal Revenue Service has concluded that,

(1) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is statutorily exempt from Federal income tax,

(2) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is subject to the tax on unrelated business income imposed by sections 511 through 515 of the Internal Revenue Code, and

(3) the Seminole Tribe of Florida, Inc. shares immunity from Federal income tax with the Seminole Tribe of Florida.

Therefore, neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is required to file federal income tax returns nor federal information returns relating to exempt organizations.

Attached are copies of Internal Revenue Service National Office Technical Advice Memoranda for your information.

Thank you for your cooperation in this matter.

Sincerely yours,

Michael J. Wingfield

District Director

cc: Robert E. Falb

Index No.: 0061.00-00

Legend

Corporation = Seminole Tribe of Florida, Inc.
Tribe = Seminole Tribe of Florida

INTERNAL REVENUE SERVICE

NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

District Director
Jacksonville District

OCT 30 1980

| | |
|---|---|
| Taxpayer's Name: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayer's Address: | 6073 Stirling Road<br>Hollywood, FL 33024 |
| Taxpayer's Identification No.: | 59-0840255 |
| Years Involved: | 1977 to present |
| Date of Conference: | August 12, 1980 |

ISSUE:

Whether, for federal income tax purposes, the Corporation, a federally chartered tribal corporation, is an entity separate and distinct from the Tribe, a recognized Indian tribe and, if it is, whether it is subject to federal income tax.

FACTS:

The Tribe was formally organized under a Constitution and Bylaws on July 11, 1957, pursuant to section 16 of the Indian Reorganization Act (IRA). On that same date, the tribal members also ratified a corporate charter pursuant to section 17 of that Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation on August 21, 1957.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing Council elections, organized rules for the Council and rules governing membership in the Tribe. The Constitution enumerates the power of the Council and gives the Council various governmental powers. These powers include the right to levy taxes, pass ordinances, maintain a police force, etc.

0040790031

District Director
Jacksonville District

The Tribe's Charter organized a federal membership corporation consisting of the present and future members of the Tribe. The purpose of the Corporation is to further the economic development of the Tribe. Pursuant to the Charter, each enrolled member of the Tribe is issued a nontransferable certificate of ownership evidencing his or her equal share the Corporation's assets. Profits from the Corporation's busine a ies may be distributed per capita among tribal members.

Under the Charter, the management of the Corporation is vested in a Board of Directors composed of four elected members and the chairman of the Council, who shall serve as vice president.

The Tribe's Charter provides that in addition to its powers under its Constitution and Bylaws, the Tribe shall have a limited power of suit in courts of competent jurisdiction within the United States. Although the tribal corporation is granted a limited power of suit, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned.

APPLICABLE LAW:

Section 61 of the Internal Revenue Code provides that gross income means all income from whatever source derived, unless otherwise excluded by law.

Rev. Rul. 67-284, 1967-2 C.B. 55, states that Indian tribes are not taxable entities because the income tax statutes do not tax Indian tribes.

In Mescalero Apache Tribe v. Jones, 411 U.S. 145, 157 n. 13 (1973), the Supreme Court indicated that the form of tribal organization is not determinative of tax consequences. The Court stated that "it is unclear from the record whether the tribe has actually incorporated itself as an Indian chartered corporation pursuant to [section 17 of the IRA] ... . In any event, the question of tax immunity cannot be made to turn on the particular form in which the tribe chooses to conduct its business."

RATIONALE:

No constitutional or statutory provision exempts Indian tribes from federal income taxation. However, the Service has stated that Indian tribes are not taxable entities and that income tax statutes do not tax Indian tribes. See Rev. Rul. 67-284.

The Corporation was created under a special federal statute authorizing its formation and regulating its operations. The language of the corporate

District Director
Jacksonville District

charter of the Tribe demonstrates that the Corporation is not a separate entity but is an integral part of the Tribe. Article IV of the corporate charter provides that the membership of the Corporation consists of the present and future members of the Tribe. Article V of the corporate charter provides that the membership of the governing body of the Tribe and the Corporation are interlocking consisting of all enrolled members of the Tribe. The corporate powers are specifically granted to the Tribe in addition to the governmental powers possessed by the Tribe. Although the tribal corporation is granted the power to sue and be sued, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned. On this basis, we conclude that for federal income tax purposes, the tribal corporation should not be considered as a taxable entity separate and distinct from the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

CONCLUSIONS:

1. The Corporation, organized under section 17 of the Indian Reorganization Act, is operated as an administrative unit or component part of the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

2. The conclusion reached herein applies to the Tribe. The income tax statutes, in imposing the tax on every individual, are broad enough to include individual Indians.

-END-

INTERNAL REVENUE SERVICE

National Office Technical Advice Memorandum

District Director
Jacksonville, Florida

| | |
|---|---|
| Taxpayers' Names: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayers' Address: | 6073 Stirling Road<br>Hollywood, Florida 33024 |
| Taxpayers' Identification No.: | 59-0840255 |
| Years Involved: | 1979 to present |
| Date of Conference: | May 14, 1980 |

Issues:

1. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

2. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are subject to the unrelated business income tax imposed by section 511 of the Code.

Facts:

In 1945 the Seminole Tribe of Florida (the Tribe) was recognized as exempt under section 501(c)(4). On July 11, 1957, both the Tribe and the Seminole Tribe of Florida, Inc., (the Corporation) were organized pursuant to the Indian Reorganization Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing council elections, organizational rules for the Council and rules governing membership in the Tribe.

The Council has established various educational and employment programs, health programs and insurance, mental health assistance and drug and alcohol abuse services, food programs, housing and law enforcement. The Council has adopted ordinances, maintained a police force and public utilities and has effected social service programs including health, education and welfare.

The Corporation's Charter organizes a Board of Directors. Its purposes are to further the economic development of the Tribe. The Corporation has the power to engage in any business that will further the economic well being of the shareholders and to purchase, manage, operate and dispose of property within certain enumerated powers.

District Director
Jacksonville, Florida

Law:

Section 501(c)(3) of the Code provides for exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for 501(c)(3) purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3).

Rev. Rul. 60-384, 1960-2 C.B. 172, holds that a wholly-owned state or municipal instrumentality that is a separate entity and a counterpart of an organization described in section 501(c)(3) of the Code may qualify for exemption under that section. However, it would not be a clear counterpart of a section 501(c)(3) organization if it is clothed with powers beyond those of an organization described in section 501(c)(3). Examples of such powers are enforcement or regulatory powers exercised in the public interest, such as health, welfare, or safety.

Rev. Rul. 74-14, 1974-1 C.B. 125 describes a public housing authority that is a separate entity, whose investigatory powers are exercised for the purpose, among others, of collecting information and making it available to appropriate agencies for use in furthering and enforcing local ordinances regarding planning, building, and zoning matters. The ruling held that such powers are regulatory or enforcement powers of the kind referred to in Rev. Rul. 60-384, and therefore, this organization would not be a clear counterpart of an organization described in section 501(c)(3) of the Code.

Section 501(c)(4) of the Code provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

A social welfare organization is defined in section 1.501(c)(4)-1 of the regulations as one primarily engaged in promoting the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

District Director
Jacksonville, Florida

Section 511 of the Code imposes a tax on the unrelated business income of organizations which are exempt from tax by reason of section 501(a).

Rationale:

The Tribe has various governmental powers such as the power to levy taxes, pass ordinances, maintain a police force, etc. These powers are similar to the "enforcement or regulatory powers" described in Rev. Ruls. 60-384 and 74-14, and therefore, the organization's purposes and activities are outside the scope of sections 501(c)(3) and 501(c)(4).

The Corporation is not exempt under sections 501(c)(3) or 501(c)(4) because it is organized essentially for a business purpose and is a stock corporation that pays out dividends to members. Its net earnings inure to the private benefit of its shareholders.

The unrelated business income tax imposed by section 511 of the Code does not apply to the Tribe or the Corporation since neither organization is described in section 501(a) of the Code.

Conclusion:

1. Neither the Tribe nor the Corporation is exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Code.

2. Neither the Tribe nor the Corporation is subject to the unrelated business income tax imposed by section 511 of the Code.

LAW OFFICES

MADIGAN, PARKER, GATLIN, SWEDMARK & SKELDING

FORUM BUILDING, 318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

83 AUG23 A9:55

August 15, 1983

JOHN A. MADIGAN, JR.
JULIUS F. PARKER, JR.
B. KENNETH GATLIN
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JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

Ms. Ann Weissenborn
Assistant General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 1557; Marcellus Osceola

Dear Ms. Weissenborn:

This letter is in response to the above Federal Election Commission matter under review. In previous conversations with your office, the response time was extended in this matter through August 17, 1983. Mr. Marcellus Osceola, the Respondent in this case, has previously notified your office of designation of counsel and we are responding on his behalf.

Initially, I must strenuously object to this matter being pursued due to the deficiencies in the "complaint". In reviewing the complaint, a term which I use very loosely, I find it to be severely deficient and not in compliance with the provisions contained in the Federal Election Campaign Act or in compliance with provisions contained in Title 11, Section 111.4 of the Code of Federal Regulations. The matter forwarded by the Complainant, Mr. Paul Harvill, is nothing more than an article from a newspaper. Nowhere in the complaint are any facts which describe a violation of a statute or a regulation over which the Commission has jurisdiction. Furthermore, the complainant has no personal knowledge of any of the allegations which would substantiate a violation. The complaint consists of nothing more than a newspaper article. It is common knowledge that newspapers oftentimes use quotes out of context and may not be sources of accurate information.

Even if the facts in the newspaper article were true, they do not amount to a violation of the Act. The article does not allege that Mr. Osceola took any action which would be considered knowing and willful, which would constitute a violation of the Act or regulation adopted in conjunction therewith.

Again, even if the article was true, it does not state that Mr. Osceola was aware that the Act or regulations adopted in conjunction with the Act would prohibit the actions which are alleged to have occurred in the newspaper article. The reimbursements which are alleged to have occurred were provided by a tribal account. The complaint filed by Mr. Harvill, and we presume the asserted violation of the Act and its regulations, would be prohibitions against indirect contributions [2 U.S.C., §441 or Title 11, §100.4(b)(1)]. Mr. Osceola, however, was unaware of any such prohibition and certainly would not have knowingly and willfully taken such actions with that knowledge.

It is our opinion that the Federal Election Campaign Act, would not extend to regulate the Seminole Tribe of Florida or its subsidiaries or corporations. This position is adopted based upon basic principles of Federal Indian Law which basically provide:

(a) Indian sovereignty is inherent, not granted or delegated;
(b) Indian sovereignty is limited only by treaties and special acts of Congress;
(c) What powers are not expressly limited remain within the domain of the tribal sovereignty;
(d) Indian sovereignty cannot be limited by Acts of Congress which appear to do so; limitations must be explicit and doubts will be resolved in favor of the Indians.

Therefore, the Federal Election Campaign Act and its regulations do not apply to the tribe as Congress has not explicitly included the tribe within the Act. This position becomes quite clear when one examines the definitions contained in 2 U.S.C., §431(10), defining the term "person". Quite clearly an Indian tribe is not included within that definition and the term explicitly provides that it does not include the Federal Government or any authority of the Federal Government. Clearly, the Seminole Tribe of Florida is not included and not only would Mr. Osceola not be in violation of any provisions of the Act, the tribe's activities as well would be exempt. I am enclosing two matters for your review; the first being a publication detailing the scope of tribal self-government relating to Indians and also an Internal Revenue Service technical advice memorandum. I believe these will assist you in reaching the determinations which we have expressed above.

Based on the foregoing, I would request that the matter related to Mr. Osceola be dismissed and the case closed without further effort on your part. I believe the complaint is insufficient as a matter of law and that the article does not demonstrate a violation of the Act or regulations.

In the event that you need any further information or if I may be of further assistance, please contact me immediately.

Sincerely,

Jack M. Skelding, Jr.

JMSJr/phg

Enclosure

cc: Marcellus Osceola
Jim Shore

"A"

CHAPTER 7

# THE SCOPE OF TRIBAL SELF-GOVERNMENT[1]

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## SECTION 1. INTRODUCTION

The Indian's right of self-government is a right which has been consistently protected by the courts, frequently recognized and intermittently ignored by treaty-makers and legislators, and very widely disregarded by administrative officials. That such rights have been disregarded is perhaps due more to lack of acquaintance with the law of the subject than to any drive for increased power on the part of administrative officials.

The most basic of all Indian rights, the right of self-government, is the Indian's last defense against administrative oppression, for in a realm where the states are powerless to govern and where Congress, occupied with more pressing national affairs, cannot govern wisely and well, there remains a large no-man's-land in which government can emanate only from officials of the Interior Department or from the Indians themselves. Self-government is thus the Indians' only alternative to rule by a government department.

Indian self-government, the decided cases hold, includes the power of an Indian tribe to adopt and operate under a form of government of the Indians' choosing, to define conditions of tribal membership, to regulate domestic relations of members, to prescribe rules of inheritance, to levy taxes, to regulate property within the jurisdiction of the tribe, to control the conduct of members by municipal legislation, and to administer justice.

Perhaps the most basic principle of all Indian law, supported by a host of decisions hereinafter analyzed, is the principle that *those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.* Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgment of Congress, these tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty.

The acts of Congress which appear to limit the powers of an Indian tribe are not to be unduly extended by doubtful inference.[2]

[1] This chapter is so largely based upon the opinion of Solicitor Margold, Powers of Indian Tribes (Op. Sol. I. D. M-27781, October 25, 1934, 55 I. D. 14), and on the article of F. S. Cohen, Indian Rights and the Federal Courts (1940), 24 Minn. L. Rev. 145, that quotation marks have been dispensed with, as superfluous, in incorporating considerable portions of these works in the present chapter.

[2] See *In re Wagoner, Petitioner*, 141 F. S. 567, 115-116 (1891).

## SECTION 2. THE DERIVATION OF TRIBAL POWERS

From the earliest years of the Republic the Indian tribes have been recognized as "distinct, independent, political communities,"[3] and, as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by reason of their original tribal sovereignty. Thus treaties and statutes of Congress have been looked to by the courts as limitations upon original tribal powers, or, at most, evidences of recognition of such powers, rather than as the direct source of tribal powers. This is but an application of the general principle that "It is only by positive enactments, even in the case of conquered and subdued nations, that their laws are changed by the conqueror."[4]

In point of form it is immaterial whether the powers of an Indian tribe are expressed and exercised through customs handed down by word of mouth or through written constitutions and statutes. In either case the laws of the Indian tribe owe their force to the will of the members of the tribe.

[3] *Worcester v. Georgia*, 6 Pet. 515, 559 (1832).

[4] *Wall v. Williamson*, 8 Ala. 48, 54 (1845), upholding tribal law of divorce. And see Wharton's Conflict of Laws (3d ed. Parks), vol. 1, sec. 9; Wheaton, Elements of International Law (5th ed. by Phillipson, 1916) 66-68.

The earliest complete expression of these principles is found in the case of *Worcester v. Georgia*.[1] In that case the State of Georgia, in its attempts to destroy the tribal government of the Cherokees, had imprisoned a white man living among the Cherokees with the consent of the tribal authorities. The Supreme Court of the United States held that his imprisonment was in violation of the Constitution, that the state had no right to infringe upon the federal power to regulate intercourse with the Indians, and that the Indian tribes were, in effect, subjects of federal law, to the exclusion of state law, and entitled to exercise their own inherent rights of sovereignty so far as might be consistent with such federal law. The court declared, *per* Marshall, *C. J.*:

> The Indian nations had always been considered as distinct, independent, political communities. * * *. (P. 559.)
>
> * * * * *
>
> * * * and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence—its right to self-government—by associating with a stronger, and taking its protection. A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state. Examples of this kind are not wanting in Europe. "Tributary and feudatory states," says Vattel, "do not thereby cease to be sovereign and independent states, so long as self-government, and sovereign and independent authority, are left in the administration of the state." At the present day, more than one state may be considered as holding its right of self-government under the guarantee and protection of one or more allies.
>
> The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States. The act of the state of Georgia, under which the plaintiff in error was prosecuted, is repugnant to, and the judgment a nullity. * * * (P. 561.)

John Marshall's analysis of the basis of Indian self-government in the law of nations has been consistently followed by the courts for more than a hundred years. The doctrine set forth in this opinion has been applied to an unfolding series of new problems in scores of cases that have come before the Supreme Court and the inferior federal courts. The doctrine has not always been so highly regarded in state courts and by administrative authorities. It was of the decision in *Worcester v. Georgia* that President Jackson is reported to have said, "John Marshall has made his decision; now let him enforce it."[2] As a matter of history, the State of Georgia, unsuccessful defendant in the case, never did carry out the Supreme Court's decision, and the "successful" plaintiff, a group of the Cherokee Nation, continued to languish in a Georgia prison, under a Georgia law which, according to the Supreme Court decision, was unconstitutional.

The case in which the doctrine of Indian self-government was first established has not been its only victory. Administrative officials for a century afterwards continued to ignore the broad implications of the judicial doctrine of Indian self-government. Both Indians and Indian affairs came before the federal courts, administrative officials and state courts, were forced to deal with the doctrine of Indian self-government and to recognize powers of Indian tribes which they sought to destroy. Finally, after 100 years, there appeared an administration that accepted the logical implications of Indian self-government.[3]

The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles: (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Conquest renders the tribe subject to the legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe,[4] *e. g.*, its power to enter into treaties with foreign nations, but does not by itself affect the internal sovereignty of the tribe, *i. e.*, its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress,[5] but, save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government.

A striking affirmation of these principles is found in the case of *Talton v. Mayes*.[6] The question was presented in that case whether the Fifth Amendment of the Federal Constitution operated as a limitation upon the legislation of the Cherokee Nation. A law of the Cherokee Nation authorized a grand jury of five persons to institute criminal proceedings. A person indicted upon this procedure and held for trial in the Cherokee courts sued out a writ of habeas corpus, alleging that the law in question violated the Fifth Amendment to the Constitution of the United States, since a grand jury of five was not a grand jury within the contemplation of the Fifth Amendment. The Supreme Court held that the Fifth Amendment applied only to the acts of the Federal Government; that the sovereign powers of the Cherokee Nation, although *recognized* by the Federal Government, were not *created* by the Federal Government; and that the judicial authority of the Cherokees was, therefore, not subject to the limitations imposed by the Bill of Rights:

> The question, therefore, is, does the Fifth Amendment to the Constitution apply to the local legislation of the Cherokee nation so as to require all prosecutions for offenses committed against the laws of that nation to be initiated by a grand jury organized in accordance with the provisions of that amendment. The solution of this question involves an inquiry as to the nature and origin of the power of local government exercised by the Cherokee nation and recognized to exist in it by the treaties and statutes above referred to. Since the case of *Barron v. Baltimore*, 7 Pet. 243, it has been settled that the Fifth Amendment to the Constitution of the United States is a limitation only upon the powers of the General Government, that is, that the amendment operates solely on the Constitution itself by qualifying the powers of the National Government which the Constitution called into being. * *
>
> The case in this regard therefore depends upon whether the powers of local government exercised by the Cherokee

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[1] 6 Pet. 515 (1832).

[2] See Jackson's Correspondence (1864), vol. 4, p. 505.

[3] The most comprehensive piece of Indian legislation since the Act of June 30, 1834, 4 Stat. 735, is the Act of June 18, 1934, 48 Stat. 984, 25 U. S. C. 461-479, entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes," and commonly known as the Wheeler-Howard Act or Indian Reorganization Act. Since its enactment the statute has been amended in minor particulars (Act of June 1, 1937, 50 Stat. 564, 25 U. S. C. 476a, 476b; Act of August 12, 1937, 50 Stat. 564, 25 U. S. C. 476a; Act of August 28, 1937, 50 Stat. 862, 25 U. S. C. 463, 463a), and its more important provisions have been extended to Alaska (Act of May 1, 1936, 49 Stat. 1250, 48 U. S. C. 992) and Oklahoma (Act of June 26, 1936, 49 Stat. 1967, 25 U. S. C. 501-509).

[4] Certain external powers of sovereignty, such as the power to make war and the power to make treaties with the United States, have been surrendered to the Federal Government. See Chapter 14, sec. 3.

[5] See, for example, *Delta Atlantic & P. R. Co.*, 61 Fed. 417 (C. C. A. 8, 1894). See also Chapter 5, sec. 8.

[6] 163 U. S. 376 (1896).

nation are Federal powers created by and springing from the Constitution of the United States and hence controlled by the Fifth Amendment to that Constitution, or whether they are local powers not created by the Constitution, although subject to its general provisions and the paramount authority of Congress. The repeated adjudications of this court have long since answered the former question in the negative. * * *

* * * * *

True it is that in many adjudications of this court the fact has been fully recognized, that although possessed of these attributes of local self government, when exercising their tribal functions, all such rights are subject to the supreme legislative authority of the United States. *Cherokee Nation v. Kansas Railway Co.*, 135 U.S. 641, where the cases are fully reviewed. But the existence of the right in Congress to regulate the manner in which the local powers of the Cherokee nation shall be exercised does not render such local powers Federal powers arising from and created by the Constitution of the United States. It follows that as the powers of local self government enjoyed by the Cherokee nation existed prior to the Constitution, they are not operated upon by the Fifth Amendment, which, as we have said, had for its sole object to control the powers conferred by the Constitution on the National Government. * * * (Pp. 382-384.)

The decision in *Talton v. Mayes* does not mean that Indian tribes are not subject to the Constitution of the United States. It remains true that an Indian tribe is subject to the Federal Constitution in the same sense that the city of New Orleans, for instance, is subject to the Federal Constitution. The Federal Constitution prohibits slavery absolutely. This absolute prohibition applies to an Indian tribe as well as to a municipal government and it has been held that slave holding within an Indian tribe became illegal with the passage of the Thirteenth Amendment.[7] It is, therefore, always pertinent to ask whether an ordinance of a tribe conflicts with the Constitution of the United States.[8] Where, however, the United States Constitution levies particular restraints upon federal courts or upon Congress, these restraints do not apply to the courts or legislatures of the Indian tribes.[9] Likewise, particular restraints upon the states are inapplicable to Indian tribes.

It has been held that the guaranty of religious liberty in the First Amendment of the United States Constitution does not protect a resident of New Orleans from religious oppression by municipal authorities.[10] Neither does it protect the Indian against religious oppression on the part of tribal authorities. As the citizen of New Orleans must write guaranties of religious liberty into his city charter or his state constitution, if he desires constitutional protection in this respect, so the members of an Indian tribe must write the guaranties they desire into tribal constitutions. In fact, many tribes have written such guaranties into tribal constitutions that are now in force.[11]

An extreme application of the doctrine of tribal sovereignty is found in the case of *Ex parte Crow Dog*,[12] in which it was held that the murder of one Sioux Indian by another upon an Indian reservation was not within the criminal jurisdiction of any court of the United States, and that only the Indian tribe itself could punish the offender.

The contention that the United States courts had jurisdiction in a case of this sort was based upon the language of a treaty with the Sioux, rather than upon considerations applicable generally to the various Indian tribes. The most important of the treaty clauses upon which the claim of federal jurisdiction was based provided:

> * * * And Congress shall, by appropriate legislation, secure to them an orderly government; they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life. (P. 568.)

Commenting upon this clause, the Supreme Court declared:

> It is equally clear, in our opinion, that the words can have no such effect as that claimed for them. The pledge to secure to these people, with whom the United States was contracting as a distinct political body, and orderly government, by appropriate legislation thereafter to be framed and enacted, necessarily implies, having regard to all the circumstances attending the transaction, that among the arts of civilized life, which it was the very purpose of all these arrangements to introduce and naturalize among them, was the highest and best of all, that of self government, the regulation by themselves of their own domestic affairs, the maintenance of order and peace among their own members by the administration of their own laws and customs. They were to be subjected to the laws of the United States, and in the sense of citizens, but, as they had always been, as wards subject to a guardian, and as helpless, consequently, of becoming members of the political community of the United States, with a voice in the selection of representatives and the framing

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[7] *In re Ah Quah*, 2 Fed. 127 (D.C. Alaska, 1880).

[8] *Self Ruler v. Harris*, 168 U.S. 218 (1897), discussed *infra* sec. 4.

[9] In *United States v. Sioux Nation of New York Indians*, 274 Fed. 946 (D.C. W.D. N.Y. 1921) it was held that federal courts had no power to set aside action of a tribal council allegedly confiscatory of the property rights of a member of the tribe.

That the First Amendment guaranteeing religious liberty does not limit the action of a tribal council is the holding of *Moses Sell I. v. Amos S. Fels (Lower Brule Sioux)*.

[10] *Permoli v. First Municipality*, 3 How. 589 (1845).

[11] A typical Indian bill of rights is the following, taken from the constitution of the Blackfeet Tribe, approved December 11, 1935, by the Secretary of the Interior pursuant to sec. 16 of the Act of June 18, 1934 (48 Stat. 984, 987; 25 U.S.C. 476):

ARTICLE VIII—BILL OF RIGHTS

SECTION 1. *Suffrage.*—Any member of the Blackfeet Tribe twenty one (21) years of age or over, shall be eligible to vote at

An exception which [illegible] or benefit at a [illegible]

[illegible] equal opportunities [illegible] in the [illegible] and benefits of the Constitution.

SEC. 2. *Freedom of speech.*—No member of the tribe may [illegible] freedom of worship, conscience, speech, press, assembly, and association.

SEC. 3. *Rights of accused persons.*—Any member of the Blackfeet Tribe accused of an offense shall have the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his own behalf, to have the assistance of counsel for his defense, excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment shall be inflicted.

[illegible] other tribal constitutions adopted prior to June 1, 1936, [illegible] to set forth similar guaranties, as follows: Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Article VII; Constitution of the Gila River Tribe, Article VII; Hopi Tribe, Article IX; Lower Brule Sioux Tribe, Article VII; Makah Tribe, Article VII; Menominee Indian Tribe, Article VII; Nez Perce Tribe, Article VII; Oneida Tribe, Article VII; Quechan Tribe, Article VII; San Carlos Apache Tribe, Article VII; Shoshone Tribe of the Wind River Reservation, Article VII; Southern Ute Tribe, Article VII; Tonkawa Tribe, Article VII; Tribe of Indians of Oklahoma, Article VII; Turtle Mountain Band of Chippewa Indians, Article VII; Ute Tribe of the Uintah and Ouray Reservation, Article VII; Wind River Tribe, Article VII; Yakima Tribe, Article VII; Yavapai Tribe, Article VII; Zuni Tribe, Article IX; Sac and Fox Tribe of Indians of Oklahoma, Article VII; Pueblo Indians of New Mexico, Article VII; Cheyenne-Arapaho Tribes of Oklahoma, Article VII; Fort Mojave Tribe, Article VII; Kaw Tribe, Article VII; Kickapoo Tribe of Oklahoma, Article VII; Pawnee Tribe of Oklahoma, Article VII; Sauk and Fox Tribe of Iowa, Article VII; Tribe of Indians of Oklahoma, Article VII; Wichita Tribe of Oklahoma, Article VII; Iowa Tribe of Oklahoma, Article VII; Kickapoo Tribe of Oklahoma, Article VII; Sac and Fox Tribe of Oklahoma, Article VII; Ponca Tribe of Oklahoma, Article VII; Otoe and Missouria Tribe of Oklahoma, Article VII; Cherokee Nation of Oklahoma, Article IX; Chickasaw Nation, Article IX; Choctaw Nation of Oklahoma, Article IX; Creek Nation, Article IX; Seminole Nation of Oklahoma, Article IX; Confederated Bands of Ute Indians of Colorado, Article IX; Fort Belknap Indian Community of Fort Belknap Reservation, Article VII; Fort Peck Tribes of Fort Peck Reservation, Article VII; Northern Cheyenne Tribe of Northern Cheyenne Reservation, Article VII; Sisseton and Wahpeton Bands of Sioux Indians, Article VII; Standing Rock Sioux Tribe of Standing Rock Reservation, Article VII; Turtle Mountain Band of Chippewa Indians of North Dakota, Article IX; Sac and Fox Tribe of Indians of Iowa, Article IX; Sac and Fox Tribe of Indians of Kansas and Nebraska, Article IX; Tribal Council of the Tribal Town of Kialegee, Article VII; Fort Belknap Indian Community of Washington, Article VII; Lummi Tribe of Washington, Article VII; Sauk-Suiattle Tribe of Washington, Article IX; Sauk-Suiattle Band of Indians of St. Croix Reservation, Utah, Article VII.

[12] 109 U.S. 556 (1883). Also see Chapter 15.

> of the laws, but as a dependent community who were in a state of pupilage, advancing from the condition of a savage tribe to that of a people who, through the discipline of labor and by education, it was hoped might become a self-supporting and self-governed society. * * * (Pp. 508-509.)

In finally rejecting the argument for federal jurisdiction the Supreme Court declared:

> * * * It is a case where, against an express exception in the law itself, that law, by argument and inference only, is sought to be extended over aliens and strangers; over the members of a community separated by race, by tradition, by the instincts of a free though savage life, from the authority and power which seeks to impose upon them the restraints of an external and unknown code, and to subject them to the responsibilities of civil conduct, according to rules and penalties of which they could have no previous warning: which judges them by a standard made by others and not for them, which takes no account of the conditions which should except them from its exactions, and makes no allowance for their inability to understand it. * * * (P. 571.)

The force of the decision in *Ex parte Crow Dog* was not weakened, although the scope of the decision was limited, by subsequent legislation which withdrew from the rule of tribal sovereignty a list of 7 major crimes, only recently extended to 10.[17] Over these specified crimes jurisdiction has been vested in the federal courts. Over all other crimes, including such serious crimes as kidnaping, attempted murder, receiving stolen goods, and forgery, jurisdiction resides not in the courts of nation or state but only in the Indian tribe itself.

We shall defer the question of the exact scope of tribal jurisdiction for more detailed consideration at a later point. We are concerned for the present only in analyzing the basic doctrine of tribal sovereignty. To this doctrine the case of *Ex parte Crow Dog* contributes not only an intimation of the vast and important content of criminal jurisdiction inherent in tribal sovereignty, but also an example of the consistent manner in which the United States Supreme Court has opposed the efforts of lower courts and administrative officials to infringe upon tribal sovereignty and to assume tribal prerogatives without statutory justification. The legal powers of an Indian tribe, as noted by the decisions of the highest courts, are far more extensive than the powers which most Indian tribes have been actually permitted by executive officials to exercise in their own right.

The acknowledgment of tribal sovereignty or autonomy by the courts of the United States[18] has not been a matter of lip service to a venerable but outmoded theory. The doctrine has been followed through the most recent cases, and from time to time carried to new implications. Moreover, it has been administered by the courts in a spirit of wholehearted sympathy and respect. The painstaking analysis by the Supreme Court of tribal laws and constitutional provisions in the *Cherokee Intermarriage Cases*,[19] is typical, and exhibits a degree of respect proper to the laws of a sovereign state.[20]

The sympathy of the courts towards the independent efforts of Indian tribes to administer the institutions of self-government has led to the doctrine that Indian laws and statutes are to be interpreted not in accordance with the technical rules of the common law, but in the light of the traditions and circumstances of the Indian people. An attempt in the case of *Ex parte Tiger*[21] to construe the language of the Creek Constitution in a technical sense was met by the appropriate judicial retort:

> * * * If the Creek Nation derived its system of jurisprudence through the common law, there would be much plausibility in this reasoning. But they are strangers to the common law.[22] They derive their jurisprudence from an entirely different source, and they are as unfamiliar with common-law terms and definitions as they are with Sanskrit or Hebrew. With them, "to indict" is to file a written accusation charging a person with crime. * * *

So, too, in the case of *McCurtain v. Grady*,[23] the court had occasion to note that:

> * * * The Choctaw constitution was not drawn by geologists or for geologists, or in the interest of science, or with scientific accuracy. It was framed by plain people, who have agreed among themselves what meaning should be attached to it, and the courts should give effect to that interpretation which its framers intended it should have. * * *

The realm of tribal autonomy which has been so carefully respected by the courts has been implicitly confirmed by Congress in a host of statutes providing that various administrative acts of the President or the Interior Department shall be carried out only with the consent of the Indian tribe or its chiefs or council.[24]

The whole course of congressional legislation with respect to the Indians has been based upon a recognition of tribal autonomy, qualified only where the need for other types of governmental control has become clearly manifest. As was said in a report of the Senate Judiciary Committee in 1870:

> Their right of self government, and to administer justice among themselves, after their rude fashion, even to the extent of inflicting the death penalty, has never been questioned.[25]

It is a fact that state governments and administrative officials have frequently trespassed upon the realm of tribal autonomy, presuming to govern the Indian tribes through state law or departmental regulation or arbitrary administrative fiat,[26] but these trespasses have not impaired the vested legal powers of local self-government which have been recognized again and again when these trespasses have been challenged by an Indian tribe. "Power and authority rightfully conferred do not nec-

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[17] See sec. 9, [illegible]

[18] The doctrine of tribal sovereignty is well supported in the decision [illegible] in the case of *In re Sah Quah*, 31 Fed. 327 (D. C. Alaska 1887):

> From the organization of the government to the present time, the various Indian tribes of the United States have been treated as free and independent within their respective territories, governed by their tribal laws and customs in all matters pertaining to their internal affairs, such as contracts and the matter of their inheritance, marriage, descents, and the punishment for crimes committed against each other. They have been exempted from all obedience to the municipal laws of the states or territories in relation to tribal affairs, subject, however, in such instances as have from time to time developed necessity for their protection, and for the protection of the white citizens [illegible] [illegible] 3 Pet. 1, 8, 10, 17; *Jackson v. Goodell*, 20 Johns. 187; [illegible]

[19] *Cherokee Nation v. Georgia*, 174 U. S. 537, 561; [illegible]

> * * * [illegible] the Federal government [illegible] the sovereignty of the United States [illegible] * * *

[20] See, [illegible] Story, Commentaries on the Constitution of the United States, [illegible]; Kent, Commentaries on American Law (14th ed., [illegible]) [illegible]

[21] [illegible] U. S. 76 (1903). And see *Famous Smith v. United States*, 151 U. S. [illegible]; [illegible] A. G. 300 (1887).

[22] And see sec. 2 *infra*.

[23] [illegible] T. 11, 17 S. W. 504, 505 (1894).

[24] [illegible] *United States*, 147 Fed. 413 (C. C. S. D. 1906); [illegible] 216 Fed. [illegible] (1906).

[25] 1 Fed. 1, 307 [illegible] S. W. 65, 71 (1896).

[26] [illegible] 152, 159, 162, 184, 218, 225, [illegible] 97, 208, 102. These provisions are described later under [illegible]

[27] See Hon. No. 268, 41st Cong., 3d sess., p. 10.

[28] See Dawson, "Protecting the Indian's Use the Indian" (1917), 23 Geo. L. J. [illegible] 722.

essarily cease to exist in consequence of long nonuser."[8] The Wheeler-Howard Act,[9] by affording statutory recognition of these powers of local self-government and administrative assistance in developing adequate mechanisms for such government, may reasonably be expected to end the conditions that have in the past led the Interior Department and various state agencies to deal with matters that are properly within the legal competence of the Indian tribes themselves.[10]

Neither the allotting of land in severalty nor the granting of citizenship has destroyed the tribal relationship upon which local autonomy rests.[11] The extent, however, to which the foregoing principles may apply to scattered Indian groups which have never exercised powers of self-government presents questions to which no authoritative answers have yet been given.[12]

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[8] *United States ex rel. Standing Bear v. Crook*, 25 Fed. Cas. No. 14891 (C. C. Neb. 1879).

[9] Act of June 18, 1934, 48 Stat. 984, 25 U. S. C. 461 *et. seq.* See fn. 7, *supra*.

[10] On the subordination of departmental regulations to the provisions of tribal constitutions, see 25 C. F. R. 71.4, 161.1, 171.17. And see Memo. Sol. I. D., November 11, 1935 (re Grazing Regulations). The Secretary under approving a tribal constitution routinely contains this statement:

> All rules and regulations heretofore promulgated by the Interior Department or by the office of Indian Affairs so far as they may be incompatible with any of the provisions of the said Constitution and Bylaws are hereby declared inapplicable to the Indians.

[11] See Chapter 8, sec. 2C, and Chapter 14, secs. 1, 2.

[12] See Goodrich, The Legal Status of the California Indians (1926), 14 *Calif. L. Rev.* 83, 157.

## SECTION 3. THE FORM OF TRIBAL GOVERNMENT

Since any group of men, in order to act as a group, must act through forms which give the action the character and authority of group action, an Indian tribe must, if it has any power at all, have the power to prescribe the forms through which its will may be registered. The first element of sovereignty, and the last which may survive successive statutory limitations of Indian tribal power, is the power of the tribe to determine and define its own form of government. Such power includes the right to define the powers and duties of its officials, the manner of their appointment or election, the manner of their removal, the rules they are to observe in their capacity as officials, and the forms and procedures which are to attest the authoritative character of acts done in the name of the tribe.[1]

Such power also includes the power to interpret its own laws and ordinances, which interpretations will be followed by the federal courts.[2]

The question of whether action taken in the name of an Indian tribe is in truth tribal action, has been before state and federal courts on many occasions, and in every case the courts have held that the definition of the form of tribal government is a matter for the decision of the Indians themselves.

Such a decision for example is found in the case of *Pueblo of Santa Rosa v. Fall*.[3] Certain attorneys claimed to represent an Indian pueblo and asserted ownership of a large area which the Federal Government considered public domain. The Indians themselves, apparently, denied the authority of the attorneys in question to put forward such a claim, but the attorneys justified their action on the basis of an alleged agreement with the "captain" of the Pueblo. When the case came before the Supreme Court, that body found that according to the custom of the Pueblo the "captain" would have no authority to act for the Pueblo in a matter of this sort, and that such action without the approval of the Pueblo council would be void. On the basis of fact the court found:

> * * * That Lee was without power to execute the jacket in question, for lack of authority from the Indian council, in our opinion is well established. (Pp. 315, 320.)

The Supreme Court reversed the decision of the lower court, which had decided the suit on the merits, and held:

> * * * the cause must be remanded to the court of first instance with directions to dismiss the bill, on the ground that the suit was brought by counsel without authority, but without prejudice to the initiation of any other suit hereafter by and with the authority of the alleged Pueblo of Santa Rosa. (P. 321.)

Specific statutes relating to particular tribes frequently designate the tribal council, committee, or official who is to pass upon

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[1] One of the current popular superstitions about Indians is the notion that every Indian man over the age of 50 is either a chief or a "big chief." This superstitution is of great help to those Indians or pseudo-Indians who seek to earn a respectable living by selling snake oil to the sick, or by selling their fellow tribesmen a line to land claims or to the Federal Government or by lobbying to women's clubs and congressional committees, or by endowing Indian lawyers with tribal business. It is generally very difficult to persuade those who have paid for or profited by such transactions with Indian "chiefs" that the Indian in question was not an officer of his tribe and had no tribal power, tribal suits, or tribal wisdom to give away. It is, therefore, a matter of some concern to an Indian tribe that it should have the right to define a framework of official action and to insist that acts of individuals and groups that do not fall within that framework are not acts of the tribe. This definition of a framework of government may take the form of a written constitution or it may take the form of the British Constitution, a disorderly mass of precedents, including all the parliamentary procedure and court cases to which [illegible] at the top. The essential criteria that we invoke, whenever it is necessary to decide whether the acts of certain individuals are governmental or non-governmental or antigovernmental

[illegible] the form of tribal constitution, a leading [illegible] this theory:

> The "tribe" is something we conceive of rather thoroughly. Yet these native peoples were as precisely and exclusively organized politically as many civilized peoples. * * * (P. 181.)
>
> * * * * *
>
> * * * The power of the Pueblo [illegible] rests on the fact of an established and [illegible] tribal organization. (P. 200.) [illegible] Native Nations and of the Federal Indian Law and Other Law (P. 181.)

[2] *Jones v. Meehan*, 175 U. S. 1, 32 (1899). This rule has been generally followed by administrative authorities. See, for example, Memo. Sol. I. D., July 5, 1940 holding that the [illegible] interpretations of a provision of the Constitution of the Sac and Fox Tribe should be made by the tribe or its tribal council rather than by the Interior Department.

[3] 273 U. S. 315 (1927). To the same effect see 7 Op. A. G. 14, (1855). Memo. Sol. I. D., March 11, 1937.

In 5 Op. A. G. 73 (1849), the opinion is expressed that a treaty executed by the Creek Indians would be valid if signed by the chiefs and headmen executed, if the chiefs [illegible] and constituted the whole of a [illegible] tribal council.

In *Rainey v. Pueblo of Laguna*, [illegible] (1930), it was held that a chief's authority to act in the name of the tribe is to be established by the land record of the tribe and by the acceptance of the acts of the chief.

[illegible] of law [illegible] Chapter [illegible] sec. 3.

In the case of *[illegible] v. [illegible]*, 214 N. Y. [illegible] it was held that the Poospatuck tribal council has never been charged with probate jurisdiction, that [illegible] to the tribe to exercise probate powers and hence that such courts have [illegible] to remedy the lack. Whether or not the [illegible] in the case of *In re Petition of [illegible]*, [illegible] N. Y. 422, 157 N. E. 734 (1927), the opinion of the court indicates at least that the liberal rule which [illegible] may [illegible] the tribal [illegible] and tribal customs will be respected.

"B"

Internal Revenue Service

Department of the Treasury

275 Peachtree St., NE, Atlanta, GA. 30043

District
Director

Seminole Tribe of Florida
Seminole Tribe of Florida, Inc.
6073 Sterling Road
Hollywood, Florida 33024

Person to Contact:
G. Hawk
Telephone Number:
(305) 653-3810
Refer Reply to:
7108
Date:

JUN 3 1981

Gentlemen:

As a result of our Request for Technical Advice in connection with our examination of your Form 990 for the year ended June 30, 1977, the National Office of Internal Revenue Service has concluded that,

(1) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is statutorily exempt from Federal income tax,

(2) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is subject to the tax on unrelated business income imposed by sections 511 through 515 of the Internal Revenue Code, and

(3) the Seminole Tribe of Florida, Inc. shares immunity from Federal income tax with the Seminole Tribe of Florida.

Therefore, neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is required to file federal income tax returns nor federal information returns relating to exempt organizations.

Attached are copies of Internal Revenue Service National Office Technical Advice Memoranda for your information.

Thank you for your cooperation in this matter.

Sincerely yours,

Michael J. Murphy

District Director

cc: Robert E. Falb

AINMA No.: 0061.00-00

Legend

Corporation = Seminole Tribe of Florida, Inc.
Tribe = Seminole Tribe of Florida

INTERNAL REVENUE SERVICE

NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

District Director
Jacksonville District

OCT 30 1980

| | |
|---|---|
| Taxpayer's Name: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayer's Address: | 6073 Stirling Road<br>Hollywood, FL 33024 |
| Taxpayer's Identification No.: | 59-0840255 |
| Years Involved: | 1977 to present |
| Date of Conference: | August 12, 1980 |

ISSUE:

Whether, for federal income tax purposes, the Corporation, a federally chartered tribal corporation, is an entity separate and distinct from the Tribe, a recognized Indian tribe and, if it is, whether it is subject to federal income tax.

FACTS:

The Tribe was formally organized under a Constitution and Bylaws on July 11, 1957, pursuant to section 16 of the Indian Reorganization Act (IRA). On that same date, the tribal members also ratified a corporate charter pursuant to section 17 of that Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation on August 21, 1957.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing Council elections, organized rules for the Council and rules governing membership in the Tribe. The Constitution enumerates the power of the Council and gives the Council various governmental powers. These powers include the right to levy taxes, pass ordinances, maintain a police force, etc.

District Director
Jacksonville District

The Tribe's Charter organized a federal membership corporation consisting of the present and future members of the Tribe. The purpose of the Corporation is to further the economic development of the Tribe. Pursuant to the Charter, each enrolled member of the Tribe is issued a nontransferable certificate of ownership evidencing his or her equal share in the Corporation's assets. Profits from the Corporation's business activities may be distributed per capita among tribal members.

Under the Charter, the m[illegible]nt of the Corporation is vested in a Board [illegible]ctors composed o[illegible] elected members and the chairman of the Counci[illegible] shall serve as vi[illegible]ident.

The Tr[illegible]e's Charter provides that in addition to its powers under its Constitution and Bylaws, the Tribe shall have a limited power of suit in courts of competent jurisdiction within the United States. Although the tribal corporation is granted a limited power of suit, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned.

APPLICABLE LAW:

Section 61 of the Internal Revenue Code provides that gross income means all income from whatever source derived, unless otherwise excluded by law.

Rev. Rul. 67-284, 1967-2 C.B. 55, states that Indian tribes are not taxable entities because the income tax statutes do not tax Indian tribes.

In Mescalero Apache Tribe v. Jones, 411 U.S. 145, 157 n. 13 (1973), the Supreme Court indicated that the form of tribal organization is not determinative of tax consequences. The Court stated that "it is unclear from the record whether the tribe has actually incorporated itself as an Indian chartered corporation pursuant to [section 17 of the IRA] ... . In any event, the question of tax immunity cannot be made to turn on the particular form in which the tribe chooses to conduct its business."

RATIONALE:

No constitutional or statutory provision exempts Indian tribes from federal income taxation. However, the Service has stated that Indian tribes are not taxable entities and that income tax statutes do not tax Indian tribes. See Rev. Rul. 67-284.

The Corporation was created under a special federal statute authorizing its formation and regulating its operations. The language of the corporate

District Director
Jacksonville District

charter of the Tribe demonstrates that the Corporation is not a separate entity but is an integral part of the Tribe. Article IV of the corporate charter provides that the membership of the Corporation consists of the present and future members of the Tribe. Article V of the corporate charter provides that the membership of the governing body of the Tribe and the Corporation are interlocking consisting of all enrolled members of the Tribe. The corporate powers are specifically granted to the Tribe in addition to the governmental powers possessed by the Tribe. Although the tribal corporation is granted the power to sue and be sued, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned. On this basis, we conclude that for federal income tax purposes, the tribal corporation should not be considered as a taxable entity separate and distinct from the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

CONCLUSIONS:

1. The Corporation, organized under section 17 of the Indian Reorganization Act, is operated as an administrative unit or component part of the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

2. The conclusion reached herein applies to the Tribe. The income tax statutes, in imposing the tax on every individual, are broad enough to include individual Indians.

-END-

INTERNAL REVENUE SERVICE

National Office Technical Advice Memorandum

District Director
Jacksonville, Florida

| | |
|---|---|
| Taxpayers' Names: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayers' Address: | 6073 Stirling Road<br>Hollywood, Florida 33024 |
| Taxpayers' Identification No.: | 59-0840255 |
| Years Involved: | 1979 to present |
| Date of Conference: | May 14, 1980 |

Issues:

1. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

2. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are subject to the unrelated business income tax imposed by section 511 of the Code.

Facts:

In 1945 the Seminole Tribe of Florida (the Tribe) was recognized as exempt under section 501(c)(4). On July 11, 1957, both the Tribe and the Seminole Tribe of Florida, Inc., (the Corporation) were organized pursuant to the Indian Reorganization Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing council elections, organizational rules for the Council and rules governing membership in the Tribe.

The Council has established various educational and employment programs, health programs and insurance, mental health assistance and drug and alcohol abuse services, food programs, housing and law enforcement. The Council has adopted ordinances, maintained a police force and public utilities and has effected social service programs including health, education and welfare.

The Corporation's Charter organizes a Board of Directors. Its purposes are to further the economic development of the Tribe. The Corporation has the power to engage in any business that will further the economic well being of the shareholders and to purchase, manage, operate and dispose of property within certain enumerated powers.

District Director
Jacksonville, Florida

Law:

Section 501(c)(3) of the Code provides for exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for 501(c)(3) purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3).

Rev. Rul. 60-384, 1960-2 C.B. 172, holds that a wholly-owned state or municipal instrumentality that is a separate entity and a counterpart of an organization described in section 501(c)(3) of the Code may qualify for exemption under that section. However, it would not be a clear counterpart of a section 501(c)(3) organization if it is clothed with powers beyond those of an organization described in section 501(c)(3). Examples of such powers are enforcement or regulatory powers exercised in the public interest, such as health, welfare, or safety.

Rev. Rul. 74-14, 1974-1 C.B. 125 describes a public housing authority that is a separate entity, whose investigatory powers are exercised for the purpose, among others, of collecting information and making it available to appropriate agencies for use in furthering and enforcing local ordinances regarding planning, building, and zoning matters. The ruling held that such powers are regulatory or enforcement powers of the kind referred to in Rev. Rul. 60-384, and therefore, this organization would not be a clear counterpart of an organization described in section 501(c)(3) of the Code.

Section 501(c)(4) of the Code provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

A social welfare organization is defined in section 1.501(c)(4)-1 of the regulations as one primarily engaged in promoting the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

District Director
Jacksonville, Florida

Section 511 of the Code imposes a tax on the unrelated business income of organizations which are exempt from tax by reason of section 501(a).

Rationale:

The Tribe has various governmental powers such as the power to levy taxes, pass ordinances, maintain a police force, etc. These powers are similar to the "enforcement or regulatory powers" described in Rev. Ruls. 60-384 and 74-14, and therefore, the organization's purposes and activities are outside the scope of sections 501(c)(3) and 501(c)(4).

The Corporation is not exempt under sections 501(c)(3) or 501(c)(4) because it is organized essentially for a business purpose and is a stock corporation that pays out dividends to members. Its net earnings inure to the private benefit of its shareholders.

The unrelated business income tax imposed by section 511 of the Code does not apply to the Tribe or the Corporation since neither organization is described in section 501(a) of the Code.

Conclusion:

1. Neither the Tribe nor the Corporation is exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Code.

2. Neither the Tribe nor the Corporation is subject to the unrelated business income tax imposed by section 511 of the Code.

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REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3750

August 17, 1983

Ms. Ann Weissenborn
Assistant General Counsel
Federal Election Commission
1325 K Street NW 7th Floor
Washington, DC 20463

RE: MUR 1557 - James E. Billie

Dear Ms. Weissenborn:

This will confirm our telephone conversation yesterday wherein I requested an extension of time to respond to the complaint and you granted my request. I will therefore be filing an answer on behalf of James Billie by August 31. I have forwarded the designation of counsel to James for his signature and will return it to your office when executed.

Thank you for your courtesies in this matter.

Sincerely,

Jack M. Skelding, Jr.

Jack M. Skelding, Jr.

JMSjr/ks

cc: Mr. James E. Billie
Mr. Jim Shore

2 5 0 0 4 0 4 0 1 0

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JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

August 29, 1983

Ms. Ann Weissenborn
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1557 - James E. Billie

Dear Ms. Weissenborn:

This letter is in response to the above Federal Election Commission matter under review. In previous conversations with your office, the response time was extended in this matter through August 31, 1983. Enclosed for your files is the Statement of Designation of Counsel executed by Mr. Billie advising that we have been appointed as counsel and will respond on his behalf.

No action should be taken against James Billie in connection with this matter for several reasons. First, § 111.4, F.E.C., states that a complaint shall be sworn to. An examination of the complaint in this case reveals that the complaint states no factual allegations that could be sworn to and this the affirmation at the bottom right hand corner of the complaint is meaningless. Section 111.4 states that the complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief. This complaint is deficient in that it does not meet that requirement. Indeed, not only does this complaint not differentiate between the two, again it does not allege any facts upon either basis. In other words, it does not allege facts that would constitute a violation of the act based upon the personal knowledge of the complainant, nor does it allege facts that would constitute a violation of the act based upon the complainant's knowledge and belief.

Section 111.4(3) requires that the complaint contain a clear and concise recitation of the facts which describe a violation of the statute or regulation. This complaint does

not comply with that section. This complaint does nothing more than attach four pages of newspaper articles dealing with everything from state lobbying to the income of the Tribe. The respondent should not be forced to respond to anything other than a clear and concise recitation of facts showing a violation. In summary, the complainant has not filed a valid complaint in this matter. He has no personal knowledge of any of the allegations which would substantiate a violation and the complaint consists of nothing more than a newspaper article. Accordingly, I believe no action should be taken against Mr. James Billie on such a flimsy assertion by the complainant.

Even if a newspaper article were a sufficient basis to warrant further investigation, examination of this particular newspaper article clearly reveals that there are no facts included in this article that describe a violation of either statute or regulation by the respondent, James Billie. Section 110.4(b)(1) prohibits the making of a contribution in the name of another. No where in the article attached to the complaint is it stated that James Billie made a contribution to any candidate for federal office in the name of another. Rather, there is simply a statement that James Billie, in his own name, made contributions, or that certain Tribal members made contributions in their name and were reimbursed by the Tribe. Nowhere is it alleged that they were reimbursed by James Billie.

It is our opinion that the Federal Election Campaign Act, would not extend to regulate the Seminole Tribe of Florida or its subsidiaries or corporations. This position is adopted based upon basic principles of Federal Indian Law which basically provide:

(a) Indian sovereignty is inherent, not granted or delegated;

(b) Indian sovereignty is limited only by treaties and special acts of Congress;

(c) What powers are not expressly limited remain within the domain of the tribal sovereignty;

(d) Indian sovereignty cannot be limited by Acts of Congress which appear to do so; limitations must be explicit and doubts will be resolved in favor of the Indians.

Therefore, the Federal Election Campaign Act and its regulations do not apply to the Tribe as Congress has not explicitly included the Tribe within the Act. This position becomes quites

clear when one examines the definitions contained in 2 U.S.C. §431(10), defining the term "person". Quite clearly an Indian tribe is not included within that definition and the term explicitly provides that it does not include the Federal Government or any authority of the Federal Government. Clearly, the Seminole Tribe of Florida is not included and not only would Mr. Billie not be in violation of any provisions of the Act, the Tribe's activities as well would be exempt. I am enclosing two matters for your review; the first being a publication detailing the scope of tribal self-government relating to Indians and also an Internal Revenue Service technical advice memorandum. I believe these will assist you in reaching the determination which we have expressed above.

Based on the foregoing, I would request that the matter related to Mr. Billie be dismissed and the case closed without further effort on your part. I believe the complaint is insufficient as a matter of law and that the articles does not demonstrate a violation of the Act or regulations.

In the event that you need any further information or if I may be of further assistance, please contact me immediately.

Sincerely,

Jack M. Skelding, Jr.

JMSjr/ks

Enclosures

cc: Mr. James Billie
Mr. Jim Shore

## STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1557

**NAME OF COUNSEL:** Jack M. Skelding, Jr.

**ADDRESS:** P. O. Box 669
Tallahassee, FL 32302-0669

**TELEPHONE:** (904) 222-3730

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

8/23/83
Date

Signature

NAME: James E. Billie, Chairman

ADDRESS: Seminole Tribe of Florida
6073 Stirling Road
Hollywood, FL 33024

HOME PHONE

BUSINESS PHONE: (305) 583-7112

"A"

CHAPTER 7

# THE SCOPE OF TRIBAL SELF-GOVERNMENT[1]

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## SECTION 1. INTRODUCTION

The Indian's right of self-government is a right which has been consistently protected by the courts, frequently recognized and intermittently ignored by treaty-makers and legislators, and very widely disregarded by administrative officials. That such rights have been disregarded is perhaps due more to lack of acquaintance with the law of the subject than to any drive for increased power on the part of administrative officials.

The most basic of all Indian rights, the right of self-government, is the Indian's last defense against administrative oppression, for in a realm where the states are powerless to govern and where Congress, occupied with more pressing national affairs, cannot govern wisely and well, there remains a little Indian's-land in which government can emanate only from officials of the Interior Department or from the Indians themselves. Self-government is thus the Indians' only alternative to rule by a government department.

Indian self-government, the decided cases hold, includes the power of an Indian tribe to adopt and operate under a form of government of the Indians' choosing, to define conditions of tribal membership, to regulate domestic relations of members, to prescribe rules of inheritance, to levy taxes, to regulate property within the jurisdiction of the tribe, to control the conduct of members by municipal legislation, and to administer justice.

Perhaps the most basic principle of all Indian law, supported by a host of decisions hereinafter analyzed, is the principle that *those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.* Each Indian tribe begins its relationship with the Federal Government as a sovereign power recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which in the judgment of Congress these tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty.

The acts of Congress which appear to limit the powers of an Indian tribe are not to be unduly extended by doubtful inference.[2]

[1] This chapter is so largely based upon the opinion of Solicitor Margold, Powers of Indian Tribes (Op. Sol. I. D. M 27781, October 25, 1934, 55 I. D. 14) and on the article of F. S. Cohen, Indian Rights and the Federal Courts (1940), 24 Minn. L. Rev. 145, that quotation marks have been dispensed with, as superfluous, in incorporating considerable portions of these works in the present chapter.

[2] See, e.g., *Donnelly, Petitioner*, 141 U. S. 167, 175, 176 (1891).

## SECTION 2. THE DERIVATION OF TRIBAL POWERS

From the earliest years of the Republic the Indian tribes have been recognized as "distinct, independent, political communities,"[1] and, as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by reason of their original tribal sovereignty. Thus treaties and statutes of Congress have been looked to by the courts as limitations upon original tribal powers, or, at most, evidences of recognition of such powers, rather than as the direct source of tribal powers. This is but an application of the general principle that "It is only by positive enactments, even in the case of conquered and subdued nations, that their laws are changed by the conqueror."[2]

In point of form it is immaterial whether the powers of an Indian tribe are expressed and vested in tribal customs handed down by word of mouth or through written constitutions and statutes. In either case the laws of an Indian tribe are force by the will of the members of the tribe.

[1] Worcester v. Georgia, 6 Pet. 515, 559 (1832).

[2] Wheaton, Elements of International Law (8th ed. by Phillipson, 1936), p. 68.

The earliest complete expression of the [illegible]es is found in the case of *Worcester v. Georgia*. In that [illegible] the State of Georgia, in its attempts to destroy the tribal government of the Cherokees, had imprisoned a white man living among the Cherokees with the consent of the tribal authorities. The Supreme Court of the United States held that his imprisonment was in violation of the Constitution, that the state had no right to infringe upon the federal power to regulate intercourse with the Indians, and that the Indian tribes were, in effect, subjects of federal law, to the exclusion of state law, and entitled to exercise their own inherent rights of sovereignty so far as might be consistent with such federal law. The court declared, per Marshall, C. J.:

> The Indian nations had always been considered as distinct, independent, political communities. * * * (P. 559.)
>
> * * * * * *
>
> * * * and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence—its right to self-government—by associating with a stronger, and taking its protection. A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state. Examples of this kind are not wanting in Europe. "Tributary and feudatory states," says Vattel, "do not thereby cease to be sovereign and independent states, so long as self-government and sovereignty and independence remain in the administration of the state." At the present day, more than one state may be considered as holding its right of self-government under the guarantee and protection of one or more allies.
>
> The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties and with the acts of congress. The whole intercourse between the United States and this nation is by our constitution and laws vested in the government of the United States. The act of the state of Georgia under which the plaintiff in error was prosecuted is void, and the judgment is reversed. (P. 561.)

[illegible] the doctrine of Indian self-government [illegible] has been consistently followed by the [illegible] hundred years. The doctrine set forth [illegible] has been applied in an unbroken series of [illegible] that have come before the Supreme Court and the inferior federal courts. The doctrine has not [illegible] been accepted in state courts and be admin[illegible] [illegible] of the dicta in *Worcester v. [illegible]* and *Dickson v. [illegible]* to be only [illegible] Mr. [illegible] "[illegible]." As a matter of practice, the [illegible] successful defendant in the [illegible] in spite of the Supreme Court's decision, and the [illegible], although a guest of the Cherokee Nation, [illegible] in a Georgia prison, under a Georgia law [illegible] Court decision, was upon [illegible].

During [illegible] in which the doctrine of Indian self-government was [illegible] the Indians, Congress [illegible] to grant the [illegible] of Indian [illegible] Finally, after 100 years, th[illegible]ed an administration that accepted the logical implications [illegible] Indian self-government.[1]

The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles: (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Conquest renders the tribe subject to the legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe, i. e., its power to enter into treaties with foreign nations, but does not by itself affect the internal sovereignty of the tribe, i. e., its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress, but, save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government.

A striking affirmation of these principles is found in the case of *Talton v. Mayes*.[2] The question was presented in that case whether the Fifth Amendment of the Federal Constitution operated as a limitation upon the legislation of the Cherokee Nation. A law of the Cherokee Nation authorized a grand jury of five persons to institute criminal proceedings. A person indicted upon this procedure and held for trial in the Cherokee courts sued out a writ of habeas corpus, alleging that the law in question violated the Fifth Amendment to the Constitution of the United States, since a grand jury of five was not a grand jury within the contemplation of the Fifth Amendment. The Supreme Court held that the Fifth Amendment applied only to the acts of the Federal Government; that the sovereign powers of the Cherokee Nation, although *recognized* by the Federal Government, were not *granted* by the Federal Government; and that the judicial authority of the Cherokees was, therefore, not subject to the limitations imposed by the Bill of Rights:

> The question, therefore, is, does the Fifth Amendment to the Constitution apply to the local legislation of the Cherokee nation so as to require all prosecutions for offenses committed against the laws of that nation to be initiated by a grand jury organized in accordance with the provisions of that amendment. The solution of this question involves an inquiry as to the nature and origin of the power of local government exercised by the Cherokee nation and recognized to exist in it by the treaties and statutes above referred to. Since the case of *Barron v. Baltimore*, 7 Pet. 243, it has been settled that the Fifth Amendment to the Constitution of the United States is a limitation only upon the powers of the General Government, that is, that the amendment operates solely on the Government itself by qualifying the powers of the National Government which the Constitution called into being. * *
>
> The case in this regard therefore depends upon whether the powers of local government exercised by the Cherokee

[1] The most complete change present Indian legislation since the Act of June 30, 1834, 4 Stat. 735, is the Act of June 18, 1934, 48 Stat. 984, [illegible] 476, entitled "An Act to conserve and develop Indian lands and resources, to extend to Indians the right to form business and other organizations, to establish a credit system for Indians, to grant certain rights of home rule to Indians, to provide for vocational education for Indians, and for other purposes," and commonly known as the Wheeler-Howard Act or Indian Reorganization Act. Since its enactment, this act has been amended in minor particulars. Act of June [illegible], 48 Stat. 1278, 1285; Act of August 12, [illegible] Stat. 476; Act of August 28, 1937, [illegible] and its more important provisions [illegible] Stat. 1250, 18 [illegible] Act of June 20, 1938, [illegible] Stat. 1067, [illegible].

[2] [illegible] the power to make [illegible] with the United States have been [illegible] See Chapter 11, sec. 2.

[illegible] 63 Fed. 487 at 4 A. S. [illegible]

[illegible] 163 U. S.

nations are Federal powers created by and springing from the Constitution of the United States, and hence controlled by the Fifth Amendment to that Constitution, or whether they are local powers not created by the Constitution, although subject to its general provisions and the paramount authority of Congress. [illegible] question is [illegible] * * *

* * * *

True it is that in many adjudications of this court the fact has been fully recognized that [illegible] of those attributes of local self-government which exist [illegible] their tribal functions, all such rights are subject to the supreme legislative authority of the United States. Cherokee Nation v. Kansas Railway Co., 135 U.S. 641. [illegible] the cases are fully reviewed. But the existence of the right in Congress to regulate the manner in which the local powers of the Cherokee nation shall be exercised does not render such local powers Federal powers arising from and created by the Constitution of the United States. It follows that as the powers of local self government enjoyed by the Cherokee nation existed prior to the Constitution, they are not operated upon by the Fifth Amendment, which, as we have said, had for its sole object to control the powers conferred by the Constitution on the National Government. * * * (Pp. 382-384.)

The decision in *Talton v. Mayes* does not mean that Indian tribes are not subject to the Constitution of the United States. It remains true that an Indian tribe is subject to the Federal Constitution in the same sense that the city of New Orleans, for instance, is subject to the Federal Constitution. The Federal Constitution prohibits slavery absolutely. This absolute prohibition applies to an Indian tribe as well as to a municipal government and it has been held that slave holding within an Indian tribe became illegal with the passage of the Thirteenth Amendment.[a] It is, therefore, always pertinent to ask whether an ordinance of a tribe conflicts with the Constitution of the United States.[b] Where, however, the United States Constitution levies particular restraints upon federal courts or upon Congress, these restraints do not apply to the courts or legislatures of the Indian tribes. Likewise, [illegible] upon the states are inapplicable to Indian tribes.

It has been held that the guaranty of religious liberty in the First Amendment of the United States Constitution does not protect a resident of New Orleans from religious oppression by municipal authorities.[c] Neither does it protect the Indian against religious oppression on the part of tribal authorities. As the citizen of New Orleans must write guaranties of religious liberty into his city charter or his state constitution, if he desires constitutional protection in this respect, so the members of an Indian tribe must write the guaranties they desire into tribal constitutions. In fact, many tribes have written such guaranties into tribal constitutions that are now in force.[d]

In re Sah Quah, 31 Fed. 327 [illegible]

[illegible] Barnes, 158 U.S. 238 [illegible]

In United States v. Seneca Nation of [illegible] N.Y. [illegible]

[illegible]

[illegible] the First Amendment [illegible]

[illegible]

### ARTICLE VIII [illegible]

SECTION 1. [illegible] twenty-one (21) years of age or over [illegible]

An extreme application of the doctrine [illegible] found in the case of [illegible] in which it was held that the murder of [illegible] within the [illegible]

[illegible]

[illegible]

* * * The Congress [illegible] shall be protected in his rights of property, person and life. (P. 360.)

Commenting upon this clause, the Supreme Court declared:

It is equally clear [illegible]

[illegible]

> of the laws, but as a dep[illegible] community who were in a state of pupilage, adva[illegible] the condition of a savage tribe to that of a people [illegible] through the discipline of labor and by education, it was hoped might become a self supporting and self governed society. * * * (Pp. 365-366.)

In finally rejecting the argument for federal jurisdiction the Supreme Court declared:

> * * It is a case where, against an express exception in the law itself, that law, by argument and inference only, is sought to be extended over aliens and strangers; over the members of a community separated by race, by tradition, by the instincts of a free though savage life, from the authority and power which seeks to impose upon them the restraints of an external and unknown code, and to subject them to the responsibilities of civil conduct, according to rules and penalties of which they could have no previous warning; which judges them by a standard made by others and not for them, which takes no account of the conditions which should except them from its exactions, and makes no allowance for their inability to understand it. * * * (P. 371.)

The force of the decision in *Ex parte Crow Dog* was not weakened, although the scope of the decision was limited, by subsequent legislation which withdrew from the rule of tribal sovereignty a list of 7 major crimes, only recently extended to 10; over these specified crimes jurisdiction has been vested in the federal courts. Over all other crimes, including such serious crimes as kidnaping, attempted murder, receiving stolen goods, and forgery, jurisdiction resides not in the courts of nation or state but only in the Indian tribe itself.

We shall defer the question of the exact scope of tribal jurisdiction [illegible] detailed consideration at a later point. We are [illegible] the present task to analyzing the legal doctrine [illegible] In this discussion the case of *Ex parte* [illegible] has [illegible] an intimation of the vast and [illegible] of tribal jurisdiction inherent in tribal [illegible] of the complicated matter in [illegible] Supreme Court has opposed the efforts [illegible] courts and administrative officials to infringe upon tribal [illegible] and to assume tribal prerogatives without [illegible] The legal powers of an Indian tribe, [illegible] to the decisions of the highest courts, are far more [illegible] than the powers which most Indian tribes have been [illegible] to exercise in their own [illegible]

[illegible] sovereignty or autonomy by the [illegible] United States has not been a matter of its service [illegible]

[illegible]

[illegible] the government to the present time, [illegible] United States have been treated [illegible] in all matters pertaining [illegible] and the manner of [illegible] and the punishment for [illegible] laws of the white [illegible] either however [illegible] the protection of the whole [illegible]

[illegible]

[illegible] Commentaries on the Constitution [illegible] 3 id., Commentaries on American [illegible]

> to a venerable [illegible] extended theory. The doctrine has been followed through [illegible] recent cases, and from time to time carried to new implications. Moreover, it has been administered by the courts in a spirit of wholehearted sympathy and respect. The painstaking analysis by the Supreme Court of tribal laws and constitutional provisions in the *Cherokee Intermarriage Cases*,[illegible] is typical, and exhibits a degree of respect proper to the laws of a sovereign state.[illegible]

The sympathy of the courts towards the independent efforts of Indian tribes to administer the institutions of self government has led to the doctrine that Indian laws and statutes are to be interpreted not in accordance with the technical rules of the common law, but in the light of the traditions and circumstances of the Indian people. An attempt in the case of *Ex parte Tiger*[illegible] to construe the language of the Creek Constitution in a technical sense was met by the appropriate judicial retort:

> * * * If the Creek Nation derived its system of jurisprudence through the common law, there would be much plausibility in this reasoning. But they are strangers to the common law. They derive their jurisprudence from an entirely different source, and they are as unfamiliar with common-law terms and definitions as they are with Sanskrit or Hebrew. With them, "to indict" is to file a written accusation charging a person with crime. * * *

So, too, in the case of *McCurtain v. Grady*,[illegible] the court had occasion to note that:

> * * * The Choctaw constitution was not drawn by geologists or for geologists, or in the interest of science, or with scientific accuracy. It was framed by plain people, who have agreed among themselves what meaning should be attached to it, and the courts should give effect to that interpretation which its framers intended it should have. * * *

The realm of tribal autonomy which has been so carefully respected by the courts has been implicitly confirmed by Congress in a host of statutes providing that various administrative acts of the President or the Interior Department shall be carried out only with the consent of the Indian tribe or its chiefs or council.[illegible]

The whole course of congressional legislation with respect to the Indians has been based upon a recognition of tribal autonomy, qualified only where the need for other types of governmental control has become clearly manifest. As was said in a report of the Senate Judiciary Committee in 1870:

> That right of self government, and to administer justice among themselves, after their tribal fashion, even to the extent of inflicting the death penalty, has never been questioned.[illegible]

It is a fact that state governments and administrative officials have frequently trespassed upon the realm of tribal autonomy, presuming to govern the Indian tribes through state law or departmental regulation or arbitrary administrative fiat,[illegible] but these trespasses have not impaired the vested legal powers of local self government which have been recognized again and again when these trespasses have been challenged by an Indian tribe. Powers and authority rightfully conferred do not per-

---

[illegible] United States, 151 [illegible]

[illegible]

[illegible] United States, [illegible] 415 [illegible] C. S. D. [illegible]

[illegible]

[illegible] 172 179 182 184 218 225 [illegible] These provisions are discussed later under [illegible]

[illegible] p. 10

[illegible] "The Indian, The the Indian" (1917) 23 [illegible] 722

[illegible] cease to exist in consequence of [illegible] Wheeler-Howard Act,[illegible] by affording [illegible] recognition of these powers of local self government and [illegible] assistance in developing adequate [illegible] may reasonably be expected to end the [illegible] the past led the Interior Department [illegible] to deal with matters that are properly within the [illegible] petence of the Indian tribes themselves.[illegible]

[illegible] citizenship has destroyed the tribal [illegible] local autonomy rests. [illegible] however [illegible] going paragraphs may apply [illegible] never exercised powers of self-government [illegible] to which no affirmative [illegible]

[illegible]

# SECTION 3. THE FORM OF TRIBAL GOVERNMENT

Since any group of men, in order to act as a group, must act through forms which give the action the character and authority of group action, an Indian tribe must, if it has any power at all, have the power to prescribe the forms through which its will may be registered. The first element of sovereignty, and the last which may survive successive statutory limitations of Indian tribal power, is the power of the tribe to determine and define its own form of government. Such power includes the right to define the powers and duties of its officials, the manner of their appointment or election, the manner of their removal, the rules they are to observe in their capacity as officials, and the forms and procedures which are to attest the authoritative character of acts done in the name of the tribe.[illegible]

Such power also includes the power to interpret its own laws and ordinances, which interpretations will be followed by the Federal courts.[illegible]

The question of whether action taken in the name of an Indian tribe is in truth tribal action has been before the Federal courts [illegible] on many occasions [illegible] the definition of the form of tribal government is a matter for the [illegible] of the Indians themselves.

Such a decision, for example, is found in the case of *Pueblo of Santa Rosa v. Fall*.[illegible] Certain attorneys claimed to represent an Indian [illegible] which the Federal Government considered [illegible] The Indians themselves, apparently, denied the authority of the attorneys in question to put forward such a claim, but the attorneys justified their action on the basis of an alleged contract with the "captain" of the Pueblo. When the case came before the Supreme Court, that body found that according to the customs of the Pueblo the "captain" would have no authority to act for the Pueblo in a matter of this sort [illegible] without the approval of [illegible] On the state of facts the court found:

[illegible]

The Supreme Court [illegible]

[illegible]

"B"

Internal Revenue Service

Department of the Treasury

275 Peachtree St., NE, Atlanta, GA. 30043

District
Director

Seminole Tribe of Florida
Seminole Tribe of Florida, Inc.
6073 Sterling Road
Hollywood, Florida 33024

Person to Contact:
G. Hawk
Telephone Number:
(305) 653-3810
Refer Reply to:
7108
Date:

JUN 3 1981

Gentlemen:

As a result of our Request for Technical Advice in connection with our examination of your Form 990 for the year ended June 30, 1977, the National Office of Internal Revenue Service has concluded that,

(1) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is statutorily exempt from Federal income tax,

(2) neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is subject to the tax on unrelated business income imposed by sections 511 through 515 of the Internal Revenue Code, and

(3) the Seminole Tribe of Florida, Inc. shares immunity from Federal income tax with the Seminole Tribe of Florida.

Therefore, neither the Seminole Tribe of Florida nor the Seminole Tribe of Florida, Inc. is required to file federal income tax returns nor federal information returns relating to exempt organizations.

Attached are copies of Internal Revenue Service National Office Technical Advice Memoranda for your information.

Thank you for your cooperation in this matter.

Sincerely yours,

Michael J. Murphy

District Director

cc: Robert E. Falb

Legend

Corporation = Seminole Tribe of Florida, Inc.
Tribe = Seminole Tribe of Florida

INTERNAL REVENUE SERVICE

NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

District Director
Jacksonville District

OCT 30 1980

| | |
|---|---|
| Taxpayer's Name: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayer's Address: | 6073 Stirling Road<br>Hollywood, FL 33024 |
| Taxpayer's Identification No.: | 59-0840255 |
| Years Involved: | 1977 to present |
| Date of Conference: | August 12, 1980 |

ISSUE:

Whether, for federal income tax purposes, the Corporation, a federally chartered tribal corporation, is an entity separate and distinct from the Tribe, a recognized Indian tribe and, if it is, whether it is subject to federal income tax.

FACTS:

The Tribe was formally organized under a Constitution and Bylaws on July 11, 1957, pursuant to section 16 of the Indian Reorganization Act (IRA). On that same date, the tribal members also ratified a corporate charter pursuant to section 17 of that Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation on August 21, 1957.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing Council elections, organized rules for the Council and rules governing membership in the Tribe. The Constitution enumerates the power of the Council and gives the Council various governmental powers. These powers include the right to levy taxes, pass ordinances, maintain a police force, etc.

District Director
Jacksonville District

The Tribe's Charter organized a federal membership corporation consisting of the present and future members of the Tribe. The purpose of the Corporation is to further the economic development of the Tribe. Pursuant to the Charter, each enrolled member of the Tribe is issued a nontransferable certificate of ownership evidencing his or her equal share in the Corporation's assets. Profits from the Corporation's business activities may be distributed per capita among tribal members.

Under the Charter, the management of the Corporation is vested in a Board of Directors composed of four elected members and the chairman of the Council, who shall serve as vice president.

The Tribe's Charter provides that in addition to its powers under its Constitution and Bylaws, the Tribe shall have a limited power of suit in courts of competent jurisdiction within the United States. Although the tribal corporation is granted a limited power of suit, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned.

APPLICABLE LAW:

Section 61 of the Internal Revenue Code provides that gross income means all income from whatever source derived, unless otherwise excluded by law.

Rev. Rul. 67-284, 1967-2 C.B. 55, states that Indian tribes are not taxable entities because the income tax statutes do not tax Indian tribes.

In Mescalero Apache Tribe v. Jones, 411 U.S. 145, 157 n. 13 (1973), the Supreme Court indicated that the form of tribal organization is not determinative of tax consequences. The Court stated that "it is unclear from the record whether the tribe has actually incorporated itself as an Indian chartered corporation pursuant to [section 17 of the IRA] ... . In any event, the question of tax immunity cannot be made to turn on the particular form in which the tribe chooses to conduct its business."

RATIONALE:

No constitutional or statutory provision exempts Indian tribes from federal income taxation. However, the Service has stated that Indian tribes are not taxable entities and that income tax statutes do not tax Indian tribes. See Rev. Rul. 67-284.

The Corporation was created under a special federal statute authorizing its formation and regulating its operations. The language of the corporate

District Director
Jacksonville District

charter of the Tribe demonstrates that the Corporation is not a separate entity but is an integral part of the Tribe. Article IV of the corporate charter provides that the membership of the Corporation consists of the present and future members of the Tribe. Article V of the corporate charter provides that the membership of the governing body of the Tribe and the Corporation are interlocking consisting of all enrolled members of the Tribe. The corporate powers are specifically granted to the Tribe in addition to the governmental powers possessed by the Tribe. Although the tribal corporation is granted the power to sue and be sued, the property of the Tribe is not subject to the levy of any judgment unless tribal property is specifically pledged or assigned. On this basis, we conclude that for federal income tax purposes, the tribal corporation should not be considered as a taxable entity separate and distinct from the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

CONCLUSIONS:

1. The Corporation, organized under section 17 of the Indian Reorganization Act, is operated as an administrative unit or component part of the Tribe which organized such Corporation and, consequently, shares the Tribe's immunity from federal income tax.

2. The conclusion reached herein applies to the Tribe. The income tax statutes, in imposing the tax on every individual, are broad enough to include individual Indians.

-END-

INTERNAL REVENUE SERVICE

National Office Technical Advice Memorandum

District Director
Jacksonville, Florida

| | |
|---|---|
| Taxpayers' Names: | Seminole Tribe of Florida<br>Seminole Tribe of Florida, Inc. |
| Taxpayers' Address: | 6073 Stirling Road<br>Hollywood, Florida 33024 |
| Taxpayers' Identification No.: | 59-0840255 |
| Years Involved: | 1979 to present |
| Date of Conference: | May 14, 1980 |

Issues:

1. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

2. Whether the Seminole Tribe of Florida and the Seminole Tribe of Florida, Inc., are subject to the unrelated business income tax imposed by section 511 of the Code.

Facts:

In 1945 the Seminole Tribe of Florida (the Tribe) was recognized as exempt under section 501(c)(4). On July 11, 1957, both the Tribe and the Seminole Tribe of Florida, Inc., (the Corporation) were organized pursuant to the Indian Reorganization Act. Pursuant to that Act, the Assistant Secretary of the Interior approved the Tribe's Constitution and Bylaws and approved the Corporation's Charter of Incorporation.

The Tribe's Constitution organized a Seminole Tribal Council and provided for rules governing council elections, organizational rules for the Council and rules governing membership in the Tribe.

The Council has established various educational and employment programs, health programs and insurance, mental health assistance and drug and alcohol abuse services, food programs, housing and law enforcement. The Council has adopted ordinances, maintained a police force and public utilities and has effected social service programs including health, education and welfare.

The Corporation's Charter organizes a Board of Directors. Its purposes are to further the economic development of the Tribe. The Corporation has the power to engage in any business that will further the economic well being of the shareholders and to purchase, manage, operate and dispose of property within certain enumerated powers.

District Director
Jacksonville, Florida

Law:

Section 501(c)(3) of the Code provides for exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for 501(c)(3) purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3).

Rev. Rul. 60-384, 1960-2 C.B. 172, holds that a wholly-owned state or municipal instrumentality that is a separate entity and a counterpart of an organization described in section 501(c)(3) of the Code may qualify for exemption under that section. However, it would not be a clear counterpart of a section 501(c)(3) organization if it is clothed with powers beyond those of an organization described in section 501(c)(3). Examples of such powers are enforcement or regulatory powers exercised in the public interest, such as health, welfare, or safety.

Rev. Rul. 74-14, 1974-1 C.B. 125 describes a public housing authority that is a separate entity, whose investigatory powers are exercised for the purpose, among others, of collecting information and making it available to appropriate agencies for use in furthering and enforcing local ordinances regarding planning, building, and zoning matters. The ruling held that such powers are regulatory or enforcement powers of the kind referred to in Rev. Rul. 60-384, and therefore, this organization would not be a clear counterpart of an organization described in section 501(c)(3) of the Code.

Section 501(c)(4) of the Code provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

A social welfare organization is defined in section 1.501(c)(4)-1 of the regulations as one primarily engaged in promoting the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

District Director
Jacksonville, Florida

Section 511 of the Code imposes a tax on the unrelated business income of organizations which are exempt from tax by reason of section 501(a).

Rationale:

The Tribe has various governmental powers such as the power to levy taxes, pass ordinances, maintain a police force, etc. These powers are similar to the "enforcement or regulatory powers" described in Rev. Ruls. 60-384 and 74-14, and therefore, the organization's purposes and activities are outside the scope of sections 501(c)(3) and 501(c)(4).

The Corporation is not exempt under sections 501(c)(3) or 501(c)(4) because it is organized essentially for a business purpose and is a stock corporation that pays out dividends to members. Its net earnings inure to the private benefit of its shareholders.

The unrelated business income tax imposed by section 511 of the Code does not apply to the Tribe or the Corporation since neither organization is described in section 501(a) of the Code.

Conclusion:

1. Neither the Tribe nor the Corporation is exempt from federal income tax under sections 501(c)(3) or 501(c)(4) of the Code.

2. Neither the Tribe nor the Corporation is subject to the unrelated business income tax imposed by section 511 of the Code.

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

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| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida | ) | |
| James E. Billie | ) | MUR 1557 |
| Marcellus Osceola | ) | |
| Howard E. Tommie | ) | |
| Stephen Whilden | ) | |

## GENERAL COUNSEL'S REPORT

### I. BACKGROUND

On July 8, 1983, the Commission received from Mr. Paul Harvill of Tampa, Florida, a complaint alleging that certain individuals either connected with or members of the Seminole Tribe of Florida had made contributions to federal candidates and committees, using tribal monies, in the names of other individuals or had permitted their own names to be used to make such contributions in violation of 2 U.S.C. § 441f. The complainant also asserted that certain individuals had exceeded their contribution limitations in violation of 2 U.S.C. § 441a(a)(3). The complaint is based upon a series of articles which appeared in the Miami Herald on May 29-31, 1983, discussing the economic rise and political activities of the Seminole Tribe as a result of the establishment of tax-free smoke shops and bingo halls on Seminole land.

According to assertions contained in the May 30 article, a special tribal account was established in the late 1970's by former tribal chairman Howard E. Tommie which consisted of a nickel levy on each carton of cigarettes sold on the reservation.

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Although the alleged original purpose of the "nickel fund" was to pay for litigation pertaining to the tribe's smoke shops, respondent Tommie is cited in the May 30 article as asserting that it was used to reimburse members of the tribe who contributed to political campaigns. The three responses received as a result of notifications of the complaint contain no denials of the alleged reimbursements.

## II. LEGAL AND FACTUAL ANALYSIS

### A. Propriety of the Complaint

Counsel for James Billie and Marcellus Osceola has raised as a threshold defense the nature and content of the complaint upon which this matter is based. (See Attachments 1 and 2.) In his response on behalf of respondent Osceola, counsel argues that the complaint is "nothing more than a newspaper article. It is common knowledge that newspapers oftentimes use quotes out of context and may not be sources of accurate information." (Attachment 2, page 1.)

On November 15, 1979, the Commission approved the recommendation of the General Counsel to continue to accept complaints based on newspaper articles pursuant to Agenda Document #79-299. As noted in this document, the legislative history of 2 U.S.C. § 437g(a)(1), in particular the debates in the House of Representatives, indicate that the requirements of signed, sworn and notarized complaints stemmed from a desire to deter false accusations by requiring that complainants identify themselves and their sources and that they face prosecution for

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false statements. (See, e.g., remarks of Representative Rostenkowski, 122 Cong. Rec. H2542 (daily ed., Mar. 30, 1976).) "These concerns are met without further requirements for external complaints based on newspaper articles." Agenda Document #79-299, page 3. The issue of possible inaccuracies is met by the requirement that news articles used as the base for complaints be substantive in their statements of fact.

In summary, Agency Document #79-299 recommended that complaints based on newspaper articles be accepted

> ...so long as a complaint...satisfied 2 U.S.C. § 437g(a)(1), by including a sworn statement that the complainant believes the facts to be true as alleged, and satisfies 11 C.F.R. § 111.2 [now § 111.4], in that the news article on which the complaint is based must be substantive in its facts....

Counsel in the present matter argues that the complaint contains "no factual allegations that could be sworn to and this [sic] the affirmation at the bottom right hand corner of the complaint is meaningless." (Attachment 1, page 1.) The complainant has enclosed newspaper articles which, he states, contain "allegations dealing with the Federal Election Campaign Laws: 2 U.S.C. § 441f," and has asked for an investigation. The complaint letter does not contain explicit language regarding the complainant's own belief in the truth of the allegations contained in the articles; however, the fact that the complaint has been subscribed and sworn to indicates implicitly the complainant's belief in the validity of the allegations in the newspaper articles. Clearly, the allegations are substantive

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in content. Particular persons are named, and particular acts and violations of the Act are alleged to have taken place. Therefore, the present complaint meets the Commission's criteria for a complaint based upon newspaper articles.

Counsel also argues, particularly in his response on behalf of respondent Billie, that the complaint is deficient (1) because it does not differentiate between statements based upon personal knowledge and statements based upon information and belief and (2) because it does not contain a clear and concise recitation of the facts which describe a violation. (Attachment 1, page 1.) Counsel bases these arguments upon the language of 11 C.F.R. 111.4(c) and (d)(3) which state that "[t]he complaint should differentiate" between the types of statements cited by counsel and that "[t]he complaint should conform" to the provision that "[i]t should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction."

The Explanation and Justification which accompanied Section 111.4 differen d between the statutory requirements of the complainant's full name and address and of a sworn, signed and notarized statement with which a complaint <u>must</u> comply in order to be considered proper and actionable (11 C.F.R. 114.4(b)), and additional requirements which <u>should</u> be met (11 C.F.R. 111.4(d)). (Emphasis added.) In the absence of the latter types of information, i.e., a clear statement of facts,

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the Commission "may" find that the complaint is insufficient and vote to take no action. Put another way, subsection (d) is not an absolute requirement, but, rather, provides the Commission with a basis for refusing to investigate a complaint in the absence of sufficient information provided in another form. Although subsection (c) is not addressed in the Explanation and Justification, the employment of the word "should" rather than "must" in its language would place it in the same, non-obligatory category as subsection (d).

In the present matter, the newspaper articles supplied by the complainant provide sufficient information upon which the Commission can base a decision as to whether to proceed. The failure of the complainant to restate in detail the same information in his own letter and to differentiate explicitly between personal knowledge and information and belief are not fatal to the complaint. It is proper as it stands because the letter and the attached articles, read together, provide sufficient information for the Commission to address the complaint fully.

B. Jurisdiction

1. Indian Tribes

The second line of defense raised by counsel for respondents Billie and Osceola, as well as by respondent Whilden, is the lack of express inclusion of Indian tribes in the Federal Election Campaign Act, particularly in the definition of "person" found at 2 U.S.C. § 431(11). Counsel argues that one of the

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"basic principles" of Indian law is that "Indian sovereignty cannot be limited by Acts of Congress which appear to do so; limitations must be explicit and doubts will be resolved in favor of the Indians." (Attachment 1, page 2. See also Attachment 3.)

2 U.S.C. § 431(11) defines "person" as including "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons...." The only exceptions listed are "the Federal Government or any authority of the Federal Government." Counsel argues that both the Seminole Tribe and tribal officials would be exempt from coverage because "an Indian tribe is not included within [this] definition and the term explicitly provides that it does not include the Federal Government or any authority of the Federal Government." (See Attachment 1, page 3.)

The special status of Indians and of Indian tribes has been emphasized repeatedly by the courts beginning with Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831). "The present right of tribes to govern their members and territories flows from a preexisting sovereignty limited, but not abolished, by their inclusion within the territorial bounds of the United States.... Once considered a political body of the United States, a tribe retains its sovereignty until Congress acts to divest that sovereignty." F. Cohen, Handbook of Federal Indian Law (1982 ed.), page 231. "Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication

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as a necessary result of their dependent status." Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978).

By virtue of this sovereignty, "[a]s a general proposition, Indian tribes are immune from suit in state or federal court." U.S. v. State of Oregon, 657 F.2d 1009, 1012, (9th Cir. 1981) citing Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978); California ex rel. Cal. Department of Fish and Game v. Quechan Tribe of Indians, 595 F.2d 1153 (9th Cir. 1979); Puyallup Tribe v. Washington Game Department, 433 U.S. 165 (1977). "The immunity is not, however, absolute. Like other sovereign powers possessed by Indian tribes, it exists only at the sufferance of Congress and is subject to complete defeasance." U.S. v. State of Oregon, 657 F.2d at 1013, citing U.S. v. Wheeler, 435 U.S. 313, 323 (1978) and Montana v. U.S., 450 U.S. 544 (1981). See also Martinez, 436 U.S. at 58; Hamilton v. Nakai, 453 F.2d 152 (9th Cir. 1972), cert. denied, 406 U.S. 945 (1972).

In recent years, the Supreme Court has addressed the limitations on the inherent sovereignty of Indian tribes. In U.S. v. Wheeler, 435 U.S. at 326, a case involving the respective criminal jurisdictions of federal and tribal courts, the Court stated,

> The areas in which . . . implicit divestiture of sovereignty has been held to have occured are those involving the relation between an Indian tribe and nonmembers of the tribe.
>
> . . .

> These limitations rest on the fact that the dependent status of Indian tribes within our territorial jurisdiction is necessarily inconsistent with their freedom independently to determine their external relations. (Emphasis added.)

More recently, in Montana v. U.S., 450 U.S. at 564, the Court found that as regards the hunting and fishing rights of non-members of a tribe on tribal land,

> [E]xercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of the tribes, and so cannot survive without express congressional delegation.

The application of general federal law to Indian tribes has posed special problems for courts. The Supreme Court has generally required clear expressions of intent to "invade tribal independence" when the sovereignty of a tribe over its own peoples and land has been at question. See e.g., McClanahan v. Arizona State Tax Commission, 411 U.S. 164 (1973). However, general federal statutes have not been required to explicitly cite Indians or tribes as being covered. Rather, such intent can be found "in the legislative history, surrounding circumstances, or necessity of national coverage in order to fulfill congressional purposes." Handbook, op. cit., at 283.[1/] For

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1/ The case most cited as, by dictum, extending all general Federal law to Indians is Federal Power Commission v. Tuscarora Indian Nation, 362 U.S. 99 (1960). However, this case involved interpretation of the Federal Power Act which specifically dealt with Indian lands. Later cases have narrowed the Tuscarora language to cases where no specific Indian rights are in question. Handbook, op. cit., at 285.

example, in Colorado River Water Cons. Dist. v. U.S., 424 U.S. 800, 810-811 (1976), the Court found that the McCarran Water Rights Suit Act of 1952 had given state courts concurrent jurisdiction over claims for Indian water rights, a finding based not only upon the language of the Act itself but also upon its underlying policy, "all-inclusive" nature, and the fact that the exclusion of Indian water rights "would enervate the Amendment's objective." In Davis v. Morton, 469 F.2d 593, 597-598 (10th Cir. 1972), the court found that the National Environmental Policy Act ("NEPA") covered the granting of leases on Indian land in that these grants constituted a type of major federal action cited in the NEPA. The Act itself did not specify such coverage of Indian land; however, the court found that it was "intended to include all federal agencies, including the Bureau of Indian Affairs."

Even more recently, in U.S. v. Faris, 624 F.2d 890 (9th Cir. 1980), cert. denied, 449 U.S. 1111 (1981), the court found that the portion of the Organized Crime Control Act of 1970 involving syndicated gambling, 18 U.S.C. § 1955, applied to Indian defendants indicted for operating gambling casinos on a reservation. According to this court, "federal laws generally applicable throughout the United States apply with equal force to Indians on reservations." 624 F.2d at 893. Although this case involved individual defendants rather than the tribe, the language of the decision appears to encompass both. The court cites three exceptions to the applicability of general federal

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law to Indians, namely (1) "self-governance in purely intramural matters," such as tribal membership, inheritance, and domestic relations, unless explicitly removed by Congress, (2) specific treaty rights, and (3) indication in the legislative history that Congress did not intend to include Indians or reservations. Id. As regards the statute before it, the court found that professional gambling was not "profoundly intramural nor essential to self-government." Id. Professional gambling was not covered by a treaty, nor did the legislative history of 18 U.S.C. § 1955 indicate that Congress intended not to include Indians in its coverage. The Faris court quoted the court in U.S. v. State of Montana, 604 F.2d 1162, 1169 (9th Cir. 1979), reversed in part, Montana v. U.S., 450 U.S. 544, as follows:2/

> We must recognize that in this case, as in others in which we are required to fix the rights and powers of Indians in the latter part of the twentieth century in the light of treaties of an earlier century, our task is to keep faith with the Indians while effectively acknowledging that Indians and non-Indians alike are members of one nation. Both seek power and gain through identical processes, viz. commerce, politics and litigation. We must, however, live together, a process not enhanced by unbending insistence on supposed legal rights which if found to exist may well yield tainted gains helpful to neither Indians nor non-Indians.

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2/ The language from U.S. v. State of Montana quoted herein was not a part reversed by the Supreme Court. In fact, the Supreme Court went even further than the circuit court in denying jurisdiction to the tribe involved over the hunting and fishing rights of non-members.

The court in Faris found "that Congress did not intend that Indians could freely engage in the large-scale gambling business that it forbade to all other citizens." at 894.

Even more recently, in a case involving the tax liability of an Indian tribe, the court stated that "[s]ilence alone does not create in favor of the Tribe an implied immunity from federal excise taxes." Rather, "express exemptive language" is required in a statute or a treaty. Confed. Tribes of Warm Springs Reservation v. Egger, 691 F.2d 878, 882 (9th Cir. 1982), cert. denied, No. 82-1268, March 22, 1983, ____ U.S. ____, 51 USLW 3692. The court in Confed. Tribes recognized th[illegible]neral principle of Indian law that "courts should construe tre[illegible]es and statutes dealing with Indians liberally," but noted that it is "quite another [thing] to say that, based on those same policy considerations which prompted the canon of liberal construction, the courts themselves are free to create favorable rules." 691 F.2d at 883, quoting Fry v. U.S., 557 F.2d 646, 649 (9th Cir. 1977), cert. denied, 434 U.S. 1011 (1978). "Courts are not free to create ambiguities in order to serve the interests of Indians." Confed. Tribes, 691 F.2d at 881.

In the present matter there appears to be no specific Indian right which would be breached by application of the FECA to the Seminole Tribe of Florida. The Treaty with the Seminoles, 14 Stat. 744, dated March 21, 1866, contains no provision which remotely addresses the issue of campaign contributions to federal

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candidates. Nor do these contributions involve internal tribal self-government, rather they concern the relationship of the tribe with the larger society. While the FECA does not explicitly include Indians in its definition of "person," the cases cited above show that it is not a "basic principle" that they are therefore excluded, as so unequivocally stated by respondents. Certainly the legislative history of the FECA and its amendments contains no evidence of an interest on the part of Congress to exclude Indians and Indian tribes from its coverage. Indeed, applying the language of the court in Faris to the facts in the present matter, there is no indication that Congress intended to permit Indian tribes to engage in the making of campaign contributions to federal candidates in the name of another when such a practice is forbidden to all others. Rather, Congress applied this prohibition to every "person," including certain enumerated types of organizations "and any other organization or group of persons." The only exceptions cited are "the Federal Government and any authority of the Federal Government."3/ Congress intended the Act to be all-encompassing in scope.

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3/ Congress, in the 1979 Amendments to the FECA, added the language to the definition of "person" at Section 431(11) explicitly excluding the "Federal government and any authority of the Federal Government." The only discussion in the legislative history of this particular amendment simply reiterates the exclusion of the Federal Government with no further explanation. House Report No. 96-422, 96th Cong., 1st Sess. 11 (1979); there
(footnote continued)

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Respondents have also urged the Commission to employ as precedent a ruling by the Internal Revenue Service exempting the Seminole Tribe of Florida from income taxes. This income tax exemption, however, rests solely upon Rev. Rul. 67-284, 1967-2C.B. 55, 58, which constitutes an administrative determination which does not have the force of law. Washington State Dairy Products Commission v. U.S., 685 F.2d 298, 300 (9th Cir. 1982), cited in Confed. Tribes, 691 F.2d at 881, n.2.

This Office is of the opinion that the Commission has jurisdiction over the Seminole Indian Tribe of Florida pursuant to the FECA.

2. Officials and Individual Members of Indian Tribes

Tribal authorities, when acting within their official capacities and within the scope of their authority generally are covered by tribal sovereign immunity. U.S. v. State of Oregon, 657 F.2d 1009, 1013, n.8 (9th Cir. 1981). See also Bottomly v. Passamaquoddy Tribe, et al., 599 F.2d 1061, 1067 (1st Cir. 1979);

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3/ (footnote continued)

is no indication that Congress intended this exemption to extend to other levels of government.

Prior to the enactment of this amendment, the Commission, in MUR 246 (76), the Commission had found no reason to believe that the Committee for Jimmy Carter had violated the Act by failing to report as contributions the costs incurred by the State of Georgia in printing a book used by the Committee. Later, in MUR 1297, the Commission found no reason to believe that representatives of a county government had violated 2 U.S.C. § 441a(a)(1)(A) in a situation involving alleged use of county personnel, supplies and equipment.

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David v. Littell, 398 F.2d 83 (9th Cir. 1968), cert. denied, 393 U.S. 1018 (1969). Given, however, the above determination that the Commission would not be barred by sovereign immunity from enforcing the FECA against the Seminole Tribe of Florida, there likewise would appear to be no bar against such enforcement with regard to the chairman of the tribe, or against other present or former officials.

Even if sovereign immunity could be raised as a defense by these individuals with regard to their official roles, such immunity would not protect them as individual members of the tribe. In Puyallup Tribe v. Washington Game Dept., 433 U.S. at 173, a case involving the regulation by the State of Washington of tribal fishing activities, the Court found that the successful assertion of tribal sovereign immunity in this case does not impair the authority of the state court to adjudicate the rights of the individual defendants. "The doctrine of sovereign immunity . . . does not immunize the individual members of the tribe." at 172.

As regards general federal statutes, the Court has found that individual tribal members are to be treated similarly to other persons. See, e.g., F.P.C. v. Tuscarora, 362 U.S. at 116-117; Superintendent of Five Civilized Tribes v. Commissioner, 295 U.S. 418 (1935); Choteau v. Burnet, 283 U.S. 691 (1931). As regards members with official roles, the court in Bottomly, 599 F.2d at 1067, upheld the claim of sovereign immunity by dependent

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representatives of the Tribe, because "the complaint in its original form, and as amended, gave no suggestion that this was a suit against these persons for actions taken in their individual capacities."

We conclude that the Commission has jurisdiction over all of the individuals named as respondents in this matter, including those holding official positions at the time of the activities here at issue.

III. SPECIFIC ALLEGATIONS

A. The Seminole Tribe of Florida

The complaint alleges that monies from a special fund of the Seminole Tribe of Florida were used to make contributions to federal candidates in the names of other persons in violation of 2 U.S.C. § 441f by means of reimbursements of individuals who had made such contributions in their own names. In the newspaper articles submitted by the complainant, the present chairman of the tribe, James E. Billie, is quoted as acknowledging such reimbursements, while two persons have allegedly stated that they received such reimbursements. (See below.) Therefore, we recommend that the Commission find reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others.4/

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4/ This Office does not at present recommend a finding that the Tribe has violated 2 U.S.C. § 441a(a)(1)(A). Reports submitted to the Commission by recipient committees do not indicate that the two persons who have allegedly admitted receiving reimbursements exceeded their personal contribution
(footnote continued)

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B. Howard E. Tommie

Howard E. Tommie served as chairman of the Seminole Tribe of Florida between 1971 and 1979. He is quoted in the newspaper article contained in the complaint as saying that "[t]hey made me write checks and other people write checks and then they put the money back into our account." The newspaper article does not cite specific contributions made to federal candidates by respondent Tommie; however, reports filed with the Commission show that the Reagan for President Committee received a $250 contribution from respondent Tommie on June 9, 1980.

Respondent Tommie has not yet responded to the Commission's notification of the complaint involved in this matter.

We recommend that the Commission find reason to believe that Howard E. Tommie violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect contributions made by the Seminole Tribe of Florida in the names of others.

C. Marcellus Osceola

Marcellus Osceola is also cited in the article as having been reimbursed for political contributions, including one

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4/ (footnote continued)

limitations of $1,000 per election per recipient or contributed to the same candidates in a combined amount exceeding $1,000. The reports do contain numerous contributions from other persons associated with the Seminole Tribe of Florida, which, if combined per candidate supported, exceed $1,000 per election. However, we recommend that consideration of the issue of possible violations of 2 U.S.C. § 441a(a)(1)(A) by the Tribe be deferred pending investigation of the alleged violations of 2 U.S.C. § 441f.

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to Senator Edward Kennedy. Respondent Osceola is quoted as saying, "I donated to Sen. Kennedy and a couple of other individuals. ...Me, my wife, my dad, my mom and a couple of friends. We gave about $7,000, and they gave it back to us." According to reports filed with the Commission, the Florida for Kennedy Committee, on June 22, 1979, received a $1,000 contribution from Marcellus Osceola.

We recommend that the Commission find reason to believe that Marcellus Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal committee made by the Seminole Tribe of Florida in the name of another.5/

D. James E. Billie

James E. Billie is the current chairman of the Seminole Tribe of Florida. According to the newspaper article contained in the complaint, respondent Billie, together with Stephen Whilden, controlled the use of the special tribal fund allegedly used to reimburse tribe members for federal contributions. Also

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5/ Reports submitted to the Commission in 1980 by the Carter/Mondale Presidential Committee, the Florida for Kennedy Committee and the National Republican Senatorial Committee show contributions from other persons surnamed Osceola, two of whom cited the same street address as Marcellus Osceola and all of whom resided at that time in Hollywood, Florida. We intend to pursue information about these contributions during the investigation, but do not presently recommend proceeding to reason to believe against these individuals on the basis of the reported statement by Marcellus Osceola regarding his relatives' participation in the Tribe's contributions, even though it is apparently supported by reports submitted to the Commission. This is not to say that we shall not recommend such action in the future.

according to the newspaper account, respondent Billie has acknowledged that persons who made political contributions were reimbursed with tribal monies, although the article cites no admission of reimbursement of himself.

2 U.S.C. § 441a(a)(3) limits to $25,000 the aggregate total of contributions which any individual may make within a calendar year. Contributions made during a year other than an election year but made with respect to an election held during the following year are considered to have been made "during the calendar year in which such election is held." According to reports submitted to the Commission by recipient committees, respondent Billie contributed a total of $28,250 to federal candidates and committees in 1979 and 1980 with respect to the 1980 elections, including $20,000 to the DNC Services Corporation, $500 to Bafalis for Congress, $1,000 to the Carter/Mondale Presidential Committee, $1,000 to Citizens for Gunter, $500 to the Committee to Re-Elect Congressman Dan Mica, $500 to the Committee for Sam Gibbons, $1,000 to the Congressman Bill Young Campaign Committee, $1,000 to the Claude Pepper Campaign Committee, $500 to the Fuqua for Congress Campaign Committee, $250 to the Larry Pressler for President Committee, $1,000 to the Senator John Ware Campaign Committee, and $1,000 to Stack for Congress.

We recommend that the Commission find reason to believe that James E. Billie, using monies other than his own, violated 2 U.S.C. § 441f by making contributions to federal candidates in

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the names of others. We also recommend that the Commission find reason to believe that James E. Billie has violated 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates during 1979-1980 with respect to the 1980 elections.

E. Stephen H. Whilden

In addition to the $25,000 limitation on aggregate yearly contributions cited above, the Act limits to $1,000 the amount which any person may contribute to any candidate and his authorized committee with respect to any election to Federal office. Reports submitted to the Commission by recipient committees show that in 1979-80, Stephen H. Whilden, counsel to the Seminole Tribe of Florida from 1977 until May, 1982, donated $3,000 to the Florida for Kennedy Committee, $1,000 to the Stack for Congress Committee, $1,200 for the Stone for Senate Committee, $1,500 to the Kennedy for President Committee, $1,500 to the Carter/Mondale Presidential Committee, $2,500 to the Democratic National Committee, $1,000 to Alan S. Becker, $1,000 to the Senator John Ware Campaign Committee, and $1,000 to Citizens for Gunter for a total of $13,700. In 1981-1982, respondent Whilden contributed $2,000 to the Committee to Re-Elect Kennedy, $10,000 to the DNC Services Corporation, $10,000 to the Republican National Committee, $1,000 to the Fund for a Democratic Majority, $1,000 to the Lujan Booster Club, $5,000 to the National Republican Congressional Committee, $500 to Larry Smith for Congress and $500 to the Minnesota Democratic-Farmer Labor Party for a total of $40,000.

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Again, there is no indication in the newspaper articles that respondent Whilden was himself reimbursed with tribal monies in either 1980 or 1982, although the author points out that during the 1980 election period, respondent Whilden's salary as the tribe's attorney was $35,000 a year. On the other hand, the newspaper account does quote Howard Tommie as saying that "...Steve Whilden and James Billie used (the nickel fund) for all kinds of purposes, loans to tribal members and political contributions. They made me write checks...then they put the money back in our account." (Emphasis added.)

In his response to the Commission's notification of reason to believe, respondent Whilden states that he "did not participate in any of the activities complained of, except, as General Counsel and legal advisor to the Seminole Tribe of Florida, to advise the Tribe on its participation in the political process." (Attachment 3.) This statement cannot be considered to be a complete denial of participation.

We recommend that the Commission find reason to believe that Stephen H. Whilden, using monies other than his own, has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. We also recommend that the Commission find reason to believe that Stephen H. Whilden has violated 2 U.S.C. § 441a(a)(3) by making $40,000 in contributions to federal candidates in 1981-1982 with respect to the 1982 elections, and 2 U.S.C. § 441a(a)(1)(A) by contributing $1,500 to the

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Kennedy for President Committee during 1979-1980, $1,500 to the Carter/Mondale Presidential Committee during 1979-1980, and $2,000 to the Committee to Re-Elect Kennedy during 1981-1982.

IV. RECOMMENDATIONS

1. That the Commission find reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others.

2. That the Commission find reason to believe that Howard E. Tommie has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect contributions to federal candidates and committees made by the Seminole Tribe of Florida in the names of others.

3. That the Commission find reason to believe that Marcellus Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal candidate made by the Seminole Tribe of Florida in the name of another.

4. That the Commission find reason to believe that James E. Billie, using monies other than his own, violated 2 U.S.C. § 441f by making contributions to federal candidates and committees in the names of others, and 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates and committees during 1979-1980 with respect to the 1980 elections.

5. That the Commission find reason to believe that Stephen H. Whilden, using monies other than his own, has

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violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others, 2 U.S.C. § 441a(a)(3) by making $40,000 in contributions to federal candidates during 1981-1982 with respect to the 1982 elections, and 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to federal candidates during 1979-1980 and 1981-1982.

6. Approve attached letters.

Charles N. Steele
General Counsel

November 3, 1983
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Response received from counsel for James E. Billie
2. Response received from counsel for Marcellus Osceola
3. Response received from Stephen H. Whilden
4. Letters to respondents (4)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: NOVEMBER 8, 1983

SUBJECT: OBJECTION - MUR 1557 General Counsel's Report signed November 3, 1983

The above-named document was circulated to the Commission on Thursday, November 3, 1983 at 4:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | |
| Commissioner Harris | X |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Reiche | |

This matter will be placed on the Executive Session agenda for Thursday, November 17, 1983.

00004067001

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida | ) | |
| James E. Billie | ) | MUR 1557 |
| Marcellus Osceola | ) | |
| Howard E. Tommie | ) | |
| Stephen Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on November 17, 1983, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in the above-captioned matter:

1. Reject the recommendations contained in the FEC General Counsel's report dated November 3, 1983.

2. Direct the General Counsel to notify the Complainant that the complaint does not meet the formalities required because it does not include a statement that the Complainant believes the facts to be true as alleged, and advise the Complainant of the requirements under FEC procedures on complaints.

Commissioners Aikens, Elliott, Harris, McGarry, and Reiche voted affirmatively for the decision; Commissioner McDonald was not present at the time this matter was under consideration.

Attest:

11-17-83
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 23, 1983

Mr. Paul Harvill
913 Willow Avenue
Tallahassee, Florida 32303

Dear Mr. Harvill:

This letter concerns the complaint which you filed with the Commission on July 5, 1983. In your complaint you cited an article which appeared in the Miami Herald on May 30, 1983, concerning the Seminole Tribe of Florida, and you stated that the article contained a number of allegations of violations of the Federal Election Campaign Act, specifically 2 U.S.C. § 441f.

On November 17, 1983, the Commission determined that your complaint does not meet the requirements established by the Commission because it does not contain a statement as to your belief in the accuracy of the facts alleged in the newspaper article which you enclosed. Accordingly, the file in this matter will be closed unless, within 30 days of your receipt of this letter, you refile your complaint in proper form.

A copy of your original complaint and a copy of the Commission's regulations regarding complaints are enclosed for your information.

The Commission remainds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 23, 1983

Mr. Stephen H. Whilden
4406 S.W. 38th Terrace
Fort Lauderdale, Florida 33312

RE: MUR 1557

Dear Mr. Whilden:

This letter concerns the complaint filed with the Commission on July 5, 1983, and designated MUR 1557. On November 17, 1983, the Commission determined that the complaint does not meet the requirements for a proper complaint established by the Commission because it does not contain a statement as to the complainant's belief in the accuracy of the facts alleged in the newspaper article which he enclosed.

The file in this matter will be closed unless, within 30 days of his receipt of the Commission's letter informing him of this action, the complainant refiles his complaint in proper form.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and of § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the file has been closed.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 23, 1983

Mr. Howard E. Tommie
3363 Sheridan Street
Suite 212
Hollywood, Florida 33021

RE: MUR 1557

Dear Mr. Tommie:

This letter concerns the complaint filed with the Commission on July 5, 1983, and designated MUR 1557. On November 17, 1983, the Commission determined that the complaint does not meet the requirements for a proper complaint established by the Commission because it does not contain a statement as to the complainant's belief in the accuracy of the facts alleged in the newspaper article which he enclosed.

The file in this matter will be closed unless, within 30 days of his receipt of the Commission's letter informing him of this action, the complainant refiles his complaint in proper form.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and of § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the file has been closed.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 23, 1983

Jack M. Skelding, Jr., Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1557

Dear Mr. Skelding:

This letter concerns the complaint filed with the Commission on July 5, 1983, and designated MUR 1557. On November 17, 1983, the Commission determined that the complaint does not meet the requirements for a proper complaint established by the Commission because it does not contain a statement as to the complainant's belief in the accuracy of the facts alleged in the newspaper article which he enclosed.

The file in this matter will be closed unless, within 30 days of his receipt of the Commission's letter informing him of this action, the complainant refiles his complaint in proper form.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and of § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the file has been closed.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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GCC#1420

January 9, 1984

Dear Persons:

Enclosed is an article from the Miami Herald dated May 30, 1983. Within the article are a number of allegations dealing with the Federal Elections Campaign Laws: 2U.S.C. 441f. This letter is a complaint that these allegations be investigated and dealt with in an appropriate manner.

The article clearly identifies each person and entity who are alleged to have committed a violation. The Miami Herald is a newspaper that I respect and find reliable, therefore, I believe in the truth of the statements reported in the article. The article clearly and concisely recites the facts which describe a violation(s) of a statute.

Thank you for investigating this matter.

Sincerely,

Paul Harvill

Paul Harvill

Subscribed and sworn to (affirmed) before me this 9th day of January, AD 1984.

My commission expires:

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GCC#441
83 JUL 8 P12:41

83 JUL 8 P4:25

July 5, 1983

Dear Persons:

Enclosed is an article from the Miami Herald dated May 30, 1983. Within the article are a number of allegations dealing with the Federal Elections Campaign Laws: 2U.S.C. 441f. This letter is a complaint that these allegations be investigated and if substantiated, then prosecuted.

The integrity of the federal campaign laws are at stake. Thank you for your fine work in protecting the integrity of the election process.

Sincerely,

Paul Harvill

Paul Harvill

Subscribed and sworn to (affirmed) before me this 5th day of July, AD, 1983

Frannie B. Jewell
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES JUNE 10 1986
BONDED THRU GENERAL INS. UNDERWRITERS

Address:

913 Willow Av.
Tallahassee, FL 32303
(904) 386-4433

# Lawyer taught Seminoles to play political hardball

By JOHN MacCORMACK
And FRED STRASSER
Herald Staff Writers

Stephen H. Whilden left Washington in 1977, a midlevel U.S. State Department official fed up with confronting the bureaucracy.

"Really, I wanted my own shop," he said.

He found it — through an ad in the Florida Bar Journal — at the hardwood offices of the Seminole tribe. It was a shop like few others.

Where else, after all, could the ex-Foreign Service officer, then 37, have become the general counsel to a nation?

Whilden, thousands of dollars behind in child-support payments, was hired at $35,000 a year under a Catholic Services Bureau grant.

"He had an old, beat-up car, threadbare clothes, holes in his shoes — the whole poor attorney bit," said Fred Wessells, the U.S. Bureau of Indian Affairs superintendent for the Seminole reservation.

He arrived with the first stirrings of the tribe's economic boom and soon began crafting what amounted to a foreign policy, working closely with Seminole Tribal Chairman James Billie.

"Steve created policy," said former tribal Administrator Michael Tiger. "Billie told him to run with the ball."

It was an odd but effective pairing: a burly, hard-talking alligator wrestler and an urbane, cerebral Washington lawyer. Billie and Whilden shared only Vietnam War experiences and a determination to exploit the tribe's separate-nation status.

"The Indians can sit up there on the moral high ground and stay poor," Whilden said. "But if they want their fair share, they have to learn to use the modern tactical methods. They have to get into politics."

So he showed them where the game is played — in Washington and Tallahassee — and how it is played — just inside the rules.

"I always advocate the most extreme Indian position; then I can back off," Whilden said.

Today, a year after Whilden lost his job in a tribal power struggle, even his harshest foes mix disdain for the "White Chief" with a grudging gratitude.

"Whilden was a snake, but he was good as an instrument," said Marcellus Osceola, the tribal councilman who engineered Whilden's firing. "He tried to get the tribe to move. He served his purpose."

Whilden's political credentials and savvy impressed the Indians as much as his knowledge of law. He had worked in the Office of Management and Budget, served as a White House liaison in the final days of the Nixon Administration and spent two diplomatic tours in Vietnam.

Most taken was Billie, who became tribal chairman in 1979.

"I had to have that spear that penetrates situations and makes things work," said Billie. "That was Steve."

"It was almost like mental telepathy, we think so close. I worked with him day and night. It was almost like sleeping with him."

Whilden was a fierce advocate. He renegotiated unfavorable leases and contracts. He demanded compensation for land taken by the state and beat back an IRS attempt to tax tribal income. He explored development plans ranging from alligator farms to a landfill.

He used his diplomatic skills to lead the tribe's drive for new land.

"Part of my training from the Foreign Service," he said, smiling, "is to tell people only what they need to know."

In arranging land deals for the Seminoles, Whilden made public representations that didn't always tell the entire story.

- In November 1981, Whilden negotiated with state and local officials to have the Oak Ridge Country Club near Fort Lauderdale put under the tribe's control to provide "new housing for Seminoles."

In fact, the 1,500-member tribe was attempting to swing a $15-million deal with Century Village developers to build 7,000 condo units on the golf course in defiance of county planning regulations.

- In March 1982, Whilden sought 800 acres for a new reservation in Fort Pierce, assuring St. Lucie County officials the land would never be used for smoke shops or bingo.

But in a letter written a month before, Whilden was already negotiating a 99-year lease with a private investor to build "a dog track, golf course and a mobile home park" on the same land.

- When Indian bones were discovered in downtown Tampa, he sought a new reservation for a sacred Seminole shrine. Once approval was granted, up went the shrine, a tax-free cigaret shop, and finally a bingo hall. Whilden says key officials in Tampa and Washington were told of the plans, but officials say the Seminoles disguised their intentions for the land.

Whilden denies misrepresenting the tribe's land-development plans.

"If we say we need [the land] for A and B, and later on we do A, B, C and D, it's shrewd negotiating," he said.

Whilden ultimately lost his post as tribal counsel. On a 3-2 tribal council vote last year and over Chairman Billie's objections, Whilden was fired.

"I fired Steve because I wanted an Indian to run the reservation," Osceola said.

Today, Whilden has become the nation's foremost impresario of Indian bingo, using the same political strategy as a bingo manager he used for the Seminoles.

In the last six months of 1982, Whilden plowed $26,500 into national politics — including $5,000 to the Democratic National Committee and $20,000 to the Republican National Committee. James Clare, his partner in his Pan American Management Co., made contributions of $11,000 throughout the year, including $5,000 to the Republican Party of Florida.

On Nov. 22, 1982, just before Pan Am disclosed plans for a bingo hall near Tucson, an official of the Republican National Committee arranged for Whilden to see the attorney general of Arizona.

PETE CROSS / Miami Herald Staff

Stephen H. Whilden: Former general counsel to the Seminole nation.

Cloudy, Rain
Details on 2A

88 pages

Monday, May 30, 1983

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1 JUL 6 P4:25

# Tribe profits go politicking

Please return

*Second of a series.*

By FRED STRASSER
And JOHN MacCORMACK
*Herald Staff Writers*

## The Seminoles: Cashing in on Sovereignty

Six years ago, the Seminole Indian Tribe depended on handouts from politicians. Now, transformed by a potent commerce of cigarets and bingo, the Seminoles hand out the favors.

Drawing from a hidden lobbying fund, the tribe has become the biggest corporate political contributor in Florida — well ahead of runner-up Winn Dixie, long a power broker in the state.

The tribe has also poured tens of thousands of dollars into national political campaigns, contributions funneled through the checkbooks of individual Indians by the tribe's non-Indian lawyer.

Lobbyists Jack Skelding and Barry Hozenbein, whose other clients include Miller Brewing Co. and Honeywell, keep watch over the tribe's interests in Tallahassee. Their annual retainer: $192,000.

"We're no different from any corporation," said tribal Chairman James Billie. "It could be Coca Cola protecting their interests on the state level, on the Washington level or in Russia or wherever they are."

The peculiar economy of cigarrts and bingo has created a tiny class of Seminole sheiks who hunt big game in Alaska and vacation in Paris, then return to sift through offers from white entrepreneurs struck with the profit potential of Indian land.

The richest of the new rich is former tribal Chairman Howard Tommie, who has interests in two smoke shops and the Hollywood bingo hall.

Tommie, who earned $200 a week when elected chairman in 1971, now draws $25,000 a month

*Please turn to SEMINOLES / 12A*

## A Chronology

- June 1977 — Marcellus Osceola opens first tax-free cigaret shop on Hollywood reservation.
- Aug. 31, 1977 — Stephen Whilden hired as tribal counsel
- May 14, 1979 — James Billie elected to first term as chairman.
- Dec. 14, 1979 — Seminoles open Hollywood bingo hall, hours after a federal judge rules that Broward sheriff's deputies cannot interfere with the game.
- March 22, 1982 — U.S. Supreme Court declines to review an appeals court ruling on Seminole vs Butterworth that allows Indians to regulate their own bingo
- April 8, 1982 — Tribe announces plans to build bingo hall on new Tampa reservation
- May 14, 1982 — Stephen Whilden fired as tribal counsel
- Oct. 8, 1982 — Pan American International Management Corp. incorporated in Texas
- May 9, 1983 — James Billie re-elected tribal chairman

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SEMINOLES / From 1A

from his [redacted]eats while his partners do the work.

He vacations in Monte Carlo, charters Learjets for cross-country trips and has helped sponsor international racing teams, including the winner of the 1980 24 Hours of Le Mans in France.

"We're a strong nation," Tommie said. "We don't have to cater to anyone anymore."

Even a Seminole living in the lowliest chickee on an outlying reservation can bank on $100 monthly as his share of the tribal income — a total outlay of $1.8 million a year to the 1,500 Indians.

The federal grant pump, primed and set flowing by Tommie in the 1970s, brought housing, better education, water systems and electricity to the tribe's poorer members.

By using federal money for the necessities, bingo and cigaret money was available for gymnasiums in Big Cypress and Brighton, a half-million-dollar police force and a planned multipurpose center in Hollywood.

"It has brought an awful lot of self-esteem to the tribe and tribal members," said Michael Tiger, an executive officer with the Division of Indian Health Services.

The Seminoles' first cigaret shops opened in 1977. Bingo followed on the Hollywood reservation in 1979, with the tribe adding halls in Brighton and Tampa.

Both the bingo halls and cigaret shops exist solely because of the peculiar rights granted Indians by state and federal law.

Even experts don't know how far Indian sovereignty extends, but other tribes now rely on the Seminole's federal court victory over Broward County authorities, who tried to block the opening of Hollywood bingo.

As long as Indian ventures do not violate criminal laws, state regulations must give way to tribal authority, the courts have ruled. The result has been a windfall for the Florida tribe.

## Income soars

Near-equal profits from bingo and cigarets bring the Seminoles $5 million a year. With additional profit from land leases, tourism and farming, the tribe's income — excluding federal grants — has increased from $1 million in 1979 to $8 million.

The Seminole Tribe depended on federal and state aid for more than 60 per cent of its income in 1977. Now government aid accounts for less than 20 per cent.

"Ten years ago, we wrestled alligators, made a few dolls and sang songs for the tourists," said Max Osceola, former Seminole superintendent for the federal Bureau of Indian Affairs. "We've come from the wheel age to the jet age in 10 years."

A century ago, the Seminoles faced extinction. Fewer than 300 survived the federal government's campaign to rid the state of Indians. The rest had been killed or deported to Oklahoma.

The Indians, who once controlled vast areas in Central Florida, fled deep into the Everglades. Now, the scattered tribe's wealth and political savvy have inspired an [redacted]tal mood.

[redacted]der Billie, the tribe has added small reservations in Immokalee and Tampa, and prospected for additional real estate in Fort Pierce, Broward, Tallahassee and Pensacola.

But the Tampa land grab infuriated government officials, who say it may jeopardize future Seminole expansion.

The tribe sought the nine acres in Hillsborough County for a sacred shrine and cultural center. After getting federal approval, the tribe also threw up a 1,400-seat bingo hall and a cigaret shop.

State and Tampa officials, claiming a double-cross, are suing to dissolve the new reservation. Billie says the Indians are just playing the white man's game.

"The U.S. did not survive because it kissed people's asses," said Billie, who hops between outlying reservations in his own Cessna. "I, as a small nation, offended a few people.

"James Billie doesn't have two million Seminole Indians out there for political pull. I have 1,500. I'll play my cards the best way I can.

"I'd rather pay someone $100,000 a year to take care of my political situations off the reservation than lose $8 million," said Billie.

## Campaign clout

Last year, the Seminole Tribe and Florida in corporate donations, giving $48,300 to candidates for state offices — nearly triple its 1980 contributions.

The tribe spreads its money around: $24,550 to 42 House candidates, $18,250 to 17 Senate candidates and $5,500 to three candidates for Cabinet posts in 1982.

Ralph Haben, former House speaker and a close friend of tribal lobbyist Skelding, received $3,000 from the tribe during his unsuccessful campaign for comptroller last year. Skelding also contributed $3,000 — on the same day individual tribal members gave another $4,500.

The Seminoles and their friends also have been generous on the national level to both political parties. Chairman Billie, whose present salary is $52,000 a year, donated $29,000 in 1980, including $20,000 to the Democratic National Committee.

Stephen Whilden, then earning $35,000 as the tribe's attorney, contributed $13,700 in the same election.

CHARLES TRAINOR JR. / Miami Herald Staff

Max Osceola: 'From the wheel age to the jet age.'

Federal Election Commission records show large contributions by other Seminoles. Some say they did not give their own money.

The money came from a hidden tribal account known on the reservation as the "nickel fund." The tribe maintains the fund by taking a nickel for each carton of cigarets sold on the reservation.

The nickel levy is in addition to the 8 per cent tribal cigaret tax. Controlled by the tribal chairman, the fund does not appear in tribal budgets. Last year, sales of six million cartons added about $300,000 to the fund.

The nickel tax was set up in the late 1970s by Tommie to counter litigation threatening the first Indian smoke shops. Their legal status was soon resolved, and according to Tommie, the fund's purpose has since been perverted.

## Laundering money

"We were collecting a nickel fund when it was needed, but Steve Whilden and James Billie used it for all kinds of purposes, loans to tribal members and political contributions," Tommie said.

"They made me write checks and other people write checks and then they put the money back into our accounts. The nickel fund was never meant to do that. There's no litigation now. We have no need for it," he said.

Other Seminoles say their personal checkbooks were used to launder tribal funds, among them Marcellus Osceola, a smoke-shop owner and tribal councilman.

"Steve would say, 'Why don't you write a check out.' I think they did it because the people that were accepting the money could only accept so much from certain corporations."

"I donated to Sen. Kennedy and a couple of other individuals," he said. "Me, my wife, my dad, my mom and a couple of

Billie promises to pursue projects that will expand the tribe's wealth and influence. If casino gambling is approved anywhere in Florida, Billie says, Indian country — the eternal nightmare of law enforcement — will not be far behind.

"There might be some political harassment, but I'm no damn fool," he said. "If the laws change, I'll be the first one to do it."

... federal election law prohibits corporations from making contributions on the federal level and limits individual contributions to $1,000 per candidate.

The law also forbids anyone or any type of organization from contributing money under another person's name or allowing his name to be used by someone else.

Billie freely acknowledged the reimbursements.

"I guess it's a common thing among the non-Indians all over the U.S.," he said.

He felt all political tactics to tribal attorney Whilden, he said.

Steve Whilden was the person who had worked in the State Department. The Seminole Tribe was just a very beginner. I told Steve Whilden, 'we want to be part of the big leagues.' I want to know how everything works. I want to know all the tricks and he knew them," Billie said.

## Hazy recollection

Whilden, who was fired from his post last May, said he did not recall why the tribe concealed its federal contributions.

"I'm not sure it was ever necessary," he said. "There must have been some reason at the time. I don't remember what it was. It seems the tribe could have operated on the federal level the same as it did on the state level."

Billie said that because Indian tribes were exempt from state, he did not believe federal election law applied to them.

"I'd be prepared to litigate that," he added.

Craig Donsanto, director of the election crimes branch of the U.S. Justice Department, confirmed that federal election laws did not mention Indian tribes.

"I don't know whether a government can donate or not. It doesn't happen," he said.

However, he said that even if the source of campaign donations was lawful, they cannot be laundered through a "straw man" under any circumstances.

The source also would be limited to $1,000 per candidate, which the Seminoles exceeded in their 1979 donations to Sen. Edward Kennedy (D., Mass.).

"You've certainly got a very interesting set of facts," he said. "The guy who set this up certainly knows what he's doing."

Billie, Steve, a Seminole who replaced Whilden as the tribe's attorney, said, "Since I became general counsel last June, every contribution is made in the name of the Seminole Tribe. There is no reimbursement."

Whatever the fallout, the Seminole rank and file gave Billie and his aggressive policies an overwhelming vote of confidence rather this month, reelecting him to a four-year term with 60 per cent of the vote in a four-man race.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 18, 1984

Mr. Paul Harvill
913 Willow Avenue
Tallahassee, Florida 32303

Dear Mr. Harvill:

This letter is to acknowledge receipt of your complaint which we received on January 16, 1984, against the Seminole Indian Tribe, Jack Skelding and Barry Horenbein which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have enclosed a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

**§ 111.2 Computation of time.**

(a) *General rule:* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in this section, the term "legal holiday" includes New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the United States by the President or the Congress of the United States.

(b) *Special Rule for Periods Less Than Seven Days:* When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) *Special Rule for Service By Mail:* Whenever the Commission of any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission or such person and the paper is served by or upon the Commission or such person by mail, three (3) days shall be added to the prescribed period.

**§ 111.3 Initiation of compliance matters (2 U.S.C. 437g(a)(1), (2)).**

(a) Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

(b) Matters initiated by complaint are subject to the provisions of 11 CFR 111.4 through 111.7. Matters initiated on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities are subject to the provisions of 11 CFR 111.8. All compliance matters are subject to the provisions of 11 CFR 111.2 and 111.9 through 111.23.

**§ 111.4 Complaints (2 U.S.C. 437g(a)(1)).**

(a) Any person who believes that a violation of any statute or regulation over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) A complaint shall comply with the following:

(1) It shall provide the full name and address of the complainant; and

(2) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.

(c) All statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001. The complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief.

(d) The complaint should conform to the following provisions:

(1) It should clearly identify as a respondent each person or entity who is alleged to have committed a violation;

(2) Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements;

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction; and

(4) It should be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

**§ 111.5 Initial complaint processing; notification (2 U.S.C. 437g(a)(1)).**

(a) Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

Mr. Paul Harvill
913 Willow Avenue
Tallahassee, Florida 32303

Dear Mr. Harvill:

This letter is a revision of our acknowledgment letter which was sent to you on January 18, 1984 concerning your complaint which we received on January 16, 1984. The list of respondents should have read "The Seminole Tribe of Florida, Stephen H. Whilden, James E. Billie, Marcellus Osceola and Howard E. Tommie."

Again, should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. If you have any questions, please contact Anne Weissenborn, the staff member assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James E. Billie
6350 NW 32nd Street
Hollywood, Florida 33024

Re: MUR 1616

Dear Mr. Billie:

This letter is to notify you that on January 16, 1984, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1616. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Seminole Tribe of Florida
c/o James E. Billie
6350 NW 32nd Street
Hollywood, Florida 33024

Re: MUR 1616

Dear Mr. Billie:

This letter is to notify you that on January 16, 1984, the Federal Election Commission received a complaint which alleges that The Seminole Tribe of Florida may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1616. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against The Seminole Tribe of Florida in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

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If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Marcellus Osceola
6341 NW 34th Street
Hollywood, Florida 33024

Re: MUR 1616

Dear Mr. Osceola:

This letter is to notify you that on January 16, 1984, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1616. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Howard E. Tommie
3363 Sheridan Street
Suite 212
Hollywood, Florida 33021

Re: MUR 1616

Dear Mr. Tommie:

This letter is to notify you that on January 16, 1984, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1616. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stephen H. Whilden
4406 S.W. 38th Terrace
Fort Lauderdale, Florida 33312

Re: MUR 1616

Dear Mr. Whilden:

This letter is to notify you that on January 16, 1984, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1616. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you have any questions, please contact Anne Weissenborn the attorney assigned to this matter at (202) 523-4175. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 13, 1984

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: Recommended Merger of MUR 1557 and MUR 1616

On November 17, 1983, the Commission determined that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant and the respondents were informed of this determination in letters dated November 23, 1983, and were also told that unless the complainant refiled his complaint within thirty days of his receipt of the Commission's notification, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed this Office that he had mailed a revision of his complaint a day or so earlier. This revision was never received. The complainant was informed of this fact on or about January 4, 1984, and on January 16, 1984, the Commission received a complaint dated January 9, 1984. This latter complaint has been designated MUR 1616 and was circulated to the Commission on January 18.

The above chronology indicates that a revised complaint was not received within the thirty day period allotted in the letters of notification regarding the Commission's determination in MUR 1557; however, the complainant states that he did attempt to file a revision which should have arrived within the time period designated. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. For these reasons this Office recommends that the Commission merge MUR 1557 and MUR 1616, thereby permitting the respondents, if they wish, to rely upon responses already submitted and avoiding possible issues regarding confidentiality by not closing the file in MUR 1557 and placing it on the public record.

Recommendations

1. That the Commission merge MUR 1557 and MUR 1616.

2. That the attached letters be sent to respondents.

Attachments

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida | ) | |
| James E. Billie | ) | |
| Marcellus Osceola | ) | |
| Howard E. Tommie | ) | |
| Stephen Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 15, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1616:

1. Merge MUR 1557 and MUR 1616.
2. Send the letters to the respondents as attached to the General Counsel's February 13, 1984, Memorandum to the Commission.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

2-16-84
Date

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

Received in Office of Commission Secretary: 2-13-84, 1:04
Circulated on 48 hour tally basis: 2-13-84, 4:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1984

James E. Billie
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MURs 1557 and 1616

Dear Mr. Billie:

As you were informed on November 23, 1983, the Commission determined on November 17, 1983, that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant was informed of this determination and was also told, as were you, that unless he refiled his complaint within thirty days of his receipt of the Commission's determination, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed a representative of the Office of General Counsel that he had mailed a revision of his complaint; however, this revision was never received. Upon learning of this fact, the complainant filed a complaint dated January 9, 1984, which was received by the Commission on January 16, 1984. This latter complaint has been designated MUR 1616.

The above chronology indicates that a revised complaint was not received within the thirty days allotted to the complainant; however, he has asserted that one was mailed. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. Therefore, the Commission has determined that MUR 1557 and MUR 1616 are to be merged rather than MUR 1557 closed and MUR 1616 treated as a totally separate matter. In this way you, as a respondent, may rely, if you wish, upon responses already submitted in MUR 1557 and possible issues regarding confidentiality will be avoided as they might arise from the closing of MUR 1557 and the placing of the file in that matter on the public record.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Jack M. Skelding, Esquire

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1984

The Seminole Tribe of Florida
c/o James E. Billie
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MURs 1557 and 1616

Dear Mr. Billie:

As you were informed on November 23, 1983, the Commission determined on November 17, 1983, that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant was informed of this determination and was also told, as were you, that unless he refiled his complaint within thirty days of his receipt of the Commission's determination, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed a representative of the Office of General Counsel that he had mailed a revision of his complaint; however, this revision was never received. Upon learning of this fact, the complainant filed a complaint dated January 9, 1984, which was received by the Commission on January 16, 1984. This latter complaint has been designated MUR 1616.

The above chronology indicates that a revised complaint was not received within the thirty days allotted to the complainant; however, he has asserted that one was mailed. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. Therefore, the Commission has determined that MUR 1557 and MUR 1616 are to be merged rather than MUR 1557 closed and MUR 1616 treated as a totally separate matter. In this way you, as a respondent, may rely, if you wish, upon responses already submitted in MUR 1557 and possible issues regarding confidentiality will be avoided as they might arise from the closing of MUR 1557 and the placing of the file in that matter on the public record.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Jack M. Skelding, Jr., Esquire

00040701118

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1984

Marcellus Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MURs 1557 and 1616

Dear Mr. Osceola:

As you were informed on November 23, 1983, the Commission determined on November 17, 1983, that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant was informed of this determination and was also told, as were you, that unless he refiled his complaint within thirty days of his receipt of the Commission's determination, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed a representative of the Office of General Counsel that he had mailed a revision of his complaint; however, this revision was never received. Upon learning of this fact, the complainant filed a complaint dated January 9, 1984, which was received by the Commission on January 16, 1984. This latter complaint has been designated MUR 1616.

The above chronology indicates that a revised complaint was not received within the thirty days allotted to the complainant; however, he has asserted that one was mailed. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. Therefore, the Commission has determined that MUR 1557 and MUR 1616 are to be merged rather than MUR 1557 closed and MUR 1616 treated as a totally separate matter. In this way you, as a respondent, may rely, if you wish, upon responses already submitted in MUR 1557 and possible issues regarding confidentiality will be avoided as they might arise from the closing of MUR 1557 and the placing of the file in that matter on the public record.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Jack M. Skelding, Jr., Esquire

0004071019

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1984

Howard E. Tommie
c/o Selma Alvarez
4500 North State Road 7
Hollywood, Florida 33021

RE: MURs 1557 and 1616

Dear Mr. Tommie:

As you were informed on November 23, 1983, the Commission determined on November 17, 1983, that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant was informed of this determination and was also told, as were you, that unless he refiled his complaint within thirty days of his receipt of the Commission's determination, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed a representative of the Office of General Counsel that he had mailed a revision of his complaint; however, this revision was never received. Upon learning of this fact, the complainant filed a complaint dated January 9, 1984, which was received by the Commission on January 16, 1984. This latter complaint has been designated MUR 1616.

The above chronology indicates that a revised complaint was not received within the thirty days allotted to the complainant; however, he has asserted that one was mailed. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. Therefore, the Commission has determined that MUR 1557 and MUR 1616 are to be merged rather than MUR 1557 closed and MUR 1616 treated as a totally separate matter. In this way you, as a respondent, may rely, if you wish, upon responses already submitted in MUR 1557 and possible issues regarding confidentiality will be avoided as they might arise from the closing of MUR 1557 and the placing of the file in that matter on the public record.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790120

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 21, 1984

Stephen H. Whilden
4406 S.W. 38th Terrace
Fort Lauderdale, Florida 33312

RE: MURs 1557 and 1616

Dear Mr. Whilden:

As you were informed on November 23, 1983, the Commission determined on November 17, 1983, that the complaint filed in MUR 1557 did not meet the requirements for a proper complaint. The complainant was informed of this determination and was also told, as were you, that unless he refiled his complaint within thirty days of his receipt of the Commission's determination, the file in MUR 1557 would be closed.

On or about December 13, 1983, the complainant informed a representative of the Office of General Counsel that he had mailed a revision of his complaint; however, this revision was never received. Upon learning of this fact, the complainant filed a complaint dated January 9, 1984, which was received by the Commission on January 16, 1984. This latter complaint has been designated MUR 1616.

The above chronology indicates that a revised complaint was not received within the thirty days allotted to the complainant; however, he has asserted that one was mailed. In addition, the complaint received on January 16, 1984, contains allegations which are identical to those contained in the complaint in MUR 1557. Therefore, the Commission has determined that MUR 1557 and MUR 1616 are to be merged rather than MUR 1557 closed and MUR 1616 treated as a totally separate matter. In this way you, as a respondent, may rely, if you wish, upon responses already submitted in MUR 1557 and possible issues regarding confidentiality will be avoided as they might arise from the closing of MUR 1557 and the placing of the file in that matter on the public record.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

2004070121

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 1984

Jack M. Skelding, Jr., Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MURs 1557 and 1616

Dear Mr. Skelding:

On January 24, 1984, notifications were mailed to your clients, The Seminole Tribe of Florida, James E. Billie and Marcellus Osceola, informing them that a complaint had been filed on January 16, 1984, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). The notifications sent to The Seminole Tribe and to Mr. Billie have been returned as unclaimed. We are therefore forwarding the notifications to you. This complaint has been designated MUR 1616.

Because the complaint in MUR 1616 contains allegations which are identical to those contained in the complaint in MUR 1557, the Commission on February 15, 1984, voted to merge the two matters rather than close MUR 1557 and treat MUR 1616 as totally separate. Therefore, your clients may, if they wish, rely upon responses already submitted in MUR 1557, and possible issues regarding confidentiality will be avoided. Copies of the letters to your clients informing them of the Commission's decision to merge the two matters are enclosed.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4175.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures
Notifications of complaint in MUR 1616
Copies of letters re. merger

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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

FIRST GENERAL COUNSEL'S REPORT

84 MAR 20 P5: 03

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 3.20.84

MUR NO. 1616
DATE COMPLAINT RECEIVED BY
OGC January 17, 1984
STAFF Anne Weissenborn

COMPLAINANT'S NAME: Paul Harvill

RESPONDENTS' NAMES: Seminole Tribe of Florida
James E. Billie
Marcellus Osceola
Howard E. Tommie
Stephen Whilden

RELEVANT STATUTE: 2 U.S.C. §§ 441f, 441a(a)(3)

INTERNAL REPORTS CHECKED: G Index, Section I, 1979-80, 1981-92 for individual respondents

SUMMARY OF ALLEGATIONS

This complaint involves allegations identical to those raised by the same complainant in MUR 1557. On November 17, 1983, the Commission deemed the earlier complaint to be deficient and the complainant and respondents were so notified. An amended complaint assertedly mailed in mid-December, 1983, never was received by the Commission, and the second such amended complaint was not received within the thirty days alloted. Therefore, the amended complaint has been designated MUR 1616. On February 15, 1984, the Commission approved the merger of MURs 1557 and 1616.

The amended complaint alleges that certain individuals either connected with or members of the Seminole Tribe of Florida made contributions in the names of others using monies of the

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Seminole Tribe in violation 2 U.S.C. § 441f, and that certain individuals made excessive contributions in violation of 2 U.S.C. § 441a(a)(3). These allegations are based upon a series of articles in the Miami Herald concerning the Seminole Tribe of FLorida and its economic rise through the sale of tax free cigarettes and the running of bingo halls on tribal lands. One of these articles, dated May 30, 1983, highlights the political activity on the state and federal level of the Tribe itself and certain of its members. In this article Marcellus Osceola, a member of the Tribe and owner of the first tax free cigarette shop, is quoted as having said that he made contributions to a federal candidate at the urging of Stephen Whilden, then counsel to the Tribe, and later was reimbursed by Mr. Whilden with Seminole Tribe monies. Howard E. Tommie is quoted as making similar accusations against both Mr. Whilden and James E. Billie, Chairman of the Tribe. Mr. Billie is further accused of having contributed $29,000 to federal committees in 1980, including $20,000 to the Democratic National Committee, while Mr. Whilden is accused of contributing in excess of $25,000 in 1982 to federal candidates and committees.

Letters notifying respondents of the receipt of the amended complaint were sent by certified mail on January 24, 1984. All of these letters were returned to the Commission at varying times as unclaimed and all have been resent by first class mail. The fifteen day response period for the respondent whose letter was

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the last to be re-mailed expires on March 23, 1984. At that time a report will be submitted to the Commission with recommendations for further action.

Charles N. Steele
General Counsel

3/20/84
Date

BY: Kenneth A. Gross (by [illegible])
Kenneth A. Gross
Associate General Counsel

0004079012 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS /JODY C. RANSOM JCR

DATE: MARCH 22, 1984

SUBJECT: MUR 1616 - First General Counsel's Report dated March 20, 1984

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00, March 21, 1984.

There were no objections to the First General Counsel's Report at the time of the deadline.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 2, 1984

Jack M. Skelding, Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616

Dear Mr. Skelding:

On January 24, 1984, a notification was mailed to your client, Marcellus Osceola, informing him that the complaint cited above had been filed on January 16, 1984, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). This notification has been returned as unclaimed. We are therefore forwarding the notification to you.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Notification of complaint in MUR 1616

RECEIVED AT THE FEC
GCC#1904
84 MAR 19 P12: 37

LAW OFFICES
MADIGAN, PARKER, GATLIN, SWEDMARK & SKELDING
FORUM BUILDING, 318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

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JACK M. SKELDING JR.
JOHN W. COSTIGAN
ROSS A. MCVOY
BEN E. GIRTMAN
RONALD A. LABASKY
KEITH C. TISCHLER
ROBERT S. COHEN
TERRELL C. MADIGAN
KATHRYN G. W. COWDERY

MILLARD F. CALDWELL
OF COUNSEL

RALPH H. HABEN, JR.
OF COUNSEL

JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

March 13, 1984

MUR 1616
Weissenborn

Ms. Ann Weissenborn
Assistant General Counsel
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 1557 and MUR 1616; James E. Billie; Seminole Tribe of Florida

Dear Ms. Weissenborn:

This letter is in response to the notification directed to Jack M. Skelding, counsel for the Seminole Tribe of Florida and James E. Billie, dated February 22, 1984.

With regard to the decision of the Federal Elections Commission to merge the complaint in MUR 1557 with the complaint designated MUR 1616, please be advised we request that you accept our previous response in conjunction with the response contained herein. That letter, as it relates to James E. Billie and the Seminole Tribe of Florida, is attached hereto and intended to be incorporated herein.

However, we must strenuously object to the filing and the continuation of this case. On or about November 23, 1983 the Federal Elections Commission determined that the complaintant herein, Paul Harvill, could file a proper complaint within thirty days. Thereafter, the complaintant did not file a complaint until January 9, 1984, which was not received by the Commission until January 16, 1984. The Commission's original decision was to allow the complaintant thirty days in which to file a new sufficient complaint. The complaintant did not do so and, therefore, we must object to the continuation of this matter on the basis that the complaint was not filed within the time period specified by the Commission.

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Even when advised on December 13, 1983 that a complaint had not been received, he did not file a complaint within the specified time.

In reviewing the most recent complaint filed by Mr. Harvill, I note that the complaint again fails to meet the specifications contained in §111.4 of the C.F.R. and, therefore, is deficient and should be dismissed. First, the complaint does not clearly identify as a respondent each person or entity who is alleged to have committed a violation. See 111.4(d)(1), C.F.R. Second, the complaint fails to meet the specifications contained in §111.4(d)(3), in that it provides no recitation of facts which described the violation of a statute or regulation over which this Commission has jurisdiction and as such makes it impossible for us to respond to whatever the allegations of the complaint are.

Therefore, in conjunction with the arguments previously presented to the Federal Elections Commission in our August 29, 1983 letter in response to Complaint MUR 1557, the alleged respondents herein, James E. Billie and the Seminole Tribe of Florida, would state that the complaint was not filed within the time period allotted by the Commission; it once again fails to clearly identify any respondent as provided by the Regulations of the Commission; it does not contain any recitation of facts which relate to violations of statutes or regulations over which the Commission has jurisdiction; and, the Complaint itself consists of nothing more than a newspaper article to which the complaintant cannot swear to its authenticity or accuracy of the matters asserted. Finally, no allegation is made that any possible violations which occurred were done knowingly and willfully.

Based upon the foregoing arguments and the arguments presented to you in our letter of August 29, 1983, concerning the application of the Federal Election Campaign Act as it would relate to the Seminole Tribe of Florida, we would request that the Commission dismiss this complaint against Mr. James E. Billie and the Seminole Tribe of Florida.

Sincerely,

Ronald A. Labasky

RONALD A. LABASKY

RAL:tc
cc: Mr. James E. Billie
Mr. Jim Shore

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Howard E. Tommie Enterprises
3363 Sheridan Street - Suite 212
Hollywood, Florida 33021

Phone (305) 961-4066

MUR
1616
Wenoose Sam

March 16, 1984

Federal Election Commission
Washington, D.C. 20463

RE: MURs 1557 and 1616

Dear Sir:

In response to your letter to me on January 24, 1984 and February 21, 1984 (MURs 1557 and 1616) which notified me that I might have violated certain sections of the Federal Election Campaign Act of 1971 - the Commission's determination to merge both complaints into one.

I have not responded to either MURs 1557 and 1616 because I was informed that the Seminole Tribe of Florida's legal counsel would respond to the complaint. Therefore, I was to turn all letters to them. However, I received the letter of January 24, 1984 which indicated that I should attempt to personally respond to both MURs 1557 and 1616. I am not represented by a legal counsel. However, if I need one, I will seek legal counseling.

At the present time I have no record of any campaign contribution at any time during the 1980 election year or thereafter (cancel check, receipt acknowledgement, etc.) I further want to state that I have never made a statement that I made a check to any candidate; the paper misquoted me. If there is any record at all, I will be more than happy to make available to the Commission. At this time I have no idea if there is any other way I can respond.

This statement above is true and I am answering the complaint to the best of my ability.

If any questions, please call me.

Sincerely,

Howard E. Tommie
President

HET/sa

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American Indian Pride

SANDIA
INDIAN BINGO

P.O. Box 10188 o Albuquerque, New Mexico 87184 o (505) 897-2173

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MUR
1616
Weissenborn

March 23, 1984

Anne A. Weissenborn, Esq.
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1557/1616

Dear Ms. Weissenborn:

In responding to MUR 1616, I will stand on my responses to MUR 1557, to wit:

A. The newspaper articles referred to by complainant and on which complainant relies are in the relevant aspects, untrue;

B. Mr. Harvill, the complainant, is a law student and has admitted to investigators that he files these complaints as a classroom exercise;

C. Even if arguendo, the articles were true, they do not state a violation by me, as I am described as having merely advised the Tribe in my capacity as General Counsel that their actions were probably legal;

D. FEC officials quoted in the article apparently agree with my own conclusion, based on a careful survey of the case law, that, indeed, the Federal Election laws do not apply to governments, especially Indian Tribal Governments; and

E. The article clearly indicates that the Tribe has decided to conform as a matter of courtesy rather that litigate to protect a point of principle, and the matter should be left at that.

Very Truly yours,

Stephen H. Whilden

SHW/jb

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GCC#1987
84 MAR 30 A 8:45

LAW OFFICES
MADIGAN, PARKER, GATLIN, SWEDMARK & SKELDING
FORUM BUILDING, 318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JOHN A. MADIGAN JR
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ROBERT S. COHEN
TERRELL C. MADIGAN
KATHRYN G. W. COWDERY

MILLARD F. CALDWELL
OF COUNSEL

RALPH H. HABEN, JR.
OF COUNSEL

JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

March 27, 1984

MUR 1616
Weissenborn

Ms. Ann Weissenborn
Assistant General Counsel
Federal Election Commission
Washington, DC 20463

Re: MURs 1557 and 1616; Marcellus Osceola

Dear Ms. Weissenborn:

This letter is in response to your recent correspondence which was directed to this office as counsel for Mr. Marcellus Osceola. The letters from the Commission to Mr. Osceola were not received and therefore they were forwarded directly to us for response. MUR 1557 was originally dismissed by the Federal Elections Commission and at the time of that decision, the Commission decided to allow the Complainant, Mr. Paul Harvill, 30 days in which to file an Amended Complaint.

Mr. Harvill did not respond within the allotted period of time. I would suggest to you that this Complaint be dismissed as it is merely an effort to harass Mr. Osceola and other members of the Seminole Tribe of Florida as well as the tribe itself. The Commission allowed that period of time and there is no sufficient adequate explanation why the second Complaint was not filed within the 30 day period allowed by the Commission. This is true particularly when one examines that the Complainant was advised within the 30 day period that no Complaint had been received and yet he waited nearly another month before submitting the second Complaint.

Once again, Mr. Harvill fails to meet the specifications for Complaints which are filed with the Commission. Title 11, §111.4(d)(1) and (3) require that the Complaint clearly identify as a Respondent each person or entity who is alleged to have committed a violation and the Complaint must also contain a clear and concise recitation of the

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of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The Complaint which has been forwarded with the paperwork to my office contains neither of the foregoing.

This Complaint consists of nothing more than a newspaper article, and as we mentioned in our previous response, those articles will oftentimes use quotes out of context and may not be sources of accurate information. Even if the facts in the newspaper article were true, they would not constitute a violation of the Act. The article does not allege that Mr. Osceola or any other person took any actions which would be considered knowing and willful violations. All statements contained in that article, even if they are true, are clearly indicated to have been taken based upon the advice of the legal counsel who was then serving the Seminole Tribe of Florida.

It is our opinion that the Federal Election Campaign Act, would not extend to regulate the Seminole Tribe of Florida or its subsidiaries or corporations. This position is adopted based upon basic principles of Federal Indian Law which basically provide:

(a) Indian sovereignty is inherent, not granted or delegated;
(b) Indian sovereignty is limited only by treaties and special acts of Congress;
(c) What powers are not expressly limited remain within the domain of the tribal sovereignty;
(d) Indian sovereignty cannot be limited by Acts of Congress which appear to do so; limitations must be explicit and doubts will be resolved in favor of the Indians.

The Federal Election Campaign Act and its regulations do not apply to the tribe as Congress has not explicitly included the tribe within the Act. This position becomes quite clear when one examines the definitions contained in 2 U.S.C., §431(10), defining the term "person". Quite clearly an Indian tribe is not included within that definition and the term explicitly provides that it does not include the Federal Government or any authority of the Federal Government. Clearly, the Seminole Tribe of Florida is not included and not only would Mr. Osceola not be in violation of any provisions of the Act, the tribe's activities as well would be exempt. We have previously enclosed two matters for your review; the first being a publication detailing the scope of tribal self-government relating to Indians and also an Internal Revenue Service technical advice memorandum. I believe these will assist you in reaching the determinations which we have expressed above.

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Based on the foregoing, I would request that the matter related to Mr. Osceola be dismissed and the case closed without further effort on your part. I believe the Complaint is insufficient as a matter of law and that the article does not demonstrate a violation of the Act or regulations.

In the event that you need any further information or if I may be of further assistance, please contact me immediately.

Sincerely,

Ronald A. Labasky

RAL/phg

cc: Marcellus Osceola

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BEFORE THE FEDERAL ELECTION COMMISSION

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OFFICE OF THE
COMMISSION SECRE

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|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida | ) | |
| James E. Billie | ) | MUR 1616 |
| Marcellus Osceola | ) | |
| Howard E. Tommie | ) | |
| Stephen H. Whilden | ) | |

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 18, 1984, the Commission received from Mr. Paul Harvill of Tampa, Florida, a complaint alleging that certain individuals, in particular James E. Billie, Marcellus Osceola, Howard E. Tommie and Stephen H. Whilden, who were either connected with or members of the Seminole Tribe of Florida, had made contributions in 1980 and 1982 to federal candidates and committees, using tribal monies, in the names of other individuals or had permitted their own names to be used to make such contributions in violation of 2 U.S.C. § 441f. Information supplied by the complainant also indicates that Mr. Billie and Mr. Whilden exceeded their contribution limitations in 1980 and 1982 respectively in violation of 2 U.S.C. § 441a(a)(3). The complaint is based upon a series of articles which appeared in the Miami Herald on May 29-31, 1983, discussing the economic rise and political activities of the Seminole Tribe as a result of the establishment of tax-free smoke shops and bingo halls on Seminole land.

According to assertions contained in the May 30 article, a special tribal account was established in the late 1970's by former tribal chairman Howard E. Tommie which consisted of a

nickel levy on each carton of cigarettes sold on the reservation. Although the alleged original purpose of the "nickel fund" was to pay for litigation pertaining to the tribe's smoke shops, respondent Tommie is cited in the May 30 article as asserting that it was used to reimburse members of the tribe who contributed to political campaigns. The responses received as a result of notifications of the complaint contain no denials of the alleged reimbursements.

The assertions made in the present complaint are identical to those raised in an earlier complaint also filed by Mr. Harvill on July 8, 1983, and designated MUR 1557. On November 17, 1983, the Commission determined that the first complaint did not meet the requirements of a proper complaint, and the complainant was so notified. As noted above, on January 18, 1984, a new complaint was filed. On February 15, 1984, the Commission voted to merge MUR 1557 and MUR 1616 rather than close MUR 1557 and treat MUR 1616 as a totally separate matter. The respondents were notified of this action and informed that, if they wished, they could rely upon responses already submitted in MUR 1557. Stephen Whilden and counsel for the Seminole Tribe of Florida, James Billie and Marcellus Osceola have requested that their former responses be accepted in conjunction with responses in the present matter. (Attachment 1 and Attachment 2). Counsel for Marcellus Osceola has submitted a new response. (Attachment 3). Mr. Tommie has responded to notification of the complaint in MUR 1616. (Attachment 4).

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## II. LEGAL AND FACTUAL ANALYSIS

### A. Propriety of the Complaint

Counsel for the Seminole Tribe of Florida, James Billie and Marcellus Osceola have raised as a threshold defense the nature and content of the complaint upon which this matter is based. (See Attachments 1 and 2.) In the most recent response filed on behalf of the Tribe and Mr. Billie, counsel states, "First, the complaint does not clearly identify as a respondent each person or entity who is alleged to have committed a violation. See 111.4(d)(1), C.F.R. Second, the complaint fails to meet the specifications contained in § 111.4(d)(3), in that it provides no recitation of facts which described a violation of a statute or regulation over which the Commission has jurisdiction and as such makes it impossible for us to respond to whatever the allegations of the complaint are." (Attachment 1-a, page 2).

On November 15, 1979, the Commission approved the recommendation of the General Counsel to continue to accept complaints based on newspaper articles pursuant to Agenda Document #79-299. As noted in that document, the legislative history of 2 U.S.C. § 437g(a)(1), in particular the debates in the House of Representatives, indicate that the requirements of signed, sworn and notarized complaints stemmed from a desire to deter false accusations by requiring that complainants identify themselves and their sources and that they face prosecution for false statements. (See, e.g., remarks of Representative Rostenkowski, 122 Cong. Rec. H2542 (daily ed., Mar. 30, 1976).)

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"These concerns are met without further requirements for external complaints based on newspaper articles." Agenda Document #79-299, page 3. The issue of possible inaccuracies is met by the requirement that news articles used as the basis for complaints be substantive in their statements of fact.

In summary, Agency Document #79-299 recommended that complaints based on newspaper articles be accepted

> ...so long as a complaint...satisfied 2 U.S.C. § 437g(a)(1), by including a sworn statement that the complainant believes the facts to be true as alleged, and satisfies 11 C.F.R. § 111.2 [now § 111.4], in that the news article on which the complaint is based must be substantive in its facts....

As noted above, counsel in the present matter argues that the complaint contains "no recitation of facts. . . ." The complainant has, however, enclosed newspaper articles which contain allegations of particular acts and violations as well as names of particular persons, and which are thus substantive. The complainant also has stated, "The article clearly identifies each person and entity who are alleged to have committed a violation. The Miami Herald is a newspaper that I respect and find reliable; therefore, I believe in the truth of the statements reported in the article." The present complaint meets the Commission's criteria for a complaint based upon newspaper articles.

B. Jurisdiction

1. Indian Tribes

The second line of defense raised by counsel for the Seminole Tribe of Florida, Mr. Billie and Mr. Osceola, as well as

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by respondent Stephen Whilden, is the lack of express inclusion of Indian tribes in the Federal Election Campaign Act, particularly in the definition of "person" found at 2 U.S.C. § 431(11). Counsel argues that one of the "basic principles" of Indian law is that "Indian sovereignty cannot be limited by Acts of Congress which appear to do so; limitations must be explicit and doubts will be resolved in favor of the Indians." (Attachment 1-b, page 2. See also Attachments 2 and 3-b.)

2 U.S.C. § 431(11) defines "person" as including "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons...." The only exceptions listed are "the Federal Government or any authority of the Federal Government." Counsel argues that both the Seminole Tribe and tribal officials would be exempt from coverage because "an Indian tribe is not included within [this] definition and the term explicitly provides that it does not include the Federal Government or any authority of the Federal Government." (See Attachment 1-b, page 3.)

The special status of Indians and of Indian tribes has been emphasized repeatedly by the courts beginning with Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831). "The present right of tribes to govern their members and territories flows from a preexisting sovereignty limited, but not abolished, by their inclusion within the territorial bounds of the United States.... Once considered a political body of the United States, a tribe retains its sovereignty until Congress acts to divest that

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sovereignty." F. Cohen, Handbook of Federal Indian Law (1982 ed.), page 231. "Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status." Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978).

By virtue of this sovereignty, "[a]s a general proposition, Indian tribes are immune from suit in state or federal court." U.S. v. State of Oregon, 657 F.2d 1009, 1012, (9th Cir. 1981) citing Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978); California ex rel. Cal. Department of Fish and Game v. Quechan Tribe of Indians, 595 F.2d 1153 (9th Cir. 1979); Puyallup Tribe v. Washington Game Department, 433 U.S. 165 (1977). "The immunity is not, however, absolute. Like other sovereign powers possessed by Indian tribes, it exists only at the sufferance of Congress and is subject to complete defeasance." U.S. v. State of Oregon, 657 F.2d at 1013, citing U.S. v. Wheeler, 435 U.S. 313, 323 (1978) and Montana v. U.S., 450 U.S. 544 (1981). See also Martinez, 436 U.S. at 58; Hamilton v. Nakai, 453 F.2d 152 (9th Cir. 1972), cert. denied, 406 U.S. 945 (1972).

In recent years, the Supreme Court has addressed the limitations on the inherent sovereignty of Indian tribes. In U.S. v. Wheeler, 435 U.S. at 326, a case involving the respective criminal jurisdictions of federal and tribal courts, the Court stated,

> The areas in which . . . implicit divestiture of sovereignty has been held to have occured are those involving the relation between an Indian tribe and nonmembers of the tribe.

. . .

> These limitations rest on the fact that the dependent status of Indian tribes within our territorial jurisdiction is necessarily inconsistent with their freedom independently to determine their external relations. (Emphasis added.)

More recently, in Montana v. U.S., 450 U.S. at 564, the Court found that as regards the hunting and fishing rights of non-members of a tribe on tribal land,

> [E]xercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of the tribes, and so cannot survive without express congressional delegation.

The application of general federal law to Indian tribes has posed special problems for courts. The Supreme Court has generally required clear expressions of intent to "invade tribal independence" when the sovereignty of a tribe over its own peoples and land has been at question. See e.g., McClanahan v. Arizona State Tax Commission, 411 U.S. 164 (1973). However, general federal statutes have not been required to explicitly cite Indians or tribes as being covered. Rather, such intent can be found "in the legislative history, surrounding circumstances, or necessity of national coverage in order to fulfill congressional purposes." Handbook, op. cit., at 283.1/ For

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1/ The case most cited as, by dictum, extending all general Federal law to Indians is Federal Power Commission v. Tuscarora Indian Nation, 362 U.S. 99 (1960). However, this case involved interpretation of the Federal Power Act which specifically dealt with Indian lands. Later cases have narrowed the Tuscarora language to cases where no specific Indian rights are in question. Handbook, op. cit., at 285.

example, in Colorado River Water Cons. Dist. v. U.S., 424 U.S. 800, 810-811 (1976), the Court found that the McCarran Water Rights Suit Act of 1952 had given state courts concurrent jurisdiction over claims for Indian water rights, a finding based not only upon the language of the Act itself but also upon its underlying policy, "all-inclusive" nature, and the fact that the exclusion of Indian water rights "would enervate the Amendment's objective." In Davis v. Morton, 469 F.2d 593, 597-598 (10th Cir. 1972), the court found that the National Environmental Policy Act ("NEPA") covered the granting of leases on Indian land in that these grants constituted a type of major federal action cited in the NEPA. The Act itself did not specify such coverage of Indian land; however, the court found that it was "intended to include all federal agencies, including the Bureau of Indian Affairs."

Even more recently, in U.S. v. Faris, 624 F.2d 890 (9th Cir. 1980), cert. denied, 449 U.S. 1111 (1981), the court found that the portion of the Organized Crime Control Act of 1970 involving syndicated gambling, 18 U.S.C. § 1955, applied to Indian defendants indicted for operating gambling casinos on a reservation. According to this court, "federal laws generally applicable throughout the United States apply with equal force to Indians on reservations." 624 F.2d at 893. Although this case involved individual defendants rather than the tribe, the language of the decision appears to encompass both. The court cites three exceptions to the applicability of general federal

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law to Indians, namely (1) "self-governance in purely intramural matters," such as tribal membership, inheritance, and domestic relations, unless explicitly removed by Congress, (2) specific treaty rights, and (3) indication in the legislative history that Congress did not intend to include Indians or reservations. Id. As regards the statute before it, the court found that professional gambling was not "profoundly intramural nor essential to self-government." Id. Professional gambling was not covered by a treaty, nor did the legislative history of 18 U.S.C. § 1955 indicate that Congress intended not to include Indians in its coverage. The Faris court quoted the court in U.S. v. State of Montana, 604 F.2d 1162, 1169 (9th Cir. 1979), reversed in part, Montana v. U.S., 450 U.S. 544, as follows:2/

> We must recognize that in this case, as in others in which we are required to fix the rights and powers of Indians in the latter part of the twentieth century in the light of treaties of an earlier century, our task is to keep faith with the Indians while effectively acknowledging that Indians and non-Indians alike are members of one nation. Both seek power and gain through identical processes, viz. commerce, politics and litigation. We must, however, live together, a process not enhanced by unbending insistence on supposed legal rights which if found to exist may well yield tainted gains helpful to neither Indians nor non-Indians.

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2/ The language from U.S. v. State of Montana quoted herein was not a part reversed by the Supreme Court. In fact, the Supreme Court went even further than the circuit court in denying jurisdiction to the tribe involved over the hunting and fishing rights of non-members.

The court in Faris found "that Congress did not intend that Indians could freely engage in the large-scale gambling business that it forbade to all other citizens." at 894.

Even more recently, in a case involving the tax liability of an Indian tribe, the court stated that "[s]ilence alone does not create in favor of the Tribe an implied immunity from federal excise taxes." Rather, "express exemptive language" is required in a statute or a treaty. Confed. Tribes of Warm Springs Reservation v. Egger, 691 F.2d 878, 882 (9th Cir. 1982), cert. denied, No. 82-1268, March 22, 1983, ____ U.S. ____, 51 USLW 3692. The court in Confed. Tribes recognized the general principle of Indian law that "courts should construe treaties and statutes dealing with Indians liberally," but noted that it is "quite another [thing] to say that, based on those same policy considerations which prompted the canon of liberal construction, the courts themselves are free to create favorable rules." 691 F.2d at 883, quoting Fry v. U.S., 557 F.2d 646, 649 (9th Cir. 1977), cert. denied, 434 U.S. 1011 (1978). "Courts are not free to create ambiguities in order to serve the interests of Indians." Confed. Tribes, 691 F.2d at 881.

In the present matter there appears to be no specific Indian right which would be breached by application of the FECA to the Seminole Tribe of Florida. The Treaty with the Seminoles, 14 Stat. 744, dated March 21, 1866, contains no provision which remotely addresses the issue of campaign contributions to federal

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candidates. Nor do these contributions involve internal tribal self-government; rather, they concern the relationship of the tribe with the larger society. While the FECA does not explicitly include Indians in its definition of "person," the cases cited above show that it is not a "basic principle" that they are therefore excluded, as so unequivocally stated by respondents. Certainly the legislative history of the FECA and its amendments contains no evidence of an interest on the part of Congress to exclude Indians and Indian tribes from its coverage. Indeed, applying the language of the court in Faris to the facts in the present matter, there is no indication that Congress intended to permit Indian tribes to engage in the making of campaign contributions to federal candidates in the name of another when such a practice is forbidden to all others. Rather, Congress applied this prohibition to every "person," including certain enumerated types of organizations "and any other organization or group of persons." The only exceptions cited are "the Federal Government and any authority of the Federal Government."3/ Congress intended the Act to be all-encompassing in scope.

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3/ Congress, in the 1979 Amendments to the FECA, added language to the definition of "person" at Section 431(11) explicitly excluding the "Federal government and any authority of the Federal Government." The only discussion in the legislative history of this particular amendment simply reiterates the exclusion of the Federal Government with no further explanation. House Report No. 96-422, 96th Cong., 1st Sess. 11 (1979). There
(footnote continued)

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Respondents have also urged the Commission to employ as precedent a ruling by the Internal Revenue Service exempting the Seminole Tribe of Florida from income taxes. This income tax exemption, however, rests solely upon Rev. Rul. 67-284, 1967-2C.B. 55, 58, which constitutes an administrative determination which does not have the force of law. Washington State Dairy Products Commission v. U.S., 685 F.2d 298, 300 (9th Cir. 1982), cited in Confed. Tribes, 691 F.2d at 881, n.2.

This Office concludes that the Commission has jurisdiction over the Seminole Indian Tribe of Florida pursuant to the FECA.

2. Officials and Individual Members of Indian Tribes

Tribal authorities, when acting within their official capacities and within the scope of their authority, generally are covered by tribal sovereign immunity. U.S. v. State of Oregon, 657 F.2d 1009, 1013, n.8 (9th Cir. 1981). See also Bottomly v. Passamaquoddy Tribe, et al., 599 F.2d 1061, 1067 (1st Cir. 1979);

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3/ (footnote continued)

is no indication that Congress intended this exemption to extend to other levels of government.

Prior to the enactment of this amendment, in MUR 246 (76), the Commission had found no reason to believe that the Committee for Jimmy Carter had violated the Act by failing to report as contributions the costs incurred by the State of Georgia in printing a book used by the Committee. Later, in MUR 1297, the Commission found no reason to believe that representatives of a county government had violated 2 U.S.C. § 441a(a)(1)(A) in a situation involving alleged use of county personnel, supplies and equipment.

David v. Littell, 398 F.2d 83 (9th Cir. 1968), cert. denied, 393 U.S. 1018 (1969). Given, however, the above determination that the Commission would not be barred by sovereign immunity from enforcing the FECA against the Seminole Tribe of Florida, there likewise would appear to be no bar against such enforcement with regard to the chairman of the tribe, or against other present or former officials.

Even if sovereign immunity could be raised as a defense by these individuals with regard to their official roles, such immunity would not protect them as individual members of the tribe. In Puyallup Tribe v. Washington Game Dept., 433 U.S. at 173, a case involving the regulation by the State of Washington of tribal fishing activities, the Court found that the successful assertion of tribal sovereign immunity in this case does not impair the authority of the state court to adjudicate the rights of the individual defendants. "The doctrine of sovereign immunity . . . does not immunize the individual members of the tribe." at 172.

As regards general federal statutes, the Court has found that individual tribal members are to be treated similarly to other persons. See, e.g., F.P.C. v. Tuscarora, 362 U.S. at 116-117; Superintendent of Five Civilized Tribes v. Commissioner, 295 U.S. 418 (1935); Choteau v. Burnet, 283 U.S. 691 (1931). As regards members with official roles, the court in Bottomly, 599 F.2d at 1067, upheld the claim of sovereign immunity by defendent

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representatives of the Tribe, because "the complaint in its original form, and as amended, gave no suggestion that this was a suit against these persons for actions taken in their individual capacities."

We conclude that the Commission has jurisdiction over all of the individuals named as respondents in this matter, including those holding official positions at the time of the activities here at issue.

III. SPECIFIC ALLEGATIONS

A. The Seminole Tribe of Florida

The complaint alleges that monies from a special fund of the Seminole Tribe of Florida were used to make contributions to federal candidates in the names of other persons in violation of 2 U.S.C. § 441f by means of reimbursements of individuals who had made such contributions in their own names. In the newspaper articles submitted by the complainant, the present chairman of the tribe, James E. Billie, is quoted as acknowledging such reimbursements, while two persons have allegedly stated that they received such reimbursements. (See below.) Therefore, we recommend that the Commission find reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others.[4/]

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4/ This Office does not at present recommend a finding that the Tribe has violated 2 U.S.C. § 441a(a)(1)(A). Reports submitted to the Commission by recipient committees do not indicate that the two persons who have allegedly admitted receiving reimbursements exceeded their personal contribution
(footnote continued)

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B. Howard E. Tommie

Howard E. Tommie served as chairman of the Seminole Tribe of Florida between 1971 and 1979. He is quoted in the newspaper article contained in the complaint as saying that "[t]hey made me write checks and other people write checks and then they put the money back into our account." The newspaper article does not cite specific contributions made to federal candidates by respondent Tommie; however, reports filed with the Commission show that the Reagan for President Committee received a $250 contribution from respondent Tommie on June 9, 1980.

Respondent Tommie has responded to the Commission's notification of the complaint involved in this matter by denying that he ever stated that he had "made a check to any candidate" and by stating that he has no record of any campaign contribution during the 1980 election year. (See Attachment 4).

We recommend that the Commission find reason to believe that Howard E. Tommie violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect contributions made by the Seminole Tribe of Florida in the names of others.

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4/ (footnote continued)

limitations of $1,000 per election per recipient or contributed to the same candidates in a combined amount exceeding $1,000. The reports do contain numerous contributions from other persons associated with the Seminole Tribe of Florida, which, if combined per candidate supported, exceed $1,000 per election. However, we recommend that consideration of the issue of possible violations of 2 U.S.C. § 441a(a)(1)(A) by the Tribe be deferred pending investigation of the alleged violations of 2 U.S.C. § 441f.

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C. Marcellus Osceola

Marcellus Osceola is also cited in the newspaper article as having been reimbursed for political contributions, including one to Senator Edward Kennedy. Respondent Osceola is quoted as saying, "I donated to Sen. Kennedy and a couple of other individuals. ...Me, my wife, my dad, my mom and a couple of friends. We gave about $7,000, and they gave it back to us." According to reports filed with the Commission, the Florida for Kennedy Committee, on June 22, 1979, received a $1,000 contribution from Marcellus Osceola.

We recommend that the Commission find reason to believe that Marcellus Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal committee made by the Seminole Tribe of Florida in the name of another.5/

D. James E. Billie

James E. Billie is the current chairman of the Seminole Tribe of Florida. According to the newspaper article contained in the complaint, respondent Billie, together with Stephen

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5/ Reports submitted to the Commission in 1980 by the Carter/Mondale Presidential Committee, the Florida for Kennedy Committee and the National Republican Senatorial Committee show contributions from other persons surnamed Osceola, two of whom cited the same street address as Marcellus Osceola and all of whom resided at that time in Hollywood, Florida. We intend to pursue information about these contributions during the investigation, but do not presently recommend proceeding to reason to believe against these individuals on the basis of the reported statement by Marcellus Osceola regarding his relatives' participation in the Tribe's contributions, even though it is apparently supported by reports submitted to the Commission. This is not to say that we shall not recommend such action in the future.

Whilden, controlled the use of the special tribal fund allegedly used to reimburse tribal members for federal contributions. Also according to the newspaper account, respondent Billie has acknowledged that persons who made political contributions were reimbursed with tribal monies, although the article cites no admission of reimbursement of himself.

2 U.S.C. § 441a(a)(3) limits to $25,000 the aggregate total of contributions which any individual may make within a calendar year. Contributions made during a year other than an election year but made with respect to an election held during the following year are considered to have been made "during the calendar year in which such election is held." According to reports submitted to the Commission by recipient committees, respondent Billie contributed a total of $28,250 to federal candidates and committees in 1979 and 1980 with respect to the 1980 elections, including $20,000 to the DNC Services Corporation, $500 to Bafalis for Congress, $1,000 to the Carter/Mondale Presidential Committee, $1,000 to Citizens for Gunter, $500 to the Committee to Re-Elect Congressman Dan Mica, $500 to the Committee for Sam Gibbons, $1,000 to the Congressman Bill Young Campaign Committee, $1,000 to the Claude Pepper Campaign Committee, $500 to the Fuqua for Congress Campaign Committee, $250 to the Larry Pressler for President Committee, $1,000 to the Senator John Ware Campaign Committee, and $1,000 to Stack for Congress.

We recommend that the Commission find reason to believe that James E. Billie, using monies other than his own, violated

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2 U.S.C. § 441f by making contributions to federal candidates in the names of others. We also recommend that the Commission find reason to believe that James E. Billie has violated 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates during 1979-1980 with respect to the 1980 elections.

E. Stephen H. Whilden

In addition to the $25,000 limitation on aggregate yearly contributions cited above, the Act limits to $1,000 the amount which any person may contribute to any candidate and his authorized committee with respect to any election to Federal office. Reports submitted to the Commission by recipient committees show that in 1979-80, Stephen H. Whilden, counsel to the Seminole Tribe of Florida from 1977 until May, 1982, donated $3,000 to the Florida for Kennedy Committee, $1,000 to the Stack for Congress Committee, $1,200 for the Stone for Senate Committee, $1,500 to the Kennedy for President Committee, $1,500 to the Carter/Mondale Presidential Committee, $2,500 to the Democratic National Committee, $1,000 to Alan S. Becker, $1,000 to the Senator John Ware Campaign Committee, and $1,000 to Citizens for Gunter for a total of $13,700. In 1981-1982, respondent Whilden contributed $2,000 to the Committee to Re-Elect Kennedy, $10,000 to the DNC Services Corporation, $10,000 to the Republican National Committee, $1,000 to the Fund for a Democratic Majority, $1,000 to the Lujan Booster Club, $5,000 to the National Republican Congressional Committee, $500 to Larry Smith for Congress and $500 to the Minnesota Democratic-Farmer Labor Party for a total of $40,000.

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Again, there is no indication in the newspaper articles that respondent Whilden was himself reimbursed with tribal monies in either 1980 or 1982, although the author points out that during the 1980 election period, respondent Whilden's salary as the tribe's attorney was $35,000 a year. On the other hand, the newspaper account does quote Howard Tommie as saying that "...Steve Whilden and James Billie used (the nickel fund) for all kinds of purposes, loans to tribal members and political contributions. They made me write checks...then they put the money back in our account." (Emphasis added.)

In his response to the Commission's notification of the complaint in MUR 1557, respondent Whilden stated that he "did not participate in any of the activities complained of, except, as General Counsel and legal advisor to the Seminole Tribe of Florida, to advise the Tribe on its participation in the political process." (Attachment 3-b).

We recommend that the Commission find reason to believe that Stephen H. Whilden, using monies other than his own, has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. We also recommend that the Commission find reason to believe that Stephen H. Whilden has violated 2 U.S.C. § 441a(a)(3) by making $40,000 in contributions to federal candidates in 1981-1982 with respect to the 1982 elections, and 2 U.S.C. § 441a(a)(1)(A) by contributing $1,500 to the Kennedy for President Committee during 1979-1980, $1,500

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to the Carter/Mondale Presidential Committee during 1979-1980, and $2,000 to the Committee to Re-Elect Kennedy during 1981-1982.

IV. RECOMMENDATIONS

1. That the Commission find reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others.

2. That the Commission find reason to believe that Howard E. Tommie has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect contributions to federal candidates and committees made by the Seminole Tribe of Florida in the names of others.

3. That the Commission find reason to believe that Marcellus Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal candidate made by the Seminole Tribe of Florida in the name of another.

4. That the Commission find reason to believe that James E. Billie, using monies other than his own, violated 2 U.S.C. § 441f by making contributions to federal candidates and committees in the names of others, and 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates and committees during 1979-1980 with respect to the 1980 elections.

5. That the Commission find reason to believe that Stephen H. Whilden, using monies other than his own, has violated 2 U.S.C. § 441f by making contributions to federal candidates in

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the names of others, 2 U.S.C. § 441a(a)(3) by making $40,000 in contributions to federal candidates during 1981-1982 with respect to the 1982 elections, and 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to federal candidates during 1979-1980 and 1981-1982.

6. Approve attached letters.

Charles N. Steele
General Counsel

April 16, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Responses received from counsel for the Seminole Tribe of Florida and James E. Billie
2. Response received from counsel for Marcellus Osceola
3. Responses received from Stephen H. Whilden
4. Response received from Howard E. Tommie
5. Letters to respondents - 4

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ SUSAN M. TEIR SMT

DATE: APRIL 18, 1984

SUBJECT: OBJECTION - MUR 1616 - General Counsel's Report signed April 16, 1984

The above-named document was circulated to the Commission on Monday, April 16, 1984 at 4:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

| | |
|---|---|
| Commissioner Aikens | X |
| Commissioner Elliott | |
| Commissioner Harris | |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Reiche | X |

This matter will be placed on the Executive Session agenda for Tuesday, April 24, 1984.

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida | ) | |
| James E. Billie | ) | MUR 1616 |
| Marcellus Osceola | ) | |
| Howard E. Tommie | ) | |
| Stephen H. Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 24, 1984, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1616:

1. Find reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others.

2. Find reason to believe that Howard E. Tommie has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect contributions to federal candidates and committees made by the Seminole Tribe of Florida in the names of others.

3. Find reason to believe that Marcellus Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal candidate made by the Seminole Tribe of Florida in the name of another.

4. Find reason to believe that James E. Billie: violated 2 U.S.C. § 441f by using monies other than his own to make contributions to federal candidates and committees in the names of others; and violated 2 U.S.C. § 441a (a)(3) by making $28,250 in contributions to federal candidates and committees during 1979-1980 with respect to the 1980 elections.

(Continued)

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5. Find reason to believe that Stephen H. Whilden: violated 2 U.S.C. § 441f by using monies other than his own to make contributions to federal candidates in the names of others; violated 2 U.S.C. § 441a(a)(3) by making $35,000 in contributions to federal candidates during 1981-1982 with respect to the 1982 elections; and violated 2 U.S.C. § 441a (a)(1)(A) by making excessive contributions to federal candidates during 1979-1980 and 1981-1982.

6. Approve the letters attached to the General Counsel's April 16, 1984 report, as amended in the meeting of April 24, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, and Reiche voted affirmatively for the decision; Commissioner McGarry was not present at the time of the vote.

Attest:

4-26-84
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1984

Stephen H. Whilden, Esquire
P.O. Box 10188
Albuquerque, New Mexico 87184

RE: MUR 1616

Dear Mr. Whilden:

On January 18, 1984, the Federal Election Commission notified you of a complaint which alleges violations of 2 U.S.C. § 441f in the form of contributions to federal candidates made with monies belonging to the Seminole Tribe of Florida but made in the names of other persons. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, of information supplied by you, and of reports submitted to the Commission by federal committees, the Commission, on April 24, 1984, determined that there is reason to believe that you have violated 2 U.S.C. § 441f by using monies other than your own to make contributions to federal candidates in the names of others, 2 U.S.C. § 441a(a)(3) by making $35,000 in contributions to federal candidates during 1981-1982 with respect to the 1982 election, and 2 U.S.C. § 441a(a)(1)(A) by making contributions in excess of $1,000 per election in 1979-1980 to the Kennedy for President Committee ($1,500) and the Carter/Mondale Presidential Committee, Inc. ($1,500), and in 1981-1982 to the Committee to Re-Elect Kennedy ($2,000).

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit any such responses within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against you, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1984

Jack M. Skelding, Jr., Esquire
Ronald A. Labasky, Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616
Seminole Tribe of Florida
James E. Billie

Dear Mr. Skelding and Mr. Labasky:

On January 18, 1984, the Federal Election Commission notified your clients, The Seminole Tribe of Florida ("the Tribe") and Mr. James E. Billie, of a complaint which alleges violations of 2 U.S.C. § 441f in the form of contributions to federal candidates made with monies belonging to the Seminole Tribe of Florida but made in the names of other persons. A copy of the complaint was forwarded to The Tribe and to Mr. Billie at that time. We acknowledge receipt of your response which was dated March 13, 1984.

Upon further review of the allegations contained in the complaint, of information supplied by you, and of reports submitted to the Commission by federal committees, the Commission, on April 24, 1984, determined that there is reason to believe that the Seminole Tribe of Florida has violated 2 U.S.C. § 441f by making contributions to federal candidates and committees in the names of others, and that Mr. Billie has violated 2 U.S.C. § 441f by using monies other than his own to make contributions to federal candidates and committees in the names of others and 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates and committees during 1979-1980 with respect to the 1980 elections.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit any such responses within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Procedures

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1984

Mr. Howard E. Tommie
3363 Sheridan Street
Suite 212
Hollywood, Florida 33021

RE: MUR 1616

Dear Mr. Tommie:

On January 18, 1984, the Federal Election Commission notified you of a complaint which alleges violations of 2 U.S.C. § 441f in the form of contributions to federal candidates made with monies belonging to the Seminole Tribe of Florida but made in the names of other persons. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and of reports submitted to the Commission by federal committees, the Commission, on April 24, 1984, determined that there is reason to believe that you have violated 2 U.S.C. § 441f by knowingly permitting your name to be used to effect a contribution to a federal candidate made by the Seminole Tribe of Florida in the name of another.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit any such responses within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against you, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Procedures

9 1 0 7 4 0 7 7 0 1 6 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1984

Jack M. Skelding, Jr., Esquire
Ronald A. Labasky, Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616
Marcellus Osceola

Dear Mr. Skelding and Mr. Labasky:

On January 18, 1984, the Federal Election Commission notified your client, Marcellus Osceola, of a complaint which alleges violations of 2 U.S.C. § 441f in the form of contributions to federal candidates made with monies belonging to the Seminole Tribe of Florida but made in the names of other persons. A copy of the complaint was forwarded to Mr. Osceola at that time.

Upon further review of the allegations contained in the complaint and of information supplied by you, the Commission, on April 24, 1984, determined that there is reason to believe that Mr. Osceola has violated 2 U.S.C. § 441f by knowingly permitting his name to be used to effect a contribution to a federal candidate made by the Seminole Tribe of Florida in the name of another.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit any such responses within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Procedures

9004079169

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 4, 1984

Jack M. Skelding, Jr., Esquire
Ronald A. Labasky, Esquire
Madigan, Parker, Gatlin,
Swedmark and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616
The Seminole Tribe of Florida
James E. Billie
Marcellus Osceola

Dear Mr. Skelding:

As a follow-up to the letters to you of April 30, 1984, from the Commission chairman, we wish to inform you that the Commission at its meeting of April 24, 1984, considered the procedural argument raised in your letters of March 13 and March 27, 1984, concerning acceptance of the complaint filed by Mr. Paul Harvill after the expiration of the thirty-day period permitted for re-filing of his original complaint in MUR 1557.

It must be emphasized that the Commission has treated the complaint filed after the thirty-day period as a new matter designated MUR 1616, not as a continuation of MUR 1557. Pursuant to the procedures set forth in the Federal Election Campaign Act and its own regulations, the Commission could have closed MUR 1557, placed the file on the public record and treated the new complaint as a totally separate matter; however, as was explained in our letters to your clients of January 24, 1984, and February 21, 1984, and in our letter to you of February 22, 1984, the Commission elected to merge the two matters because of the identical nature of the issues raised in the two complaints. In this way confidentiality was preserved and your clients were able to rely upon the responses which they had filed in MUR 1557.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

9004079167

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84 MAY 18 P12: 50

LAW OFFICES
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MILLARD F. CALDWELL
OF COUNSEL

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OF COUNSEL

JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

May 14, 1984

MUR 1616
Weissenborn

Ms. Ann A. Weissenborn
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1616 - Seminole Tribe of Florida; James E. Billie

Dear Ms. Weissenborn:

Pursuant to our telephone conversation of May 11, 1984, this letter is to officially advise you that the Seminole Tribe of Florida and James E. Billie, the Respondents in the above numbered case, do desire to initiate discussions in an effort to reach a conciliation in this matter prior to a finding of probable cause. As indicated in the Commission's April 30, 1984 letter directed to the Respondents, we also believe a settlement would be appropriate in this matter.

During the course of events in the 1982 elections, the Seminole Tribe of Florida and James Billie, in making contributions to both state and federal candidates, were acting upon the advice of their then legal counsel, Mr. Stephen Whilden. All actions taken were based upon the advice of the Tribe's counsel that the Seminole Tribe of Florida was competent and capable of making contributions to federal candidates and committees, and contributions made by members of the Seminole Tribe of Florida could be appropriately reimbursed by the Tribe to that member.

Therefore, at no time did either the Seminole Tribe of Florida or Mr. James E. Billie act with any wilfull or knowing intention to evade the provisions of the Federal Election Campaign Act.

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In conjunction with our conversation of last week, I am enclosing a copy of the Stipulation which has been entered into between the Seminole Tribe of Florida and the Florida Department of State, Division of Elections. This Stipulation is intended to resolve the issues between the Tribe and the state amicably. As you will note, and as is the case with the instant complaint, all actions of the previous nature dealing with contributions have ceased. That action was taken in the summer of 1982 when Mr. Jim Shore became the General Counsel for the Seminole Tribe of Florida and, also, based upon the advice which this office rendered to the Tribe dealing with contributions. I believe that in light of the fact that the Tribe has ceased the activities which are complained of in this Federal Election Commission complaint that a similar resolution could be effected in this case.

In the event you have any questions, please do not hesitate to contact me and we look forward to working with you to resolve this matter as quickly as possible.

Sincerely,

Ronald A. Labasky

RAL:tc
Enclosure

FLORIDA ELECTIONS COMMISSION

PAUL HARVILL,

Complainant,

v. FEC Case No. 083-30

SEMINOLE TRIBE OF FLORIDA,

Respondent.

_____/

STIPULATION OF FACTS

A Stipulation of Facts relating to the above styled complaint is made by the undersigned representative of the Division of Elections and the Seminole Tribe of Florida, (hereinafter referred to as the "Tribe"), and states as follows:

1. The complaint relates to actions of the Tribe and its individual members during the period preceeding the Florida primary and general elections of 1982. Allegedly, the Tribe reimbursed certain persons who gave campaign contributions during said campaign and election period in violation of Section 106.08(3), F.S. (1981) and made campaign contributions through the tribal entity, without registering as a political committee.

2. As to the complaint, the Tribe and the Division of Elections stipulate as follows:

(a) During the 1982 election year members of the Tribe and others made campaign contributions to candidates seeking office in the Florida primary and general elections of 1982 knowing such contributions would be reimbursed by the Tribe.

(b) In 1982, by and through the authority of the Tribe, members of the Tribe and others were reimbursed for campaign contributions to candidates in said elections.

(c) The act of reimbursing these persons for their campaign contributions was taken by the Tribe after consultation with and upon the advice of legal counsel then employed by the Tribe, who asserted that such action was lawful.

(d) In July of 1982, prior to the primary and general

elections of that year, the practice of reimbursing Tribal members for political campaign contributions was discontinued upon advice of newly retained in-house counsel and special outside legal counsel and, to date, such practice has not reoccurred.

(e) In addition to the reimbursement of individual contributors, campaign contributions were made on behalf of and in the name of the Seminole Tribe of Florida. The contributions were made from the Tribal account designated as the "Nickle Fund" which is identified in the 1981 Tribal budget and is used at the discretion of the Tribal Chairman. This action was taken after consultation with and upon advice of then employed previous in-house legal counsel, who asserted that said action was lawful.

3. The Tribe enters into this Stipulation without waiver or concession of any sovereign rights or privileges granted to the Tribe under the federal or state law and without waiver of any right to litigate, in the future, further applicability of state election law to the Tribe.

4. With the proviso of paragraph 3, the Tribe will henceforth not reimburse individual members or other persons for campaign contributions made in elections under Chapter 106, F.S. (1981).

5. With the proviso of paragraph 3, the Tribe will henceforth properly identify and denominate any campaign contribution which is made by or on behalf of the Tribe in elections under Chapter 106, F.S. (1981).

6. In the event that the Tribe accepts contributions or raises money from Tribal members or from any other source to be contributed to candidates or to issue campaigns during the course of any election under Chapter 106, F.S., the Tribe will, prior to such action, register as a political committee as defined in Sections 106.011 and 106.03, F.S. (1981) and otherwise comply with applicable campaign finance reporting laws.

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7. This Stipulation will be part of an investigative report to be submitted to the Florida Elections Commission for purposes of probable cause determination pursuant to Florida Administrative Code Rule 1D-1.024 and Section 106.25, F.S. (1981), and the Staff will recommend that this Stipulation fully resolve this matter; and in the event that the Commission refuses to accept the Stipulation as final resolution of this matter, than and to that extent this Stipulation shall be of no force and effect and shall be null and void.

Dorothy W. Gibson
Division of Elections

James E. [illegible]
Seminole Tribe of Florida

Dated on February 10, 1984.

0004070172

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MILLARD F. CALDWELL
OF COUNSEL

RALPH H. HABEN, JR.
OF COUNSEL

JULIUS F. PARKER (1910-1966)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

May 14, 1984

Ms. Ann A. Weissenborn
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1616 - Marcellus Osceola

Dear Ms. Weissenborn:

This letter is in response to our telephone conversation of last Friday, May 11, 1984, and to confirm that the Respondent, Marcellus Osceola, is interested in settling this matter through conciliation prior to any finding of probable cause. In that regard, please be advised that since June of 1982 when the alleged improprieties took place that the Seminole Tribe of Florida has ceased making any reimbursements to tribal members for contributions made in their names.

Further, Mr. Osceola was at no time specifically aware that the activities which were being undertaken pursuant to the direction of the Tribe's then acting legal counsel were illegal or improper under the Federal Campaign Act. As such, we do not believe that the actions which he took, based upon those directions, would constitute a violation of the Campaign Act.

Based upon the foregoing and the fact that the Tribe has ceased the reimbursements, which they were advised were proper in light of their Seminole Tribe and Indian status, this matter should be resolved amicably through a conciliation. We will look forward to working with you on behalf of Marcellus Osceola in attempting to resolve this matter as quickly as possible.

Sincerely,

Ronald Labasky

Ronald A. Labasky

RAL:tc

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OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

84 JUN 15 P5: 16

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| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida, | ) | |
| et al. | ) | |

GENERAL COUNSEL'S REPORT

On May 14, 1984, counsel for the Seminole Tribe of Florida ("the Tribe"), James E. Billie and Marcellus Osceola, in two separate letters, requested pre-probable cause conciliation on behalf of his clients in the above matter. (See Attachments 1 and 2). Attached to the letter containing this request on behalf of the Tribe and Mr. Billie is a stipulation entered into by the Tribe and the Florida Elections Commission concerning state contributions made by the Tribe in the names of others. Counsel has indicated the willingness of the Tribe and Mr. Billie to enter into similar agreements with the Commission.

The Florida stipulation does present a starting point for negotiation of conciliation agreements; however, it lacks detailed information regarding the amounts of monies involved in the admittedly illegal contributions involved and any recitation of the persons involved. It will be necessary for the respondents in the present matter to provide such information related to contributions made to federal candidates and committees before this Office can recommend that the Commission enter into pre-probable cause conciliation. In addition, certain statements of fact made in the letters require clarification.

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This Office recommends that the Commission decline to enter into pre-probable cause conciliation at this time pending further investigation and approve the attached letters to counsel which explain the need for additional information before conciliation can be considered.

Recommendation

1. Decline to enter into pre-probable cause conciliation with The Seminole Tribe of Florida, James E. Billie and Marcellus Osceola at this time pending further investigation.

2. Approve the attached letters to counsel.

Charles N. Steele
General Counsel

June 15, 1984
Date

BY: Kenneth A. Gross
Associate General Counsel

Attachments
1. Letter from Ronald A. Labasky dated May 14, 1984, on behalf of The Seminole Tribe of Florida and James E. Billie
2. Letter from Ronald A. Labasky dated May 14, 1984, on behalf of Marcellus Osceola
3. Letters to Ronald A. Labasky (2)

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida, | ) | |
| et. al. | ) | |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 20, 1984, the Commission decided by a vote of 4-0 to take the following actions in MUR 1616:

1. Decline to enter into pre-probable cause conciliation with The Seminole Tribe of Florida, James E. Billie and Marcellus Osceola at this time pending further investigation.

2. Approve the letters to counsel attached to the General Counsel's Report signed June 15, 1984.

Commissioners Elliott, Harris, McDonald and Reiche voted affirmatively in this matter; Commissioners Aikens and McGarry did not cast a vote.

Attest:

6-20-84

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 6-15-84, 5:16
Circulated on 48 hour tally basis: 6-18-84, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 21, 1984

Ronald A. Labasky, Esquire
Madigan, Parker, Gatlin, Swedmark
and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616
Seminole Tribe of Florida
James E. Billie

Dear Mr. Labasky:

We have received your letter of May 14, 1984, in which you stated that your clients, the Seminole Tribe of Florida and James E. Billie, desire to enter into pre-probable cause conciliation with regard to the above-cited matter. The Commission would like to enter into such conciliation at a future date, but, on June 20, 1984, declined to do so at this time pending further investigation.

The Stipulation of Fact entered into by the Seminole Tribe and the Florida Elections Commission, which you enclosed with your letter, is generally helpful as a starting point for negotiation of a conciliation agreement with this agency; however, we need additional factual material and documentation. Specifically, it will be necessary for us to receive documentation related to all the contributions to federal candidates reimbursed by the Seminole Tribe in 1980 and 1982; i.e., copies of cancelled checks used to make the reimbursements, ledgers, and any other written records of these transactions. We also request (1) identification of the specific individuals who were involved in the solicitation of prospective conduits and in the selection of recipient federal committees and candidates, and (2) a detailed explanation of the process by which the persons who were asked to serve as conduits made their contributions and received their reimbursements.

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Once this information is obtained, the Commission will again consider your request for pre-probable cause conciliation.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040701790

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 21, 1984

Ronald A. Labasky, Esquire
Madigan, Parker, Gatlin, Swedmark
and Skelding
Forum Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302-0669

RE: MUR 1616
Marcellus Osceola

Dear Mr. Labasky:

We are writing in response to your letter of May 14, 1984, in which you expressed the desire of your client, Marcellus Osceola, to enter into pre-probable cause conciliation in the above-cited matter. The Commission would like to enter into such conciliation at a future date, but, on June 20, 1984, declined to do so at this time pending further investigation.

In your letter you have indicated that Mr. Osceola's alleged violations occurred in June, 1982. However, in the Miami Herald article attached to the complaint, Mr. Osceola is quoted as having stated that he was asked to make a contribution to Senator Kennedy. The Florida for Kennedy Committee reported the receipt of $1,000 from Mr. Osceola on June 22, 1979. In 1982 the Van B. Poole for U.S. Senate Committee reported a contribution of $689.05 from a Mr. and Mrs. Osceola of 6341 N.W. 34th Street, Hollywood, Florida, on April 28, 1982. Therefore it appears Mr. Osceola's violations were not confined to one month in 1982.

Please provide a listing of all of Mr. Osceola's contributions to federal candidates in 1980 and 1982 for which he accepted reimbursement from the Seminole Tribe of Florida ("the Tribe"), giving the name of the recipient, the date and the amount of the contribution. Please also describe the process by which Mr. Osceola made his contribution(s) as a conduit for the Tribe and received his reimbursement, including the names of other individuals involved.

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Upon receipt of the information requested above, the Commission will again consider your request for pre-probable cause conciliation.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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LAW OFFICES

MADIGAN, PARKER, GATLIN, SWEDMARK & SKELDING

FORUM BUILDING, 318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JULY 6 P2:14

July 3, 1984

JULIUS F. PARKER, JR
B. KENNETH GATLIN
GAYLE SMITH SWEDMARK
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. MCVOY
BEN E. GIRTMAN
RONALD A. LABASKY
KEITH C. TISCHLER
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TERRELL C. MADIGAN
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OF COUNSEL

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JOHN A. MADIGAN, JR. (1919-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

Mr. Kenneth A. Gross
Associate General Counsel
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 1616
Marcellus Osceola

Dear Mr. Gross:

Thank you for your letter of June 21, 1984, concerning the decision of the Commission on our request for possible conciliation in this matter. Your letter has been forwarded to Mr. Osceola for review and comment.

As soon as I receive comment from Mr. Osceola I will be back in touch with you. I will be out of my office the week of July 9 through July 13 on business, and will not return until July 16, I am sure it will take Mr. Osceola that amount of time to review your request and provide me with whatever comments he may have so that they can be forwarded to you.

Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL/ks

GCC 3944

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Weissenborn
84 JUL 6 P12:14

LAW OFFICES

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JOHN A. MADIGAN, JR. (1919-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

July 3, 1984

Mr. Kenneth A. Gross
Associate General Counsel
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 1616
Seminole Tribe of Florida
James E. Billie

Dear Mr. Gross:

Your letter of June 21, 1984, has been forwarded to the Seminole Tribe of Florida for review and assistance in attempting to obtain the various materials and documentation which you have requested. I do not have those items in my possession and therefore this letter will have to be reviewed and the information collected and forwarded to me. I will be out of my office the week of July 9 through July 16 on business and therefore will not be able to respond to this until my return. However, I am certain it will take at least that two week period for the Tribe to review your request and provide their information to me. I appreciate your patience on this matter.

Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL/ks

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LAW OFFICES
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TALLAHASSEE, FLORIDA

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MILLARD F. CALDWELL
OF COUNSEL
RALPH H. HABEN, JR.
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

July 31, 1984

GCC #4256

Mr. Kenneth A. Gross
Associate General Counsel
Federal Elections Commission
Washington, DC 20463

RE: MUR 1616
Marcellus Osceola

Dear Mr. Gross:

On June 21, 1984, you directed a letter to us concerning the case involving Marcellus Osceola which is before the Federal Elections Commission. That letter was forwarded to Marcellus Osceola for review. He has now contacted us concerning the information contained in your letter relating to the two contributions of which the Commission was aware, one occurring in 1979 to the Kennedy Campaign and the other in 1982 to the Van B. Poole for U.S. Senate Campaign. Mr. Osceola has advised me that he is only aware of those two contributions. He does not believe that he made any other contributions which were either reimbursed or not. At the present time, however, he has no checking account records as he and his wife have been divorced and she has all the records related to those time periods, if they still exist.

On May 14, 1984, we directed a letter to Ms. Weissenborn on your staff concerning this case. We explained that the Seminole Tribe of Florida ceased making reimbursements of any type, whether it related to State or Federal campaigns, in June, 1982. That letter was not meant to imply, as your letter seems to state, that Mr. Osceola's activities occurred only in June of 1982. The letter states that since June of 1982 when the alleged improprieties took place and which are the concern of the complaint herein, the reimbursement procedures employed by the Seminole Tribe, under advice of counsel, were stopped.

As soon as I receive any further information from Mr. Osceola concerning records related to this matter, or to the companion case concerning the Seminole Tribe of Florida, I will advise you immediately. Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

RAL/ks

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of )
)
Seminole Tribe of Florida, et. al. ) MUR 1616

84 SEP 28 A9:43

GENERAL COUNSEL'S REPORT

## I. BACKGROUND

On April 24, 1984, the Commission found reason to believe the Seminole Tribe of Florida (hereinafter "the Tribe"), James E. Billie, Howard E. Tommie, Marcellus Osceola and Stephen H. Whilden had violated 2 U.S.C. § 441f by making or knowingly permitting their names to be used to effect contributions in the name of others. The Commission found reason to believe that James E. Billie and Stephen H. Whilden violated 2 U.S.C. § 441a(a)(3) by exceeding their individual contribution limitations for years 1980 and 1982 respectively. Additionally, the Commission found reason to believe Stephen H. Whilden violated 2 U.S.C. § 441a(a)(1)(A).

## II. FACTUAL AND LEGAL ANALYSIS

On May 14, 1984, Ronald Labasky, counsel for the Tribe, James E. Billie and Marcellus Osceola, in two separate letters, requested pre-probable cause conciliation on behalf of his clients in this matter. On June 20, 1984, the Commission declined to enter into pre-probable cause conciliation with the Tribe, James E. Billie and Marcellus Osceola at this time pending further investigation. The Commission approved and sent out letters to the above mentioned respondents which requested, among other things, documents and an explanation of the process used by the Tribe to effect contributions and make reimbursements.

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On July 6, 1984, the Office of General Counsel received a letter from Ronald Labasky, counsel, with respect to the Tribe and James E. Billie. (See Attachment 1, page 1). The letter stated that counsel was in the process of obtaining "various materials and documentation." Since counsel would be out of the office the week of July 9, 1984, through July 16, 1984, on business, a request was made by counsel for additional time to respond to the Commission's request for more information. To this date, the Office of General Counsel has not received any additional information or documents from counsel regarding the Tribe or James E. Billie.

On August 3, 1984, the Office of General Counsel received a letter from Ronald Labasky, counsel, with regard to Marcellus Osceola. (See Attachment 2, pages 2-3 of the attachments). In that letter, counsel states that Marcellus Osceola is only aware of making two contributions, one in 1979 to the Kennedy Campaign and the other in 1982 to the Van B. Poole for U.S. Senate Campaign. Counsel states that his client Marcellus Osceola has no checking account records because he and his wife are now "divorced and she has all the records related to those time periods, if they exist."

In that same letter counsel states that upon receipt of further information or documents from Mr. Osceola or the Tribe, he would contact us. To this date, the Office of General Counsel has not received any additional information or documents from counsel regarding Mr. Osceola or the Tribe.

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On May 16, 1984, Stephen Whilden met with a member of the staff of the Office of General Counsel. At that meeting, Mr. Whilden stated that he thought he had received a refund from either the Kennedy Committee or the Carter-Mondale Committee. He indicated that he would attempt to verify this. Mr. Whilden also stated that he believed that one of his $10,000 payments to the Republican National Committee was for his 1983 membership. Mr. Whilden stated that he would ask the Republican National Committee to look into the matter. He was requested to submit materials and documents concerning these and the other contributions. However, to date Mr. Whilden has made no further contact oral or written with the Commission.

Additionally, to date, Howard E. Tommie has made no response to the notification of reason to believe.

Based on the foregoing, and in furtherance of its investigation in this matter, the Office of General Counsel recommends that the Commission approve the attached subpoena for documents and order for answers to written questions to be served upon the Seminole Tribe of Florida, Mr. Whilden, Mr. Billie and Mr. Tommie, and also the attached orders for answers to written questions to be sent to Mr. Osceola and to twenty-seven contributors to federal candidates in 1979-80 or 1981-82 who appear from reports on file to have been associated with the Seminole Tribe of Florida during the years covered by this matter.

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## III. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Authorize and approve the sending of the attached subpoena for production of documents and order to answer written questions to the Seminole Tribe of Florida.
2. Authorize and approve the sending of the attached subpoena for production of documents and order to answer written questions to James E. Billie.
3. Authorize and approve the sending of the attached subpoena for production of documents and order to answer written questions to Stephen H. Whilden.
4. Authorize and approve the sending of the attached subpoena for production of documents and order to answer written questions to Howard E. Tommie.
5. Authorize and approve the sending of the attached order to answer written questions to Marcellus Osceola.
6. Authorize and approve the sending of orders to answer written questions to the following contributors to federal candidates in 1979-80 or 1981-82 who appear from reports, on file with the Commission, to have been associated with the Seminole Tribe Florida during the years covered by this matter.

    a. Theodore S. Boyd
    b. Wanda Bowers
    c. James R. Clare
    d. Ralph R. Clare
    e. Marcus Coburn
    f. Alfred A. Estrada

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g. J. Faison
h. Donna M. Faison
i. Joel W. Frank
j. Marcy Frank
k. Jean Fontana
l. Vincent Fontana
m. Geneva Gooden
n. Pauline Grant
o. Claudia Manick
p. Jamecia Motlow
q. Charlotte Osceola
r. Deborah Osceola
s. Eloise Osceola
t. Jacob Osceola
u. Margaret Osceola
v. Max Osceola, Jr.
w. Moses Osceola
x. James F. Tiger
y. Clinton Tommie
z. Dorothy Tommie
aa. Helen Williamson

7. Approve the attached letters.

Charles N. Steele
General Counsel

September 27, 1988
Date

By: Kenneth A. Gross
Associate General Counsel

Attachments
1. Letter from Counsel, Re: The Tribe and Billie (page 1)
2. Letter from Counsel, Re: Marcellus Osceola (pages 2-3)
3. Subpoena and Order for the Tribe (pages 4-12)
4. Subpoena and Order for Billie (pages 13-22)
5. Subpoena and Order for Whilden (pages 23-32)
6. Subpoena and Order for Tommie (pages 33-41)
7. Order for Osceola (pages 42-44)
8. Orders for contributors (pages 45-127)
9. Letters (pages 128-159)

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida, et. al. | ) | |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 2, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1616:

1. Authorize and approve the sending of the subpoena for production of documents and order to answer written questions to the Seminole Tribe of Florida.

2. Authorize and approve the sending of the subpoena for production of documents and order to answer written questions to James E. Billie.

3. Authorize and approve the sending of the subpoena for production of documents and order to answer written questions to Stephen H. Whilden.

4. Authorize and approve the sending of the subpoena for production of documents and order to answer written questions to Howard E. Tommie.

5. Authorize and approve the sending of the order to answer written questions to Marcellus Osceola.

(Continued)

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6. Authorize and approve the sending of orders to answer written questions to the following contributors to federal candidates in 1979-80 or 1981-82 who appear from reports, on file with the Commission, to have been associated with the Seminole Tribe of Florida during the years covered by this matter:

   a. Theodore S. Boyd
   b. Wanda Bowers
   c. James R. Clare
   d. Ralph R. Clare
   e. Marcus Coburn
   f. Alfred A. Estrada
   g. J. Faison
   h. Donna M. Faison
   i. Joel W. Frank
   j. Marcy Frank
   k. Jean Fontana
   l. Vincent Fontana
   m. Geneva Gooden
   n. Pauline Grant
   o. Claudia Manick
   p. Jamecia Motlow
   q. Charlotte Osceola
   r. Deborah Osceola
   s. Eloise Osceola
   t. Jacob Osceola
   u. Margaret Osceola
   v. Max Osceola, Jr.
   w. Moses Osceola
   x. James F. Tiger
   y. Clinton Tommie
   z. Dorothy Tommie
   aa. Helen Williamson

7. Approve the letters attached to the General Counsel's Report signed September 27, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

10-2-84
Date

Judy C. Ransom
for Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Labasky
Madigan, Parker, Swedmark & Skelding
Forum Building
318 North Monroe Street
Tallahassee, Florida

RE: MUR 1616
Marcellus Osceola

Dear Mr. Labasky:

On April 24, 1984, Marcellus Osceola was notified that the Commission found reason to believe Marcellus Osceola violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from Marcellus Osceola is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena for documents and order to answer written questions which requires Marcellus Oscecola to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

An attorney may assist in the preparation of the responses to this subpoena and order. However, it is required that the information be submitted under oath and that it be done within ten days of receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Labasky
Madigan, Parker, Swedmark & Skelding
Forum Building
318 North Monroe Street
Tallahassee, Florida

RE: MUR 1616
James E. Billie

Dear Mr. Labasky:

On April 24, 1984, James E. Billie was notified that the Commission found reason to believe James E. Billie violated 2 U.S.C. §§ 441f and 441a(a)(3), provisions of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from James E. Billie is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena for documents and order to answer written questions which requires James E. Billie to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

An attorney may assist in the preparation of the responses to this subpoena and order. However, it is required that the information be submitted under oath and that it be done within ten days of receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Labasky
Madigan, Parker, Swedmark & Skelding
Forum Building
318 North Monroe Street
Tallahassee, Florida

RE: MUR 1616
The Seminole Tribe of Florida

Dear Mr. Labasky:

On April 24, 1984, the Seminole Tribe of Florida (hereinafter "the Tribe") was notified that the Commission found reason to believe the Tribe violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from the Tribe is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena for documents and order to answer written questions which requires the Tribe to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

An attorney may assist in the preparation of the responses to this subpoena and order. However, it is required that the information be submitted under oath and that it be done so within ten days of receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Seminole Tribe of Florida
James E. Billie, Chairman
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616
The Seminole Tribe

Dear Mr. Billie:

On April 24, 1984, the Seminole Tribe (hereinafter "the Tribe") was notified that the Commission found reason to believe the Tribe violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from the Tribe is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena for documents and order to answer written questions which requires the Tribe to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

The Tribe may consult with an attorney and have an attorney assist it in the preparation of its responses to this subpoena and order. However, it is required that you submit the information under oath and that it be done within ten days of receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS AND
SUBPOENA TO PRODUCE DOCUMENTS AND MATERIALS

TO: The Seminole Tribe of Florida
James E. Billie, Chairman
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. §§ 437d(a)(1) and (3) and in furtherance of its investigation in MUR 1616, the Seminole Tribe of Florida is hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of its receipt of this order. In addition, the Seminole Tribe of Florida is hereby ordered to produce for inspection and copying all documents and materials listed below that are in the possession or control of the Seminole Tribe of Florida or any of its officers, agents, staff members, or employees. Production is to be made at Room 203C, 299 East Broward Blvd., Fort Lauderdale, Florida 33301 on October 18, 1984, at 1:00 p.m.

As used in the Commission's order and subpoena, the terms listed below are defined as follows:

1. The term "documents and materials" shall mean, unless otherwise indicated, the original, all copies bearing handwritten notations thereon, and drafts of writing of any kind, printed, audio, visual or electronic materials, including but not limited to correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other

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documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, articles, visual aides, print-outs, account statements, billing forms, receipts, checks and other negotiable paper, records and compilations in the possession of the Seminole Tribe of Florida. The term "documents and materials" shall be taken as including all attachments, enclosures, and other documents that are attached to, relate to or refer to such designated "documents and materials," including copies bearing handwritten notations.

2. "The Seminole Tribe of Florida" or "the Tribe" shall mean any body which conducts business on behalf of the Seminole Tribe of Florida and/or its officers, agents, employees, and staff.

3. All references to the Federal Election Commission ("FEC") shall mean the Federal Election Commission, its attorneys, auditors and other employees.

4. The term "concerning" with reference to subject or object shall mean mentioning, discussing or directly or indirectly regarding, referring or relating in any way to the subject or object.

If any document called for herein is withheld under a claim of privilege or objection, please furnish a list identifying each such document for which the privilege or objection is claimed,

together with the following information:

a) a description of the document and materials;

b) the date of the document;

c) the name and title of the author;

d) the name and title of the person to whom the document is addressed;

e) the name and title of the person to whom the document was actually sent;

f) the identity of any other person who read any part of the document;

g) the number of pages;

h) the paragraph of this subpoena to which the document is otherwise responsive; and

i) the nature of the claimed privilege or objection.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand on October 9, 1984.

Lee Ann Elliott
Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachments
Interrogatories
List of Documents and Materials

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**Interrogatories to the Seminole Tribe of Florida**

A. Please answer the following interrogatories:

1. Identify all officers and directors of the Seminole Tribe of Florida (hereinafter "the Tribe") between January 1, 1979, to the present. Please include names and addresses.

2. During the period of January 1, 1979, to the present, did the Tribe levy a charge (said to be $.05), in addition to an eight percent tribal cigarette tax, on each carton of cigarettes sold on the Seminole reservation?

(a) If such a special levy was assessed were the proceeds from the levy deposited into a special tribal account ("hereinafter "nickel fund")?

(1) If such a special account (nickel fund) was maintained,

(i) when was it opened?

(ii) at what bank or other financial institution has it been maintained?

(iii) is the account active at the present time?

(b) Please list the purposes of all the expenditures made from this nickel fund.

(c) Please list all persons who were authorized to make expenditures from this nickel fund between January 1, 1979, to the present.

3. Are there any other levies collected by the tribe

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and deposited in the nickel fund?

4. State whether the monies in the nickel fund came from the nickel levy on cigarettes exclusively. If from another source, please state the name of that source.

5. Was the nickel fund used to make contributions to federal candidates and/or committees?

6. Was any other fund used to make contributions to federal candidates and/or committees?

7. Was the nickel fund used to reimburse individuals who made contributions to federal candidates and/or committees?

8. Were all reimbursements of contributions to federal candidates and/or committees made from the nickel fund? If the answer is no, state the name of other accounts, funds or financial institutions used to make reimbursements of contributions to federal candidates and/or committees.

9. Who developed the plan to use the nickel fund or any other fund to effect reimbursements to individuals that made contributions to federal candidates and/or committees?

10. Give a detailed description of how this plan was implemented.

11. Who selected the receipient federal committees and candidates which were to receive contributions?

12. Identify the individuals that were involved in soliciting prospective conduits. Please give names and addresses of these individuals.

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13. Please submit a detailed explanation of the process by which persons, asked to serve as conduits, made contributions to federal candidates and/or committees and were subsequently reimbursed.

14. Please identify all individuals and entities who received reimbursements from the Tribe, whether from the nickel fund or otherwise, for contributions made by those individuals to federal candidates between January 1, 1979, to the present.

15. With regard to each individual and entity listed above, please answer the following questions:

a) List each contribution, date of contribution, amount of contribution and recipient federal candidate and/or committee?

b) Who contacted the individual and entity with regard to making the contribution? What was discussed during the contact with regard to reimbursement of the contribution?

c) How did the individual or entity make the initial contribution (e.g. by check; by money order; by credit card)?

d) Did the individual or entity mail the contribution directly to the federal candidate and/or committee? If no, who received this contribution that was later given to the federal candidate and/or committeee?

e) Were personal funds of the individual or entity initially used to make the contribution? If not, what funds were used?

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g) What was the date of the reimbursement?

h) Who made the reimbursement?

i) In what form was the reimbursement made (e.g., by check, cash)?

j) If the reimbursement was made by check, upon what account was the check drawn?

k) If the reimbursement was made in cash, what was the source of the funds used?

**List of Documents and Materials to be Produced by the Seminole Tribe of Florida**

A. Please provide in their entirety the following documents:

1. Copies of the Constitution and by-laws of the Seminole Tribe of Florida ("the Tribe") as ratified on July 11, 1957, and, if appropriate, as subsequently amended.

2. Copies of any other documents or materials concerning the powers of the Seminole Tribal Council and of the Tribe's Chairman dated or produced between January 1, 1979, to the present, including by-laws, rules, regulations, procedural manuals, policy statements, and governing instruments.

3. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe to make contributions to federal candidates from January 1, 1979, to the present using tribal monies.

4. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe regarding reimbursements of contributions to federal candidates from January 1, 1979, to the present using tribal monies.

5. All documents dated between January 1, 1979, to the present pertaining to any special Tribal account into which were deposited proceeds of a levy (said to be $.05) on cartons of cigarettes sold on the Tribe's reservation, including bank statements, cancelled checks, and deposit slips, receipts, journals, and/or ledgers.

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6. All documents dated between January 1, 1979, to the present pertaining to any other account Tribal or otherwise used to make reimbursements of contributions to federal candidates and/or committees. Include bank statements, cancelled checks, and deposit slips, receipts, journals and/or ledgers.

7. All documents and materials concerning reimbursement of contributions, to federal candidates and/or committees, made by the Tribe to the following persons or to any other person between January 1, 1979, to the present, including but not limited to journals, ledgers, checks and receipts:

James E. Billie
Theodore S. Boyd
G. R. Branch
O. Croswell Branch, Jr.
Wanda Bowers
James R. Clare
Ralph R. Clare
Marcus Coburn
Alfred A. Estrada
J. Faison
Donna M. Faison
Joel W. Frank
Marcy Frank
Jean Fontana
John P. Fontana
Vincent Fontana
Geneva Gooden
Pauline Grant
Claudia Manick
Jamecia Motlow
Charlotte Osceola
Deborah Osceola
Eloise Osceola
Jacob Osceola
Marcellus Osceola
Margaret Osceola
Max Osceola, Jr.
Moses Osceola
James F. Tiger
Clinton Tommie
Dorothy Tommie
Howard Tommie
Helen Williamson
Stephen H. Whilden

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James E. Billie
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Billie:

On April 24, 1984, you were notified that the Commission found reason to believe you violated 2 U.S.C. §§ 441f and 441a(a)(3), provisions of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from you is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena and order which requires you to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

You may consult with an attorney and have an attorney assist you in the preparation of your response to this subpoena and order. However, it is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order
Interrogatories

00040790205

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS AND
SUBPOENA TO PRODUCE DOCUMENTS AND MATERIALS

TO: James E. Billie
6350 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. §§ 437d(a)(1) and (3) and in furtherance of its investigation in MUR 1616, James E. Billie is hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of its receipt of this order. In addition, James E. Billie is hereby ordered to produce for inspection and copying all documents and materials listed below that are in the possession or control of James E. Billie. Production is to be made at Room 203C, 299 East Broward Blvd., Fort Lauderdale, Florida 33301 on October 18, 1984, at 1:00 p.m.

As used in the Commission's order and subpoena, the terms listed below are defined as follows:

1. The term "documents and materials" shall mean, unless otherwise indicated, the original, all copies bearing handwritten notations thereon, and drafts of writing of any kind, printed, audio, visual or electronic materials, including but not limited to correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other

documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, articles, visual aides, print-outs, account statements, billing forms, receipts, checks and other negotiable paper, records and compilations in the possession of the Seminole Tribe of Florida. The term "documents and materials" shall be taken as including all attachments, enclosures, and other documents that are attached to, relate to or refer to such designated "documents and materials," including copies bearing handwritten notations.

2. "The Seminole Tribe of Florida" or "the Tribe" shall mean any body which conducts business on behalf of the Seminole Tribe of Florida and/or its officers, agents, employees, and staff.

3. All references to the Federal Election Commission ("FEC") shall mean the Federal Election Commission, its attorneys, auditors and other employees.

4. The term "concerning" with reference to subject or object shall mean mentioning, discussing or directly or indirectly regarding, referring or relating in any way to the subject or object.

If any document called for herein is withheld under a claim of privilege or objection, please furnish a list identifying each such document for which the privilege or objection is claimed,

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together with the following information:

a) a description of the document and materials;

b) the date of the document;

c) the name and title of the author;

d) the name and title of the person to whom the document is addressed;

e) the name and title of the person to whom the document was actually sent;

f) the identity of any other person who read any part of the document;

g) the number of pages;

h) the paragraph of this subpoena to which the document is otherwise responsive; and

i) the nature of the claimed privilege or objection.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand on October 9, 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom

Marjorie W. Emmons
for Secretary to the Commission

Attachments
Interrogatories
List of Documents and Materials

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**Interrogatories to James E. Billie**

1. Please state your present and/or former positions and/or association with the Seminole Tribe of Florida (hereinafter "the Tribe").

2. Please give the dates of tenure of your position(s) with the Tribe.

3. What were your duties and responsibilities with regard to this (these) position(s) with the Tribe.

4. Did the Tribe levy a charge (said to be $.05), in addition to an eight percent tribal cigarette tax, on each carton of cigarettes sold on the Seminole reservation?

5. If such a special levy was assessed, were the proceeds from the levy deposited into a special tribal account (hereinafter also "nickel fund")?

6. What was and/or is the purpose of the nickel fund?

7. Please list the names of individuals who were authorized to make expenditures from this nickel fund between January 1, 1979, to the present?

8. State whether the monies in the nickel fund came from the nickel levy on cigarettes exclusively? If from another source, please state the name of that source.

9. Was the nickel fund used to make contributions to federal candidates and/or committees?

10. Was the nickel fund used to reimburse individuals who made contributions to federal candidates and/or committees?

11. Was any other fund used to reimburse individuals who made contributions to federal candidates and/or committees?

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If so, state the name of other accounts, funds or financial institutions used to make reimbursements of contributions to federal candidates and/or committees.

12. Who developed the plan to use the nickel fund or any other fund to effect reimbursements to individuals that made contributions to federal candidates and/or committees?

13. Give a detailed description of how this plan was implemented.

14. Who selected the receipient federal committees and candidates?

15. Identify the individuals that were involved in contacting prospective conduits. Please give names and addresses.

16. Please submit a detailed explanation of the process by which persons, asked to serve as conduits, made contributions to federal candidates and/or committees and were subsequently reimbursed.

17. Please identify all individuals and entities who received reimbursements from the Tribe, whether from the nickel fund or otherwise, for contributions made by those individuals and/or entities to federal candidates and/or committees between January 1, 1979, to the present. Please give names and addresses.

18. Reports filed with the Commission indicate that you made the following contributions:

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| Recipient | Amount | Date Received |
|---|---|---|
| DNC Services Corporation | $10,000<br>10,000 | June 25, 1980<br>August 18, 1980 |
| Stack for Congress Committee | 1,000 | September 6, 1980 |
| Larry Pressler for President Committee | 250 | January 30, 1980 |
| Congressman Billy Young Campaign Committee | 1,000 | September 19, 1980 |
| Senator John Ware Campaign Committee | 1,000 | September 10, 1980 |
| Claude Pepper Campaign Committee | 1,000 | September 15, 1980 |
| Committee to Re-Elect Congressman Dan Mica | 500 | October 9, 1980 |
| Bafalis for Congress | 500 | October 8, 1980 |
| Fuqua for Congress Campaign Committee | 500 | October 15, 1980 |
| Committee for Sam Gibbons | 500 | October 10, 1980 |
| Carter/Mondale Presidential Committee | 1,000 | December 3, 1979 |
| Citizens for Gunther | 1,000 | October 20, 198Q |
| Friends of Clay Shaw | 500 | October 27, 1982 |
| Democratic Executive Committee of Florida | 7,000 | September 10, 1981 |

Did you in fact made these contributions?

19. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, and to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

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20. For each contribution listed in question 18 and/or question 19, please provide the following information.

a) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

b) Were you ever told you would be reimbursed for the contribution?

c) How did you make your contribution (e.g., by check; by money order; by credit card)?

d) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

e) Were your personal funds used to make the contribution?
If not, what funds were used?

f) Were you ever reimbursed for this contribution?

g) If you were reimbursed, who made the reimbursement to you?

h) What was the date of the reimbursement?

i) In what form was the reimbursement made (e.g., by check, in cash)?

j) If the reimbursement was made by check, upon what account was the check drawn?

k) If the reimbursement was made in cash, what was the source of the funds used?

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21. Was your own name used to make contributions which you gave to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or committees in a name other than your own, please list the name or names that you used.

22. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

**List of Documents and Materials to be Produced by the James E. Billie**

A. Please provide in their entirety the following documents:

1. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe to make contributions to federal candidates from January 1, 1979, to the present using tribal monies.

2. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe regarding reimbursements of contributions to federal candidates from January 1, 1979, to the present using tribal monies.

3. All documents dated between January 1, 1979, to the present pertaining to any special Tribal account into which were deposited proceeds of a levy (said to be $.05) on cartons of cigarettes sold on the Tribe's reservation, including bank statements, cancelled checks, and deposit slips, receipts, journals, and/or ledgers.

4. All documents dated between January 1, 1979, to the present pertaining to any other account Tribal or otherwise used to make reimbursements of contributions to federal candidates and/or committees. Include bank statements, cancelled checks, and deposit slips, receipts, journals and/or ledgers.

5. All documents and materials concerning reimbursement of contributions, to federal candidates and/or

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committees, made by the Tribe to the following persons or to any other person between January 1, 1979, to the present, including but not limited to journals, ledgers, checks and receipts:

James E. Billie
Theodore S. Boyd
G. R. Branch
O. Croswell Branch, Jr.
Wanda Bowers
James R. Clare
Ralph R. Clare
Marcus Coburn
Alfred A. Estrada
J. Faison
Donna M. Faison
Joel W. Frank
Marcy Frank
Jean Fontana
John P. Fontana
Vincent Fontana
Geneva Gooden
Pauline Grant
Claudia Manick
Jamecia Motlow
Charlotte Osceola
Deborah Osceola
Eloise Osceola
Jacob Osceola
Marcellus Osceola
Margaret Osceola
Max Osceola, Jr.
Moses Osceola
James F. Tiger
Clinton Tommie
Dorothy Tommie
Howard Tommie
Helen Williamson
Stephen H. Whilden

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stephen H. Whilden
P.O. Box 10188
Albuquerque, New Mexico 87184

RE: MUR 1616

Dear Mr. Whilden:

On April 24, 1984, you were notified that the Commission found reason to believe you violated 2 U.S.C. §§ 441f, 441a(a)(3) and 441a(a)(1)(A), provisions of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from you is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena and order which requires you to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

You may consult with an attorney and have an attorney assist you in the preparation of your response to this subpoena and order. However, it is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order
Interrogatories

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS AND
SUBPOENA TO PRODUCE DOCUMENTS AND MATERIALS

TO: Stephen H. Whilden, Esquire
P.O. Box 10188
Albuquerque, New Mexico 87184

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. §§ 437d(a)(1) and (3) and in furtherance of its investigation in MUR 1616, Stephen H. Whilden is hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of its receipt of this order. In addition, Stephen H. Whilden is hereby ordered to produce for inspection and copying all documents and materials listed below that are in the possession or control of Stephen H. Whilden. Production is to be made at Room 119, 500 Gold Avenue, S.W., Albuquerque, New Mexico 87103 on November 7, 1984, at 10:00 a.m.

As used in the Commission's order and subpoena, the terms listed below are defined as follows:

1. The term "documents and materials" shall mean, unless otherwise indicated, the original, all copies bearing handwritten notations thereon, and drafts of writing of any kind, printed, audio, visual or electronic materials, including but not limited to correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other

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documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, articles, visual aides, print-outs, account statements, billing forms, receipts, checks and other negotiable paper, records and compilations in the possession of the Seminole Tribe of Florida. The term "documents and materials" shall be taken as including all attachments, enclosures, and other documents that are attached to, relate to or refer to such designated "documents and materials," including copies bearing handwritten notations.

2. "The Seminole Tribe of Florida" or "the Tribe" shall mean any body which conducts business on behalf of the Seminole Tribe of Florida and/or its officers, agents, employees, and staff.

3. All references to the Federal Election Commission ("FEC") shall mean the Federal Election Commission, its attorneys, auditors and other employees.

4. The term "concerning" with reference to subject or object shall mean mentioning, discussing or directly or indirectly regarding, referring or relating in any way to the subject or object.

If any document called for herein is withheld under a claim of privilege or objection, please furnish a list identifying each such document for which the privilege or objection is claimed,

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together with the following information:

a) a description of the document and materials;

b) the date of the document;

c) the name and title of the author;

d) the name and title of the person to whom the document is addressed;

e) the name and title of the person to whom the document was actually sent;

f) the identity of any other person who read any part of the document;

g) the number of pages;

h) the paragraph of this subpoena to which the document is otherwise responsive; and

i) the nature of the claimed privilege or objection.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand on October 9, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ranson
for Marjorie W. Emmons
Secretary to the Commission

Attachments
Interrogatories
List of Documents and Materials

**Interrogatories to Stephen H. Whilden**

1. Please state your present and/or former positions and/or association with the Seminole Tribe of Florida (hereinafter "the Tribe").

2. Please give the dates of tenure of your position(s) with the Tribe.

3. What were your duties and responsibilities with regard to this (these) position(s) with the Tribe.

4. Did the Tribe levy a charge (said to be $.05), in addition to an eight percent tribal cigarette tax, on each carton of cigarettes sold on the Seminole reservation?

5. If such a special levy was assessed, were the proceeds from the levy deposited into a special tribal account (hereinafter also "nickel fund")?

6. What was and/or is the purpose of the nickel fund?

7. Please list the names of individuals who were authorized to make expenditures from this nickel fund between January 1, 1979, to the present?

8. State whether the monies in the nickel fund came from the nickel levy on cigarettes exclusively? If from another source, please state the name of that source.

9. Was the nickel fund used to make contributions to federal candidates and/or committees?

10. Was the nickel fund used to reimburse individuals who made contributions to federal candidates and/or committees?

11. Was any other fund used to reimburse individuals who made contributions to federal candidates and/or committees?

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If so, state the name of other accounts, funds or financial institutions used to make reimbursements of contributions to federal candidates and/or committees.

12. Who developed the plan to use the nickel fund or any other fund to effect reimbursements to individuals that made contributions to federal candidates and/or committees?

13. Give a detailed description of how this plan was implemented.

14. Who selected the receipient federal committees and candidates?

15. Identify the individuals that were involved in contacting prospective conduits. Please give names and addresses.

16. Please submit a detailed explanation of the process by which persons, asked to serve as conduits, made contributions to federal candidates and/or committees and were subsequently reimbursed.

17. Please identify all individuals and entities who received reimbursements from the Tribe, whether from the nickel fund or otherwise, for contributions made by those individuals and/or entities to federal candidates and/or committees between January 1, 1979, to the present. Please give names and addresses.

18. Reports filed with the Commission indicate that you made the following contributions:

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| Recipient | Amount | Date Received |
|---|---|---|
| Florida for Kennedy Committee | $ 1,000<br>2,000 | June 1979<br>November 1979 |
| Stack for Congress Committee | 1,000 | September 3, 1980 |
| Stone for Senate Committee | 1,000<br>200 | March 31, 1980<br>April 27, 1979 |
| Kennedy for President Committee | 1,000<br>500 | December 17, 1979<br>February 11, 1980 |
| Carter/Mondale Presidential Committee | 1,000<br>500 | December 3, 1979<br>February 29, 1980 |
| Democratic National Committee | 2,500 | September 24, 1980 |
| Alan S. Becker Campaign Committee | 1,000 | September 25, 1980 |
| Senator John Ware Campaign Committee | 1,000 | July 10, 1980 |
| Citizens for Gunter | 1,000 | October 20, 1980 |
| Committee to Re-Elect Kennedy | 1,000<br>1,000 | May 1, 1981<br>June 14, 1982 |
| DNC Services Corporation | 5,000 | August 13, 1982 |
| Fund for a Democratic Majority | 1,000 | May 21, 1982 |
| Lujan Booster Club | 1,000 | February 5, 1981 |
| National Republican Congressional Committee | 5,000 | May 10, 1982 |
| Minnesota Democratic-Farmer Labor Party | 500 | August 13, 1982 |
| Republican National Committee | 10,000<br>10,000 | July 16, 1982<br>November 23, 1982 |
| Larry Smith for Congress | 500 | January 18, 1982 |

Did you in fact made these contributions?

19. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, and

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to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

20. For each contribution listed in question 18 and/or question 19, please provide the following information.

a) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

b) Were you ever told you would be reimbursed for the contribution?

c) How did you make your contribution (e.g., by check; by money order; by credit card)?

d) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

e) Were your personal funds used to make the contribution?

If not, what funds were used?

f) Were you ever reimbursed for this contribution?

g) If you were reimbursed, who made the reimbursement to you?

h) What was the date of the reimbursement?

i) In what form was the reimbursement made (e.g., by check, in cash)?

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j) If the reimbursement was made by check, upon what account was the check drawn?

k) If the reimbursement was made in cash, what was the source of the funds used?

21. Was your own name used to make contributions which you gave to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or committees in a name other than your own, please list the name or names that you used.

22. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

23. You state that one of the $10,000 payments, to the Republican National Committee, was for your 1983 membership. Please explain and submit supporting documentation.

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**List of Documents and Materials to be Produced by the Stephen H. Whilden**

A. Please provide in their entirety the following documents:

1. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe to make contributions to federal candidates from January 1, 1979, to the present using tribal monies.

2. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe regarding reimbursements of contributions to federal candidates from January 1, 1979, to the present using tribal monies.

3. All documents dated between January 1, 1979, to the present pertaining to any special Tribal account into which were deposited proceeds of a levy (said to be $.05) on cartons of cigarettes sold on the Tribe's reservation, including bank statements, cancelled checks, and deposit slips, receipts, journals, and/or ledgers.

4. All documents dated between January 1, 1979, to the present pertaining to any other account Tribal or otherwise used to make reimbursements of contributions to federal candidates and/or committees. Include bank statements, cancelled checks, and deposit slips, receipts, journals and/or ledgers.

5. All documents and materials concerning reimbursement of contributions, to federal candidates and/or

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committees, made by the Tribe to the following persons or to any other person between January 1, 1979, to the present, including but not limited to journals, ledgers, checks and receipts:

James E. Billie
Theodore S. Boyd
G. R. Branch
O. Croswell Branch, Jr.
Wanda Bowers
James R. Clare
Ralph R. Clare
Marcus Coburn
Alfred A. Estrada
J. Faison
Donna M. Faison
Joel W. Frank
Marcy Frank
Jean Fontana
John P. Fontana
Vincent Fontana
Geneva Gooden
Pauline Grant
Claudia Manick
Jamecia Motlow
Charlotte Osceola
Deborah Osceola
Eloise Osceola
Jacob Osceola
Marcellus Osceola
Margaret Osceola
Max Osceola, Jr.
Moses Osceola
James F. Tiger
Clinton Tommie
Dorothy Tommie
Howard Tommie
Helen Williamson
Stephen H. Whilden

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Howard E. Tommie
c/o Selma Alvarez
4500 North State Road 7
Hollywood, Florida 33021

RE: MUR 1616

Dear Mr. Tommie:

On April 24, 1984, you were notified that the Commission found reason to believe you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from you is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena and order which requires you to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

You may consult with an attorney and have an attorney assist you in the preparation of your response to this subpoena and order. However, it is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order
Interrogatories

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS AND
SUBPOENA TO PRODUCE DOCUMENTS AND MATERIALS

TO: Howard E. Tommie
c/o Selma Alvarez
4500 North State Road 7
Hollywood, Florida 33021

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. §§ 437d(a)(1) and (3) and in furtherance of its investigation in MUR 1616, Howard E. Tommie is hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of its receipt of this order. In addition, Howard E. Tommie is hereby ordered to produce for inspection and copying all documents and materials listed below that are in the possession or control of Howard E. Tommie. Production is to be made at Room 203C, 299 East Broward Blvd., Fort Lauderdale, Florida 33301 on October 18, 1984, at 1:00 pm.

As used in the Commission's order and subpoena, the terms listed below are defined as follows:

1. The term "documents and materials" shall mean, unless otherwise indicated, the original, all copies bearing handwritten notations thereon, and drafts of writing of any kind, printed, audio, visual or electronic materials, including but not limited to correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other

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documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, articles, visual aides, print-outs, account statements, billing forms, receipts, checks and other negotiable paper, records and compilations in the possession of the Seminole Tribe of Florida. The term "documents and materials" shall be taken as including all attachments, enclosures, and other documents that are attached to, relate to or refer to such designated "documents and materials," including copies bearing handwritten notations.

2. "The Seminole Tribe of Florida" or "the Tribe" shall mean any body which conducts business on behalf of the Seminole Tribe of Florida and/or its officers, agents, employees, and staff.

3. All references to the Federal Election Commission ("FEC") shall mean the Federal Election Commission, its attorneys, auditors and other employees.

4. The term "concerning" with reference to subject or object shall mean mentioning, discussing or directly or indirectly regarding, referring or relating in any way to the subject or object.

If any document called for herein is withheld under a claim of privilege or objection, please furnish a list identifying each such document for which the privilege or objection is claimed,

together with the following information:

a) a description of the document and materials;

b) the date of the document;

c) the name and title of the author;

d) the name and title of the person to whom the document is addressed;

e) the name and title of the person to whom the document was actually sent;

f) the identity of any other person who read any part of the document;

g) the number of pages;

h) the paragraph of this subpoena to which the document is otherwise responsive; and

i) the nature of the claimed privilege or objection.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand on October 9, 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom

Marjorie W. Emmons
for Secretary to the Commission

Attachments
Interrogatories
List of Documents and Materials

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**Interrogatories to Howard E. Tommie**

1. Please state your present and/or former positions and/or association with the Seminole Tribe of Florida (hereinafter "the Tribe").

2. Please give the dates of tenure of your position(s) with the Tribe.

3. What were your duties and responsibilities with regard to this (these) position(s) with the Tribe.

4. Did the Tribe levy a charge (said to be $.05), in addition to an eight percent tribal cigarette tax, on each carton of cigarettes sold on the Seminole reservation?

5. If such a special levy was assessed, were the proceeds from the levy deposited into a special tribal account (hereinafter also "nickel fund")?

6. What was and/or is the purpose of the nickel fund?

7. Please list the names of individuals who were authorized to make expenditures from this nickel fund between January 1, 1979, to the present?

8. State whether the monies in the nickel fund came from the nickel levy on cigarettes exclusively? If from another source, please state the name of that source.

9. Was the nickel fund used to make contributions to federal candidates and/or committees?

10. Was the nickel fund used to reimburse individuals who made contributions to federal candidates and/or committees?

11. Was any other fund used to reimburse individuals who made contributions to federal candidates and/or committees?

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If so, state the name of other accounts, funds or financial institutions used to make reimbursements of contributions to federal candidates and/or committees.

12. Who developed the plan to use the nickel fund or any other fund to effect reimbursements to individuals that made contributions to federal candidates and/or committees?

13. Give a detailed description of how this plan was implemented.

14. Who selected the receipient federal committees and candidates?

15. Identify the individuals that were involved in contacting prospective conduits. Please give names and addresses.

16. Please submit a detailed explanation of the process by which persons, asked to serve as conduits, made contributions to federal candidates and/or committees and were subsequently reimbursed.

17. Please identify all individuals and entities who received reimbursements from the Tribe, whether from the nickel fund or otherwise, for contributions made by those individuals and/or entities to federal candidates and/or committees between January 1, 1979, to the present. Please give names and addresses.

18. Reports filed with the Commission indicate that you made the following contribution:

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| Recipient | Amount | Date Received |
|---|---|---|
| Reagan for President Committee | $250 | June 9, 1980 |

Did you in fact made this contribution?

19. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, and to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

20. For each contribution listed in question 18 and/or question 19, please provide the following information.

a) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

b) Were you ever told you would be reimbursed for the contribution?

c) How did you make your contribution (e.g., by check; by money order; by credit card)?

d) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

e) Were your personal funds used to make the contribution?

If not, what funds were used?

f) Were you ever reimbursed for this contribution?

g) If you were reimbursed, who made the reimbursement to you?

h) What was the date of the reimbursement?

i) In what form was the reimbursement made (e.g., by check, in cash)?

j) If the reimbursement was made by check, upon what account was the check drawn?

k) If the reimbursement was made in cash, what was the source of the funds used?

21. Was your own name used to make contributions which you gave to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or committees in a name other than your own, please list the name or names that you used.

22. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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**List of Documents and Materials to be Produced by the Howard E. Tommie**

A. Please provide in their entirety the following documents:

1. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe to make contributions to federal candidates from January 1, 1979, to the present using tribal monies.

2. All documents and materials concerning or reflecting any decisions of the Seminole Tribal Council or of the officers and agents of the Tribe regarding reimbursements of contributions to federal candidates from January 1, 1979, to the present using tribal monies.

3. All documents dated between January 1, 1979, to the present pertaining to any special Tribal account into which were deposited proceeds of a levy (said to be $.05) on cartons of cigarettes sold on the Tribe's reservation, including bank statements, cancelled checks, and deposit slips, receipts, journals, and/or ledgers.

4. All documents dated between January 1, 1979, to the present pertaining to any other account Tribal or otherwise used to make reimbursements of contributions to federal candidates and/or committees. Include bank statements, cancelled checks, and deposit slips, receipts, journals and/or ledgers.

5. All documents and materials concerning reimbursement of contributions, to federal candidates and/or

committees, made by the Tribe to the following persons or to any other person between January 1, 1979, to the present, including but not limited to journals, ledgers, checks and receipts:

James E. Billie
Theodore S. Boyd
G. R. Branch
O. Croswell Branch, Jr.
Wanda Bowers
James R. Clare
Ralph R. Clare
Marcus Coburn
Alfred A. Estrada
J. Faison
Donna M. Faison
Joel W. Frank
Marcy Frank
Jean Fontana
John P. Fontana
Vincent Fontana
Geneva Gooden
Pauline Grant
Claudia Manick
Jamecia Motlow
Charlotte Osceola
Deborah Osceola
Eloise Osceola
Jacob Osceola
Marcellus Osceola
Margaret Osceola
Max Osceola, Jr.
Moses Osceola
James F. Tiger
Clinton Tommie
Dorothy Tommie
Howard Tommie
Helen Williamson
Stephen H. Whilden

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Marcellus Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Marcellus Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

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**Interrogatories to Marcellus Osceola**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Florida for Kennedy | $1,000 | June 22, 1979 |
| Van B. Poole for U.S. Senate | 689.05 | April 28, 1982 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Theodore S. Boyd
6073 Stirling Road
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Boyd:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790241

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Theodore S. Boyd
6073 Stirling Road
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

## Interrogatories to Theodore Boyd

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Wanda Bowers
6340 N.W. Custer Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Ms. Bowers:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00407902 46

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Wanda Bowers
6340 N.W. Custer Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Hanson
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040790246

## Interrogatories to Wanda Bowers

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| DNC Services Corporation | $1,000 | October 27, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

James R. Clare
5221 N. Orient Road
Tampa, Florida 33610

RE: MUR 1616

Dear Mr. Clare:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040702449

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: James R. Clare
5221 North Orient Road
Tampa, Florida 33610

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

0004074025 0

**Interrogatories to James R. Clare**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | February 29, 1980 |
| Van B. Poole for U.S. Senate | 1,000 | March 5, 1982 |
| Senior Citizens and Working Families for George H. Sheldon | 500 | February 15, 1982 |
| | 1,000 | October 18, 1982 |
| Jerry Apodaca for U.S. Senate | 1,000 | May 20, 1982 |
| Republican Party of Florida | 5,000 | January 20, 1982 |
| Ray Shamie for U.S. Senate | 1,000 | January 27, 1982 |
| Nelson for Congress Campaign Committee | 1,000 | January 22, 1982 |
| Friends of Clay Shaw | 1,000 | February 9, 1982 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

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c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

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5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00040790255

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Ralph R. Clare
5221 N. Orient Road
Tampa, Florida 33610

RE: MUR 1616

Dear Mr. Clare:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040702254

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Ralph R. Clare
5221 North Orient Road
Tampa, Florida 33610

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Hanson

for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00004079025

## Interrogatories to Ralph R. Clare

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senior Citizens and Working Families for George H. Sheldon | $1,000 | February 24, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Marcus Coburn
3459 Pierce Street
Hollywood, Florida

RE: MUR 1616

Dear Mr. Coburn:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790258

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Marcus Coburn
3459 Pierce Street
Hollywood, Florida

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

00040790259

## Interrogatories to Marcus Coburn

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | April 28, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Alfred A. Estrada
Apt. 438C
103 N.E. 19th Avenue
Deerfield Beach, Florida 33441

RE: MUR 1616

Dear Mr. Estrada:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790252

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Alfred A. Estrada
Apt. 438C
103 N.E. 19th Avenue
Deerfield Beach, Florida 33441

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

9004079026

## Interrogatories to Alfred A. Estrada

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Republican National Committee | $200 | June 29, 1979 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00407902650

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

J. Faison
2503 Van Buren Street
Hollywood, Florida 33020

RE: MUR 1616

Dear Mr. Faison:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: J. Faison
2503 Van Buren Street
Hollywood, Florida 33020

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ranson
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00004079025 7

## Interrogatories to J. Faison

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Democratic National Committee | $1,000 | October 27, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Donna M. Faison
2503 Van Buren Street
Hollywood, Florida 33020

RE: MUR 1616

Dear Ms. Faison:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

9004079270

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Donna M. Faison
2503 Van Buren Street
Hollywood, Florida 33020

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040702171

## Interrogatories to Donna M Faison

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senator John Ware Campaign Committee | $1,000 | July 10, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Joel W. Frank
6341 N.W. 33rd Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Frank:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

9004074127

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Joel W. Frank
6341 N.W. 33rd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Hanson
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

00040702775

## Interrogatories to Joel W. Frank

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $689.05 | April 28, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00047027

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Marcy Frank
6341 N.W. 33rd Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Ms. Frank:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040702276

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Marcy Frank
6341 N.W. 33rd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

00004702274

**Interrogatories to Marcy Frank**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |
| Larry Smith for Congress | 500 | July 28, 1982 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00040790231

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Jean Fontana
2203 N. 42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

Dear Ms. Fontana:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Jean Fontana
2203 N. 42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

9004070289

## Interrogatories to Jean Fontana

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |
| Citizens for Gunther Committee | 1,000 | September 19, 1980 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00407028

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Vincent Fontana
2203 N. 42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

Dear Mr. Fontana:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

90040792835

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Vincent Fontana
2203 N.42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Vincent Fontana
2203 N.42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. § 437d(a)(1) and (2), you are hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of your receipt of this order.

A. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |

1. Did you in fact make this contribution?

2. If you did make this contribution,

   a) How were you solicited (e.g., by a solicitation from the Committee received through the mail; in person; by telephone)?

   b) If you were contacted in person, please identify the individual who requested your contribution. What was the approximate date of the contact? Was the subject of later reimbursement discussed at the time of the solicitation?

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## Interrogatories to Vincent Fontana

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Geneva Gooden
3005 Frank Shore Court
Hollywood, Florida 33024

RE: MUR 1616

Dear Ms. Gooden:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00047029 1

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Geneva Gooden
3005 Frank Shore Court
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040702 9

## Interrogatories to Geneva Gooden

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 10, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Pauline Grant
4240 N.W. 27th Street
Fort Lauderdale, Florida 33315

RE: MUR 1616

Dear Ms. Grant:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040702995

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Pauline Grant
4240 N.W. 27th Street
Fort Lauderdale, Florida 33315

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

0004070200

## Interrogatories to Pauline Grant

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 10, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Claudia Manick
4121 Stirling Road #208
Fort Lauderdale, Florida

RE: MUR 1616

Dear Ms. Manick:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040702924

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Claudia Manick
4121 Stirling Road, #208
Fort Lauderdale, Florida

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00004070300

**Interrogatories to Claudia Manick**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senior Citizens and Working Families for George H. Sheldon (or Committee to Elect George H. Sheldon) | $1,000 | August 17, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Jamecia C. Motlow
5221 Orient Road
Tampa, Florida 33610

RE: MUR 1616

Dear Ms. Motlow:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Jamecia C. Motlow
5221 Orient Road
Tampa, Florida 33610

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040703004

**Interrogatories to Jamecia C. Motlow**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senior Citizens and Working Families for George H. Sheldon | $1,000 | April 26, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Charlotte Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Ms. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Charlotte Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

0004076308

## Interrogatories to Charlotte Osceola

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Florida for Kennedy | $1,000 | June 22, 1979 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Deborah Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Ms. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040703311

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Deborah Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom

for Marjorie W. Emmons
Secretary to the Commission.

Attachment
Interrogatories

00004070314

## Interrogatories to Deborah Osceola

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Florida for Kennedy | $1,000 | June 22, 1979 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

00407031 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Eloise Osceola
P.O. Box 6787
Hollywood, Florida 33021

RE: MUR 1616

Dear Ms. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790316

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Eloise Osceola
P.O. Box 6787
Hollywood, Florida 33021

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Hanson
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

00040790316

## Interrogatories to Eloise Osceola

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | May 23, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

00040793117

f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Jacob Osceola
P.O. Box 6787
Hollywood, Florida 33021

RE: MUR 1616

Dear Mr. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790319

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Jacob Osceola
P.O. Box 6787
Hollywood, Florida 33021

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

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## Interrogatories to Jacob Osceola

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | May 23, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Margaret S. Osceola
3301 N.W. 63rd Street
Hollywood, Florida 33204

RE: MUR 1616

Dear Ms. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Margaret Osceola
3301 N.W. 63rd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040703224

**Interrogatories to Margaret Osceola**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Max B. Osceola
3301 N.W. 63rd Street
Hollywood, Florida 33204

RE: MUR 1616

Dear Mr. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Max B. Osceola
3301 N.W. 63rd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040790328

**Interrogatories to Max B. Osceola**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |
| Van B. Poole for U.S. Senate | 1,000 | March 5, 1982 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Moses B. Osceola
6571 W. Sheridan Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Osceola:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Moses B. Osceola
6571 W. Sheridan Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom

for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

00040703342

**Interrogatories to Moses B. Osceola**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| National Republican Senatorial Committee | $750 | October 20, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, wno made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

James F. Tiger
3131 N.W. 63rd Avenue
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Tiger:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790330

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: James F. Tiger
3131 N.W. 63rd Avenue
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ransom
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

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**Interrogatories to James F. Tiger**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senator Richard (Dick) Stone Campaign Committee | $1,000 | March 31, 1980 |
| | 1,000 | April 25, 1980 |

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Clinton Tommie
311 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mr. Tommie:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

9 3 0 3 7 9 0 4 0 1

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Clinton Tommie
311 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Hanson
for Marjorie W. Emmons
Secretary to the Commission

Attachment
Interrogatories

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**Interrogatories to Clinton Tommie**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Reagan for President | $250 | June 9, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?

If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Mrs. Dorothy Tommie
311 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

Dear Mrs. Tommie:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

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UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Mrs. Dorothy Tommie
311 N.W. 32nd Street
Hollywood, Florida 33024

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October 1984.

Lee Ann Elliott

Lee Ann Elliott
Chairman

ATTEST:

Jody C. Ranson

Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

00407903944

**Interrogatories to Dorothy Tommie**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Reagan for President | $250 | June 9, 1980 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

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f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

0004079034 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1984

Ms. Helen Williamson
7935 Woodvine Circle
Tampa, Florida 33615

RE: MUR 1616

Dear Ms. Williamson:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("the Act"). In connection with an investigation being conducted by the Commission, the attached order requiring you to provide certain information has been issued.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. That section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the persons with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses. However, you are required to submit the information under oath within ten (10) days of your receipt of this order.

If you have any questions, please direct them to Deborah Curry, the attorney handling this matter, at (202) 523-4000, or by means of the Commission's toll free number (800) 424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Order to Answer Written Questions

00040790347

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

TO: Helen Williamson
7935 Woodvine Circle
Tampa, Florida 33615

RE: MUR 1616

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten (10) days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 9th day of October, 1984.

Lee Ann Elliott
Chairman

ATTEST:

Judy C. Ransom
Marjorie W. Emmons
for Secretary to the Commission

Attachment
Interrogatories

**Interrogatories to Helen Williamson**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

October 18, 1984

RECEIVED AT THE FEC
84 OCT 22 A10: 13

GCC#5249

Deborah Curry, Esq.
Federal Election Commission
Washington, D.C. 20463

84 OCT 22 A11: 35

Dear Ms. Curry,

Marcus Cobourn no longer resides at this residence. This letter was wrongly accepted due to the fact that the mailman failed to identify who the letter was addressed. The mailman merely asked for a signiture.

Therefore I am sending this material back to you with the correct address. Thank you.

Sincerely

Carol Cobourn

Richard M. Cobourn
Sunshine Apt.
Apt #104
3619 S.W. 24th Ave.
Gainsville, Florida 32607

00040703351

(305) 791-0920

RECEIVED AT THE FEC
GCC#6305
84 OCT 25 P12:30

# SEMINOLE TRIBE OF FLORIDA

THEODORE BOYD
Controller

ACCOUNTING DEPARTMENT

Tribal Officers:
JAMES E. BILLIE
Chairman
CECIL JOHNS
Vice Chairman
PRISCILLA SAYEN
Secretary-Treasurer

6073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024

84 OCT 25 P1:54

October 23, 1984

Ms. Deborah Curry
Federal Election Commission
Washington, DC 20463

RE: MUR 616 The Seminole Tribe answers to Interrogatories - Theodore S. Boyd

Dear Ms. Curry:

Below are answers to interrogatories request by letter from Federal Election Commision dated October 11, 1984:

1. Yes.

2. No, no other contributions were made.

3. a. I was contacted by Stephen H. Whilden, the Seminole Tribal Attorney.

   b. Stephen H. Whilden, Seminole Tribal Attorney at the time. The date was about December 2, 1979.

   c. Yes.

   d. By check.

   e. I do not remember to who I gave the check to. I did not mail it.

   f. Yes.

   g. Yes.

   h. The Seminole Tribe.

   i. About December 3, 1979.

   j. Check.

9 0 0 4 0 7 9 0 3 5 2

TYPE-ERASE
COTTON FIBER USA



k. The check was drawn on the Seminole Tribe's "Special Tax Fund".

i. The reimbursement was not made in cash.

4. I used my name and I made no contributions in any other name.

5. Yes, the best of my memory is that the following individuals made contributions and were reimbursed by the Seminole Tribe of Florida. I do not know their present addresses.

James E. Billie
Bobbi Billie
Max Osceola
Marge Osceola
Steve Whilden
Claudia Davis
Ray Lederman
Jean Fontana
Sarah Marrero

Theodore S. Boyd
Theodore S. Boyd

TSB/bg

0004079035

STATE OF FLORIDA _____)
COUNTY OF _____) SS

Sworn to and subscribed before me this 23rd day of October A.D. 1984.

Jean M. Dulikowski

NOTARY PUBLIC
STATE OF FLORIDA

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 16 1987
BONDED THRU GENERAL INSURANCE UND

My commission expires _____

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1984

James E. Billie
6350 N.W. 32nd Street
Hollywood, Florida 333024

Re: MUR 1616

Dear Mr. Billie:

Pursuant to a telephone conversation with your attorney, Ronald Labasky, the date of document production has been moved from October 18, 1984, to October 25, 1984. The new address for document production is 6073 Sterling Road, Hollywood, Florida. However, the time has been changed to 11:30 a.m. If you have any questions, please contact, Deborah Curry, the attorney assigned to this matter at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790354

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1984

The Seminole Tribe of Florida
James E. Billie, Chairman
6350 N.W. 32nd Street
Hollywood, Florida 33024

Dear Mr. Billie:

Pursuant to a telephone conversation with your attorney, Ronald Labasky, the date of document production has been moved from October 18, 1984, to October 25, 1984. The new address for document production is 6073 Sterling Road, Hollywood, Florida. However, the time has been changed to 11:30 a.m. If you have any questions, please contact, Deborah Curry, the attorney assigned to this matter at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790355

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1984

Marcellus Osceola
6341 N.W. 34th Street
Hollywood, Florida 33024

Re: MUR 1616

Dear Mr. Osceola:

Pursuant to a telephone conversation with your attorney, Ronald Labasky, the date of document production has been moved from October 18, 1984, to October 25, 1984. The new address for document production is 6073 Sterling Road, Hollywood, Florida. However, the time has been changed to 11:30 a.m. If you have any questions, please contact, Deborah Curry, the attorney assigned to this matter at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790356

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1984

Howard E. Tommie
c/o Selma Alvarez
4500 North State Road 7
Hollywood, Florida 33021

Re: MUR 1616

Dear Mr. Tommie:

Pursuant to a telephone conversation with your attorney, Ronald Labasky, the date of document production has been moved from October 18, 1984, to October 25, 1984. The new address for document production is 6073 Sterling Road, Hollywood, Florida. However, the time has been changed to 11:30 a.m. If you have any questions, please contact, Deborah Curry, the attorney assigned to this matter at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790357

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 24, 1984

Ronald Labasky
Madigan, Parker, Swedmark & Skelding
Forum Building
318 North Monroe Street
Tallahasse, Florida

Re: MUR 1616
The Seminole Tribe of Florida,
James E. Billie and
Marcellus Osceola

Dear Mr. Labasky:

Pursuant to a telephone conversation with you, the date of document production has been moved from October 18, 1984, to October 25, 1984. The new address for document production is 6073 Sterling Road, Hollywood, Florida. However, the time has been changed to 11:30 a.m. If you have any questions, please contact, Deborah Curry, the attorney assigned to this matter at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

00040790358

ALFRED & MILDRED ESTRADA
103 N.E. 19th AVE., APT. 438-C
DEERFIELD BEACH, FLA. 33441

FEC
OEC #5335
84 OCT 26 P12:45

Oct 22, 1984

Federal Election Commission
Washington D.C 20463

Re: MUR 1616.
Your order to Answer Written Questions.
Oct 11, 1984

Gentlemen:

In answer to your interogetories I wish to make the following answers:—

1. I probably made the 200 contribution to the Republican National Committee, However I cannot Verify this since my records for this period have been destroyed.

2. 1979 to 1981 Records have been destroyed, below are record for 1982 to 1984

| Date | Payment to | Amount |
|---|---|---|
| Feb 1982 | National Rep. Sen. Comm | 50.00 |
| mar 24 '82 | " " " " | 25.00 |
| mar 18, 82 | " " Cong. Comm | 65.00 |
| mar 5 '82 | Rep. Nat. Comm | 50.00 |
| mar 8 82 | National Rep. Sen. Comm | 25.00 |
| Apr 23 82 | Legislative Campaign Com | 20.00 |
| Apr 23, 82 | NRSC | 25.00 |
| Apr 19 82 | Rep. National Comm | 100.00 |
| May 25 82 | Nat. Rep. Sen. Co. | 15.00 |
| June 3 82 | Rep. Presidential Task Force | 120.00 |
| July 8 82 | Rep Nat. Comm. Campaign 82 | 100.00 |
| Aug 11, 1982 | Nat. Rep. Senatorial Comm | 50.00 |
| Nov 1, 1982 | Citizens For Regan | 25.00 |
| Nov 22 " | Rep. Nat. Comm | 50.00 |
| Dec 24 " | National Rep. Sen. Com | 25.00 |

00040703559

| Date | Payment to | Amt. |
|---|---|---|
| Mar 9, 1983 | Rep. Nat. Comm | 25.00 |
| Mar 9 1983 | Nat. Rep. Cong. Comm | 50.00 |
| Apr 8 1983 | Nat. Rep. Sen. Comm | 99.00 |
| Apr 28 1983 | Jeff Bell for Senate | 25.00 |
| June 13 " | " " " " | 25.00 |
| Jun 6 " | National Rep. Cong. Comm | 25.00 |
| July 27 " | Presidential Tr. 1984 | 50.00 |
| July 18 " | 1983 G.O.P. Victory Fund | 100.00 |
| Sept 23 " | GOP Victory Fund | 100.00 |
| Oct 5 " | Rep. Presidential Task for. | 120.00 |
| Nov. 26 " | Washington National Comm | 25.00 |
| Jan 6, 1984 | Citizens for Regan | 25.00 |
| Feb 18 " | N.R.C.C. | 50.00 |
| Mar 21 " | Nat. Rep. Congressional Com. | 50.00 |
| Mar 21 " | Rep. Party of Fla | 20.00 |
| Jun 22 " | 1984 G.O.P. Victory Fund | 100.00 |
| Jun 22 " | R.N.C. Presidential " | 100.00 |
| [illegible] | Citizens for Regan | 25.00 |
| Sept 8, 1984 | Republican Nat. Comm. | 200.00 |
| Sept 21 " | Helms for Senate | 25.00 |

The above represents my contributions to federal candidates since I became a member of Congress. I still have receipts.

0004079036 0

3 Questions and Answers relative to contributions listed on questions 1, + 2.

(a) In all cases request were by mail with an occasional follow up phone call, never in person.

(b) all dates are approximately the time before check dated. Records of persons requesting contribution in letter request have been destroyed

(c) I was never advised by letter or in person that I would be reimbursed for my contribution.

(d) Always by check.

(e) Always sent by mail to requesting Committee or Personal letter requests.

(f) All contribution were by check from my personal funds

(g) Never reimbursed for any contribution

(h) ——

(i) ——

(j) ——

(k) ——

(l) ——

+ To the best of my knowledge all contribution were made by me in my name.

00040703361

5 do not know of any one who may have been contacted by the Semi-Tribe of Fla regarding contributions to candidates.

I, Alfred A. Estrada, hereby swear and affirm the above answers are correct and complete to best of knowledge and belief.

Alfred A. Estrada

State of Florida
County of Broward

Sworn and subscriped to before me this 23rd day of October, 1984.

Peggy A. Lee
Notary Public

00040790362

RECEIVED AT THE FEC
GCC #5334
84 OCT 26 P12: 4

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

ORDER TO ANSWER WRITTEN QUESTIONS

RECEIVED
84 OCT 26 P2: 0
GENERAL COUNSEL

TO: Vincent Fontana
2203 N.42nd Avenue
Hollywood, Florida 33021

RE: MUR 1616

At the instance of the Federal Election Commission, pursuant to 2 U.S.C. § 437d(a)(1) and (2), you are hereby ordered to submit responses in writing and under oath to the interrogatories propounded herein, to the Federal Election Commission within ten (10) days of your receipt of this order.

A. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |

1. Did you in fact make this contribution? no

2. If you did make this contribution,

   a) How were you solicited (e.g., by a solicitation from the Committee received through the mail; in person; by telephone)?

   b) If you were contacted in person, please identify the individual who requested your contribution. What was the approximate date of the contact? Was the subject of later reimbursement discussed at the time of the solicitation?

0004079036 5

**Interrogatories to Vincent Fontana**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 17, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made. No

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

c) Were you ever told you would be reimbursed for the contribution?

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

00407903564

f) Were your personal funds used to make the contribution?
If not, what funds were used?

g) Were you ever reimbursed for this contribution?

h) If you were reimbursed, who made the reimbursement to you?

i) What was the date of the reimbursement?

j) In what form was the reimbursement made (e.g., by check, in cash)?

k) If the reimbursement was made by check, upon what account was the check drawn?

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

2004079036

RECEIVED AT THE FEC
GCC #5333
84 OCT 26 P12: 43

**Interrogatories to Jean Fontana**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |
| Citizens for Gunther Committee | 1,000 | September 19, 1980 |

84 OCT 26 P2: 20
GENERAL COUNSEL

Did you in fact make these contributions?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)? in person & by telephone

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact? Steve Whilden

c) Were you ever told you would be reimbursed for the contribution? yes

d) How did you make your contribution (e.g., by check; by money order; by credit card)? check

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida? It was picked up at my desk by Steve Whilden's secretary Marge Osceol

9004079035 0

f) Were your personal funds used to make the contribution? yes

If not, what funds were used?

g) Were you ever reimbursed for this contribution? yes

h) If you were reimbursed, who made the reimbursement to you? Seminole Tribe

i) What was the date of the reimbursement? the same day I wrote the check

j) In what form was the reimbursement made (e.g., by check, in cash)? check

k) If the reimbursement was made by check, upon what account was the check drawn? Sem. Tribe Special Tax account

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used. my name

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them. The majority of people are on the list sent to the Tribe. The only names on the list that did not contribute are: Clinton Tommie, Ralph Clare, Vincent Fontana, John Fontana, J. Faison & Dorothy Tommie. Since I am involved in answering the Interrogatories for Seminole Tribe I have sent the correspondence to them.

00040790367

Other Pe 31 who contr t were

Bonnie Garris
Michael B. Rich
Sarah marrero
Nettie Doctor
all employees of the Tribe I do not
Know Their addresses

FEC
94 OCT 26 P12: 43

00040790368

RECEIVED AT THE FEC
GCC#5348
84 OCT 29 A8:

Response of Ms. Helen Williamson to written Interrogatories of the Federal Election Commission.

RE: MUR 1616

1. Yes

2. No

3. a) in person
   b) an employee of the Seminole Tribe of Florida. Do not recall the date of contact.
   c) Yes
   d) personal check
   e) picked up by employee of Seminole Tribe of Florida
   f) Yes
   g) yes
   h) Seminole Tribe of Florida
   i) Do not recall
   j) check
   k) Do not recall
   l) not applicable

4. My own name was used.

5. No.

DATE: 10/18/84

Helen Williamson
HELEN WILLIAMSON

Signed before me this 18 day of October, 1984.

L. S. Oliver
NOTARY

Seal:

Notary Public, State of Florida at Large
My Commission Expires June 19, 1987

My commission expires

9004079059

RECEIVED AT THE FEC
GCC#5460
84 NOV 2 P12:21

**Interrogatories to Pauline Grant**

1. Reports filed with the Commission indicate that you made the following contribution: Yes

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Van B. Poole for U.S. Senate | $1,000 | May 10, 1982 |

Did you in fact make this contribution?

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made. $1,000.00 May 1982 Van B. Poole

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)? In Person

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact? Marne Osceola, Secretary to Stephen Whilden approximately May 1982

c) Were you ever told you would be reimbursed for the contribution? Yes

d) How did you make your contribution (e.g., by check; by money order; by credit card)? Check

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida? Delivered to Marne Osceola associated with the Seminole Tribe of Florida as Steve Whilden's secretary.

9004079370

f) Were your personal funds used to make the contribution? Yes

If not, what funds were used?

g) Were you ever reimbursed for this contribution? Yes

h) If you were reimbursed, who made the reimbursement to you? Seminole Tribe of Florida

i) What was the date of the reimbursement? May 1982

j) In what form was the reimbursement made (e.g., by check, in cash)? Check

k) If the reimbursement was made by check, upon what account was the check drawn? Seminole Tribe of Florida account

l) If the reimbursement was made in cash, what was the source of the funds used?

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used. My name was used to make contributions.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them. No.

00040703371

RECEIVED AT THE FEC
GCC#5485
84 NOV 5 A9:04

Response of Mr. Ralph C. Clare to written Interrogatories of the Federal Election Commission.

RE: MUR 1616

1. Yes

2. No.

3.a) in person
b) an employee of the Seminole Tribe of Florida. Do not recall the date of contact.
c) Yes
d) personal check
e) picked up by employee of Seminole Tribe of Florida
f) Yes
g) Yes
h) Seminole Tribe of Florida
i) Do not recall
j) Check
k) Do not recall
l) not applicable

4. My own name was used.

5. No.

84 NOV 5 A11:04

DATE: 10-31-84

Ralph C. Clare
RALPH C. CLARE

Signed before me this 31 day of October, 1984.

H. F. Williamson
NOTARY

Seal:

Notary Public, State of Florida at Large
My Commission Expires Sept 5, 1985

My commission expires

00040740372

RECEIVED AT THE FEC
GCC #5537
84 NOV 8 A10:33

**RESPONSE**
**OF**
**JIM R. CLARE**
**TO**
**WRITTEN INTERROGATORIES**
**OF**
**THE FEDERAL ELECTION COMMISSION**

84 NOV 8 A11:18

1. Yes.

2. No.

**For the following answers please refer to the numbered items as contained on EXHIBIT "A".**

3.(a) In person.

(b) Items 1,2,6,7,8,9 - Contact was made by Stephen Hennington Whilden who was an employee of the Seminole Tribe of Florida. I do not recall the date of such contract.

Items 3,4 - Contact was made by George Sheldon. I do not recall the date of such contact.

Item 5 - Contact was made by Jerry Apodoca. I do not recall the date of such contact.

(c) Items 1,2,6,7,8,9 - To the best of my recollection I was told I would be reimbursed for these contributions.

(d) Contributions were made by check.

(e) Items 1,2,6,7,8,9 - These contributions were delivered to a person associated with the Seminole Tribe of Florida.

Items 3,4,5 - These contributions were mailed directly to the committees.

9004079037 5

(f) Personal funds were used for all contributions.

(g) Items 1,2,6,7,8,9 - While my records do not indicate any reimbursement, my best recollection is that I was reimbursed for these items.

Items 3,4,5 - To the best of my knowledge I was not reimbursed for these items.

(h) All reimbursements to me were made by the Seminole Tribe

(i) To the best of my knowledge all reimbursements were made a short time after each contribution.

(j) All reimbursements were made by check.

(k) I have no recollection of the account name or number.

(l) See (j) above.

4. Yes.

5. I am not presently aware of any such individual whom you have not previously contacted.

DATE: OCTOBER 30, 1984

Jim R. Clare

JIM R. CLARE

GIVEN under my hand and seal this 30th day of October, 1984.

H. F. WILLIAMSON NOTARY PUBLIC STATE OF FLORIDA AT LARGE (Seal)

H. F. Williamson

Notary

Notary Public, State of Florida at Large
My Commission Expires Sept. 5, 1988



0004079037 4

| | RECIPIENT | AMOUNT | DATE RECEIVED BY COMMITTEE |
|---|---|---|---|
| 1. | Carter/Mondale Presidential Committee, Inc. | $ 1,000 | February 29, 1980 |
| 2. | Van B. Poole for U.S. Senate | 1,000 | March 5, 1982 |
| 3. | Senior Citizens and Working Families for George H. Sheldon | 500 | February 15, 1982 |
| 4. | Senior Citizens and Working Families for George H. Sheldon | 1,000 | October 18, 1982 |
| 5. | Jerry Apodaca for U.S. Senate | 1,000 | May 20, 1982 |
| 6. | Republican Party of Florida | 5,000 | January 20, 1982 |
| 7. | Ray Shamie for U.S. Senate | 1,000 | January 27, 1982 |
| 8. | Nelson for Congress Campaign Committee | 1,000 | January 22, 1982 |
| 9. | Friends of Clay Shaw | 1,000 | February 9, 1982 |

00407037

MC # 5565

(305) 583-7112

# SEMINOLE TRIBE OF FLORIDA

JOEL M. FRANK, SR.
Executive Administrator

Tribal Officers:
JAMES BILLIE
Chairman
CECIL JOHNS
Vice Chairman
PRISCILLA SAYEN
Secretary-Treasurer

TRIBAL ADMINISTRATION
6073 STIRLING ROAD
HOLLYWOOD, FLORIDA 33024

84 NOV 9 P3:02

84 NOV 9 P3:58

November 6, 1984

Federal Election Commission
Attn: Chairman Lee Ann Elliott
Washington, D.C. 20463

Dear Miss Elliott:

This letter is in response to your letter of October 11th (copy attached). The answers to your questions are as follows according to question number.

1. I made a contribution to said Recipient, however, not in the amount of $689.05.

2. Van B. Poole/$1,000./May 12th, 1982
   Van B. Poole/$1,000./January 8th, 1982
   Willian Lehman/$250./March 12th, 1982
   Claude Pepper/$300./May 28th, 1982
   Dante Fascall/$300./May 28th, 1982
   George Sheldon/$50./June 17th, 1982
   Larry Smith/$500./July 28th, 1982

3. The following answer to #3 question applies for each individual (candidate) listed above.

   a. Contacted by mail and in person.
   b. I do not remember the date of contact; would probably be close to the date of contributions made.
   c. No
   d. In the form of a check.
   e. Checks were mailed to the candidates.
   f. Yes, personal funds were used.
   g. Yes, I was reimbursed for these contributions.
   h. The Seminole Tribe of Florida made the reimbursement to me.
   i. I do not remember the exact date; within days, probably, of the contribution made.

Continued.....

j. The reimbursements were made in the form of checks.
k. I do not remember what account the check(s) was drawn.
l. Not applicable.

4. My own name was used to make these contributions to federal candidates and/or committees.

5. No I do not; nothing that I can remember.

This answers the questions that you have provided for me. Should you require any additional information please contact me directly.

Sincerely,

Joel M. Frank, Sr.
Executive Administrator

JMF/cod

9004079037 7

November 6, 1984

Federal Election Commission
Attn: Chairman Lee Ann Elliott
Washington, D.C. 20463

Dear Miss Elliott:

This letter is in response to your letter of October 11th (copy attached). The following are my responses according to question number.

1. No, I did not make this contribution.

2. No, I did not make any contributions.

3. Not applicable.

4. Not applicable.

5. Joel M. Frank, Sr. (my spouse) made contributions to federal candidates or committees and was later reimbursed.

This answers all of the questions provided for me. Should you require any additional information, please contact me directly.

Sincerely,

Marci Frank

Marci Frank

MF/cod

00040790378

RECEIVED AT THE FEC
GCC #5784
84 NOV 26 A 9:03

**Interrogatories to Jamecia C. Motlow**

1. Reports filed with the Commission indicate that you made the following contribution: MUR 1616

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Senior Citizens and Working Families for George H. Sheldon | $1,000 | April 26, 1982 |

Did you in fact make this contribution? YES

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? NO If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)?

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact? Steve Whillson 4-82

c) Were you ever told you would be reimbursed for the contribution? ~~YES~~ NO Tribal money was used.

d) How did you make your contribution (e.g., by check; by money order; by credit card)?

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Yes Did you give it to a person associated with the Seminole Tribe of Florida? NO

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f) Were your personal funds used to make the contribution? NO

If not, what funds were used? Seminole Money

g) Were you ever reimbursed for this contribution? NO

h) If you were reimbursed, who made the reimbursement to you? ——

i) What was the date of the reimbursement? ——

j) In what form was the reimbursement made (e.g., by check, in cash)? ——

k) If the reimbursement was made by check, upon what account was the check drawn? ——

l) If the reimbursement was made in cash, what was the source of the funds used? ——

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used. NO

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? NO If yes, please state the name and address of these individuals or entities and state who reimbursed them.

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**Interrogatories to Margaret Osceola**

1. Reports filed with the Commission indicate that you made the following contribution:

| Recipient | Amount | Date Received by Committee |
|---|---|---|
| Carter/Mondale Presidential Committee, Inc. | $1,000 | December 3, 1979 |

Did you in fact make this contribution? Yes, for Seminole Tribe.

2. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made. None that I can remember.

3. For each contribution listed in question number 1 and/or question 2, please provide the following information.

a) How were you contacted with regard to making the contribution (e.g., by mail; in person; by telephone)? In person.

b) Please identify the person or entity who requested your contribution. What was the approximate date of the contact? Seminole Tribe - 12/3/79.

c) Were you ever told you would be reimbursed for the contribution? Yes.

d) How did you make your contribution (e.g., by check; by money order; by credit card)? Check.

e) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida? Seminole Tribe.

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f) Were your personal funds used to make the contribution? No.

If not, what funds were used? Seminole Tribe.

g) Were you ever reimbursed for this contribution? Yes.

h) If you were reimbursed, who made the reimbursement to you? Seminole Tribe.

i) What was the date of the reimbursement? 12-3-79

j) In what form was the reimbursement made (e.g., by check, in cash)? Check.

k) If the reimbursement was made by check, upon what account was the check drawn? Seminole Tribe Council fund

l) If the reimbursement was made in cash, what was the source of the funds used? N/A

4. Was your own name used to make contributions to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or federal committees in a name other than your own, please list the name or names that you used. I believe it was Seminole Tribe.

5. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them. Cannot remember names but many employees of Seminole Tribe asked. You can get names from the Comptroller, Hollywood.

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ANSWERS TO INTERROGATORIES

I HEREBY acknowledge that the Answers to the foregoing Interrogatories are true and correct to the best of my knowledge and belief.

Margaret S. Osceola

STATE OF Florida
COUNTY OF Broward SS.

BEFORE ME, the undersigned authority, personally appeared Margaret S. Osceola, who after being first duly cautioned and sworn, acknowledged that she signed the foregoing Answers to Interrogatories and that said Answers are true and correct to the best of her knowledge and belief.

WITNESS my hand and seal of the aforesaid State and County this 26th day of October, 1984.

Jean M Dubkowski
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 16 1987
BONDED THRU GENERAL INSURANCE UND

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FEDERAL ELECTIONS COMMISSION
WASHINGTON, D.C. 20463

RE: MUR 1616

STEPHEN WHILDEN'S
RESPONSE TO
SUBPOENA TO PRODUCE
DOCUMENTS AND MATERIALS
AND MOTION TO QUASH SAME

COMES NOW STEPHEN WHILDEN, by and through his undersigned counsel, and files this Response to and Motion to Quash the Subpoena to produce documents and materials received by him through forwarded mail in Florida on October 31, 1984:

1. Stephen Whilden is domiciled in Florida.

2. The Subpoena was "served" on a post office box in New Mexico.

3. Respondent Whilden objects to the form of the "service" and the inadequacy of the notice.

4. Mr. Whilden's only relationship to The Seminole Tribe has been in the capacity of legal counsel. As such, Mr. Whilden has an attorney-client privilege which he is entitled to assert and does assert as to written or verbal information which is the subject of MUR 1616.

5. The Federal Elections Commission lacks authority to regulate contributions by The Seminole Tribe since the federal election laws do not apply to Indian Tribal governments. Since all requested or subpoenaed "documents and materials" are addressed to those in "the possession of The Seminole Tribe of Florida", the F.E.C. is without jurisdiction on the face of the subpoena. This is particularly so in light of the admission that Mr. Whilden has been identified in the F.E.C. documents as an agent or staff member of The Seminole Tribe.

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6. Moreover, Mr. Whilden has none of the requested "documents or materials" in his possession or control. Accordingly, no production will or can take place on November 7, 1984 in Albuquerque, New Mexico.

I HEREBY CERTIFY that this has been forwarded to KENNETH A. GROSS, Associate General Counsel for the Federal Elections Commission, this 7TH day of NOVEMBER, 1984.

GEORGE I. PLATT, ESQUIRE
Pine, Jacobson, Schwartz, Nash,
Block & England
750 S.E. Third Avenue
Suite #100
Fort Lauderdale, Florida 33316
(305) 462-2800



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FEDERAL ELECTIONS COMMISSION
WASHINGTON, D.C. 20463

RE: MUR 1616

STEPHEN WHILDEN'S RESPONSE TO INTERROGATORIES AND STEPHEN WHILDEN'S MOTION TO QUASH AND OBJECTIONS TO INTERROGATORIES

COMES NOW STEPHEN WHILDEN, by and through his undersigned counsel, and files his Response, Motion to Quash and Objections to Interrogatories received by him through forwarded U.S. Mail in Florida on October 1, 1984:

1. STEPHEN WHILDEN is domiciled in Florida. It is respectfully submitted that service of Interrogatories in the manner attempted by Federal Elections Commission (F.E.C.) is inappropriate and inconsistent with fundamental doctrines of fairness and due process.

2. The Seminole Tribe is an Indian Tribe which, as a matter of law, is a Government. In accordance with established case law and the clear statutory language and regulations of the Federal Elections Commission, Governments, including the Seminole Tribe, are not subject to regulations. Moreover, the Tribal Government is immune from F.E.C. jurisdiction under doctrines of sovereignty recognized in Indian law throughout the United States. Accordingly, the F.E.C. has no jurisdiction over the Seminole Tribe or its employees or agents. It is apparent on the face of the Interrogatories and the other communications which the F.E.C. has had with MR. WHILDEN that the exclusive nature of the F.E.C. inquiry relates to his knowledge of the Seminole Tribe and those matters which are encompassed in his duties while he was general counsel to the Seminole Tribe. Accordingly, MR. WHILDEN asserts the same rights, privileges and immunities as those claimed by the Tribe itself.

3. The Federal Elections Commission lacks authority and jurisdiction to regulate contributions to political candidates by the Seminole Tribe or its employees or agents as representatives of the Seminole Tribe because the federal election laws do not

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apply to Indian tribal governments or its official or quasi official representatives, agents or employees. It is clear on the face of the discovery propounded upon MR. WHILDEN that he is expressly identified as counsel for the Seminole Tribe.

4. Moreover, it is clear on the face of the Interrogatories that the information sought constitutes material which is subject to the attorney-client confidentiality privilege. As former counsel for the Seminole Tribe, MR. WHILDEN is under an ethical as well as a legal restraint in that said confidentiality privilege between an attorney and his client may only be waived by the client. MR. WHILDEN has no unilateral right to waive the confidentiality privilege; indeed, he has a sworn ethical obligation to refrain from waiving that privilege absent express written consent of the client. The Seminole Tribe has not granted and will not grant a waiver of its attorney-client privileges.

5. All of the contributions listed in the Interrogatories propounded upon MR. WHILDEN were contributions of tribal funds and not those of MR. WHILDEN personally.

GEORGE T. PLATT, ESQUIRE
Fine, Jacobson, Schwartz, Nash,
Block & England
Attorneys for STEPHEN WHILDEN
750 S.E. Third Avenue
Suite #100
Fort Lauderdale, Florida 33316
(305) 462-2800

CC: Stephen Whilden



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BEFORE THE FEDERAL ELECTION COMMISSION

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| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Stephen H. Whilden | ) | MUR 1616 |
| | ) | |

GENERAL COUNSEL'S REPORT

## I. BACKGROUND

On April 24, 1984, the Commission found reason to believe that Stephen H. Whilden had violated: a) 2 U.S.C. § 441f by making or knowingly permitting his name to be used to effect contributions in the name of others, b) 2 U.S.C. § 441a(a)(3) by exceeding total contribution limits for individuals of $25,000 during 1982; and c) 2 U.S.C. § 441a(a)(1)(A) for exceeding the individual contribution limits to political committees in a calendar year.

In furtherance of its investigation of this matter, the Commission authorized and approved a subpoena for documents and an order to answer written questions to be served upon Mr. Whilden. The subpoena to produce documents and order to answer written questions was served on Mr. Whilden on October 18, 1984. Pursuant to the order, Mr. Whilden was to submit written answers to the interrogatories 10 days after his receipt of the order. Pursuant to the subpoena, Mr. Whilden was required to produce documents on November 7, 1984, in Albuquerque, New Mexico.

This office made numerous attempts to confirm the November 7, 1984, date for document production in New Mexico, at the telephone number Mr. Whilden had given. Several messages were left with the secretary at that number.

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On November 7, 1984, at 2:00 p.m. a staff member left for New Mexico to keep the appointment for document production with Mr. Whilden as noted in the subpoena. Late in the afternoon of November 7, 1984, after the staff member had left for New Mexico, counsel for Mr. Whilden called requesting an extension of time. The extension of time was not granted. Mr. Whilden did not appear for document production in New Mexico pursuant to the subpoena.

On November 8, 1984, the Office of the General Counsel received from counsel for Mr. Whilden, a motion to quash the subpoena to produce documents and materials. Subsequently, on November 20, 1984, the Office of General Counsel received a motion to quash and objection to the interrogatories from counsel for Stephen Whilden.

## II. FACTUAL AND LEGAL ANALYSIS

Whilden states the following reasons for his motions to quash:

a) the form and inadequacy of service;
b) the attorney-client privilege; and
c) lack of jurisdiction based on the sovereignty of Indian Tribal Governments.

Mr. Whilden claims inadequate service and notice because he is domiciled in Florida. The Office of General Counsel disagrees for several reasons. Mr. Whilden himself gave the New Mexico P.O. Box as his address. The Commission had no knowledge that he lived elsewhere, nor did he at any time convey to us a new address. The return receipt card indicates that Mr. Whilden received the mailing and signed for it on October 18, 1984.

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Mr. Whilden indicated that he received it in his motion to quash on October 31, 1982.

As noted, prior to going out to New Mexico for document production, this office made numerous attempts to reach Mr. Whilden at the telephone number in New Mexico that he had given to us, without success. We left numerous telephone messages at that number for him to contact us. In any case, Mr. Whilden had enough time to contact this office, prior to a staff member going to New Mexico. Mr. Whilden was given adequate service and notice of the subpoena and order.

Further, Mr. Whilden states that the right, privilege and immunities claimed by the Tribe, also flow to him in his capacity of General Counsel as agent or employee of the Tribe.

Mr. Whilden's argument of immunity predicated on the sovereignty of Indian Tribal Governments and his argument of attorney-client privilege was rejected by the Commission in the First General Counsel's Report for MUR 1616 dated April 16, 1984. The Commission in finding reason to believe, concluded that it had jurisdiction over the respondents in this matter. In so doing the Commission rejected the arguments of respondents that they were outside the Commission's jurisdiction.

Further, Mr. Whilden can not use the attorney-client privilege to shield his possible illegal activities. Mr. Whilden made at least $35,000 in contributions using his own name, even though possibly paid for with Tribal funds. Even,

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assuming arguendo, the validity of the contention of Tribal sovereignty, such sovereignty would in no case be extended to the actions of Mr. Whilden, who as an individual made illegal contributions to federal candidates.

Additionally, Mr. Whilden's motion to quash should be denied because of his failure to comply with 11 C.F.R. § 111.15. 11 C.F.R. § 111.15 states that a motion to quash must be made within five days from receipt of the subpoena and order. In this case, Mr. Whilden failed to file the motion to quash in a timely manner.

Therefore, the Office of General Counsel recommends that the Commission deny the motions to quash.

## III. RECOMMENDATIONS

1. Deny the motions of Stephen H. Whilden to quash the subpoena for production of documents and to quash the order to answer written questions.
2. Appove the attached letter.

Charles N. Steele
General Counsel

Dec 6, 1997
Date

By: Kenneth A. Gross
Associate General Counsel

Attachments
1. Motions
2. Letter

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
) MUR 1616
Stephen H. Whilden )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 11, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1616:

1. Deny the motions of Stephen H. Whilden to quash the subpoena for production of documents and to quash the order to answer written questions.

2. Approve the letter attached to the General Counsel's Report signed December 6, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

12-12-84
Date

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

Received in Office of Commission Secretary: 12-7-84, 9:56
Circulated on 48 hour tally basis: 12-7-84, 2:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 13, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George I. Platt, Esquire
Fine, Jacobson, Schwartz, Nash, Block & England
750 S.E. Third Avenue, Suite 100
Fort Lauderdale, Florida 33316

Re: MUR 1616
Stephen H. Whilden

Dear Mr. Platt:

This is to inform you that on December 11, 1984, the Commission determined to deny the Motions to Quash the Subpoena to Produce Documents and the Order to Answer Written Questions you filed on behalf of your client, Stephen H. Whilden. Accordingly, your client is to comply with the Commission's Subpoena to Produce Documents and Materials and Order to Answer Written Questions within ten days of your receipt of this letter.

If you have any questions, please contact Deborah Curry, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

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|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida | ) | |

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT FEB 5 1985

## I. BACKGROUND

On April 24, 1984, the Commission found reason to believe the Seminole Tribe of Florida (hereinafter "the Tribe"), James E. Billie, Howard E. Tommie, Marcellus Osceola and Stephen H. Whilden had violated 2 U.S.C. § 441f by making or knowingly permitting their names to be used to effect contributions in the name of others. The Commission found reason to believe that James E. Billie and Stephen H. Whilden violated 2 U.S.C. § 441a(a)(3) by exceeding their individual contribution limitations for years 1980 and 1982 respectively. Additionally, the Commission found reason to believe Stephen H. Whilden violated 2 U.S.C. § 441a(a)(1)(A).

## II. FACTUAL AND LEGAL ANALYSIS

On May 14, 1984, Ronald Labasky, counsel for the Tribe, James E. Billie and Marcellus Osceola, in two separate letters, requested pre-probable cause conciliation on behalf of his clients in this matter. On June 20, 1984, the Commission declined to enter into pre-probable cause conciliation with the Tribe, James E. Billie and Marcellus Osceola at that time pending further investigation. The Commission approved and sent out letters to the above mentioned respondents which requested, among other things, documents and an explanation of the process used by the Tribe to effect contributions and make reimbursements.

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On October 2, 1984, due to a lack of response from the above-mentioned respondents, the Commission authorized the issuance of subpoenas for the production of documents and orders to answer written questions from the Seminole Tribe of Florida, James E. Billie, Stephen H. Whilden and Howard E. Tommie. Additionally, the Commission at that time authorized the issuance of orders to answer written questions to Marcellus Osceola and twenty-seven other possible contributors in this matter.

ANALYSIS

A. Seminole Tribe of Florida and James E. Billie

On October 25, 1984, staff members went to Hollywood, Florida, to conduct document production in this matter. The Tribe produced a number of documents, including checks and memos, which evidenced that contributions were made to political committees by individuals who were then reimbursed by the Tribe. Although Commission staff was allowed to view the documents and take notes concerning the documents, the Tribe refused to give up possession of the documents or to allow them to be copied. Counsel for the Tribe and Mr. Billie stated that they had two objections to giving up the documents. One, that it was their position that the Commission lacked jurisdiction over the Tribe. Two, that they were concerned that the receipt of reimbursements by the individuals could result in tax consequences and once the documents were relinquished they had no reassurance that the documents would not be forwarded to the Internal Revenue Service.

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However, respondents stated that they were going to review their position and might be willing to produce the documents if conciliiation and closing of the case appeared possible. After a number of telephone conversations, counsel for the respondents requested a second meeting to discuss the case. Counsel flew to Washington from Florida and met with members of the staff of the Office of General Counsel on January 9, 1985.

Counsel again stated that they wanted to resolve the matter. However, they stated that tribal policy was not to produce documents based on sovereign immunity. Counsel suggested that the Tribe might sign a conciliation agreement, depending on the terms, if they were not required to produce the documents. No reason was given as to why the Tribe and James E. Billie had not responded to the order to answer written interrogatories.

Staff of the Office of General Counsel impressed upon counsel that the Commission needed to conclude its investigation in this matter before pre-probable cause conciliation could be attempted.*/

Since the issue regarding production of the documents is not resolved and since the documents have not been produced nor have the interrogatories been answered, the Office of General Counsel recommends that the Commission authorize a civil suit for subpoena enforcement against the Tribe and James E. Billie.

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*/ Even if conciliation could somehow be attempted with the Tribe, production of the documents are necessary for the Commission's investigation of Stephen H. Whilden and other possible contributors.

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B. Stephen H. Whilden

On December 11, 1984, the Commission denied the motions of Stephen H. Whilden to quash the subpoena for production of documents and to quash the order to answer written questions. The Commission on that date also approved a letter to Mr. Whilden requesting that he comply with the Commission's subpoena and order within ten days of receipt of the letter. On December 27, 1984, counsel for Whilden called indicating that he had just received the Commission's letter denying the motions to quash. Counsel stated that he would send a response shortly. To date, no response has been received from counsel for Mr. Whilden. Therefore, the Office of General Counsel recommends that the Commission authorize a civil suit for subpoena enforcement against Mr. Whilden.

C. Howard Tommie and Marcellus Osceola

Howard Tommie received the order to answer the written questions but did not respond. Marcellus Osceola's letter was returned from the Post Office unclaimed. Therefore, the Office of General Counsel recommends that the Commission authorize civil suit for subpoena enforcement against Howard Tommie and hire a process server to serve the order to answer written questions on Marcellus Osceola.

D. Witnesses

We have received responses to the order to answer written questions from twelve out of the twenty-seven witnesses. The witnesses that responded are the following: Theodore Boyd,

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James R. Clare, Ralph C. Clare, Alfred Estrada, Joel W. Frank, Marci Frank, Jean Fontana, Vincent Fontana, Pauline Grant, Jamecia Motlow, Margaret Osceola, and Helen Williamson.

Five individuals received the letters containing the order to answer written questions (though the return receipt card was signed by someone else) and to date have not responded. They are Wanda Bowers, Eloise Osceola, Jacob Osceola, Max Osceola, Jr. and Moses Osceola. The Office of General Counsel recommends that the Commission authorize civil suit for subpoena enforcement against these individuals.

The Post Office returned some of the letters to the witnesses noting that they were unclaimed. Therefore, the Office of General Counsel recommends that the Commission hire a process server to serve the order to answer written questions on the following individuals: Marcus Coburn, Donna Faison, J. Faison, Geneva Gooden, Charlotte Osceola, Deborah Osceola, James Tiger, Clinton Tommie, and Dorothy Tommie.

Claudia Manick's returned letter indicated that she had moved and the address was unknown. Accordingly, the Office of General Counsel recommends that the Commission hire a process server to serve Claudia Manick.

## III. RECOMMENDATIONS

A. Authorize the filing of civil suits against the following to enforce the subpoenas and orders directed to them:

1) Seminole Tribe of Florida
2) James E. Billie
3) Howard E. Tommie
4) Stephen H. Whilden

B. Authorize the filing of civil suit against the following witnesses to enforce the orders directed to them:

1) Wanda Bowers
2) Eloise Osceola, Jr.
3) Jacob Osceola
4) Max Osceola
5) Moses Osceola

C. Hire a process server to serve the orders on the following Respondent and witnesses:

1) Marcellus Osceola
2) Marcus Coburn
3) Donna Faison
4) J. Faison
5) Geneva Gooden
6) Claudia Manick
7) Charlotte Osceola
8) Deborah Osceola
9) James Tiger
10) Clinton Tommie
11) Dorothy Tommie

29 January 1985
Date

Charles N. Steele
General Counsel

00040763

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 1616 |
| Seminole Tribe of Florida | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 5, 1985, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1616:

1. Authorize the filing of civil suits against the following to enforce the subpoenas and orders directed to them:

    a) Seminole Tribe of Florida
    b) James E. Billie
    c) Howard E. Tommie
    d) Stephen H. Whilden

2. Authorize the filing of civil suit against the following witnesses to enforce the orders directed to them:

    a) Wanda Bowers
    b) Eloise Osceola, Jr.
    c) Jacob Osceola
    d) Max Osceola
    e) Moses Osceola

(continued)

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3. Hire a process server to serve the orders on the following Respondent and witnesses:

a) Marcellus Osceola
b) Marcus Coburn
c) Donna Faison
d) J. Faison
e) Geneva Gooden
f) Claudia Manick
g) Charlotte Osceola
h) Deborah Osceola
i) James Tiger
j) Clinton Tommie
k) Dorothy Tommie

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

2-5-85
Date

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

00004070401

MCC# 6687


**FINE JACOBSON SCHWARTZ NASH BLOCK & ENGLAND**

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

750 SOUTHEAST THIRD AVENUE

FORT LAUDERDALE, FLORIDA 33316

(305) 462-2800

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SUITE 700
777 BRICKELL AVENUE
MIAMI, FLORIDA 33131
(305) 374-1200
TELEX 264314
CABLE FLORIDALAW

DOUGLAS OFFICE
2401 DOUGLAS ROAD
MIAMI, FLORIDA 33134
(305) 446-2200
TELEX 522726
CABLE MIAMILAW



BRIAN L. BELT
WILLIAM J. BERGER
PAUL BERKOWITZ
IRWIN J. BLOCK
MITCHELL R. BLOOMBERG
GARY S. BROOKS
JUDITH A. BURKE
ANTHONY J. CARRIUOLO
MARILYN J. R. CESARANO
ROBERT A. CHAVES
GARY JAY COHEN
BRUCE JAY COLAN
KEVIN M. EMAS
ARTHUR J. ENGLAND, JR.
GENE ESSNER
MARTIN FINE
JONATHAN H. GREEN
MARK D. GROSSMAN
MARVIN C. GUTTER
DENNIS A. HAAS
DALE A. HECKERLING
GERALD T. HEFFERNAN
STEPHEN J. HELFMAN
BURT S. HELLMAN
SARA B. HERALD
AXEL R. HEYDASCH
DEBORAH PLAKS HOCHMAN
STUART K. HOFFMAN
BERNARD JACOBSON
RICHARD A. JOSEPHER
KAREN KANTNER
THEODORE KLEIN
J. PHILIP LANDSMAN
HENRY LATINER
BONNIE J. LOBAR
MANUEL LUBEL
LAWRENCE F. MICHELSON
DAVID B. MITCHELL
CHARLES E. MULLER, II
MARTIN J. NASH
CAROL L. NORRIS
WILLIAM JAY PALMER
OLIVE B. PARKER
GEORGE I. PLATT
REBEKAH J. ROBTON
STANLEY B. PRICE
CHARLES RUBIN
BENJAMIN S. SCHWARTZ
JOSEPH H. SEROTA
MICHAEL B. SHAPIRO
GARY SHERMAN
STUART L. SIMON
TRACYE A. SOLOVE
DONALD R. TESCHER
RICHARD JAY WEISS
LINDA ANN WELLS


January 18, 1985

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463


'85 JAN 21 A10:06
GENERAL COUNSEL


Re: MUR 1616/Stephen H. Whilden

Dear Mr. Gross:

Enclosed please find Mr. Whilden's responses to the Interrogatories and Subpoena to Produce Documents and Materials in the referenced matter.

This shall also confirm that I spoke with Deborah Curry of your office on or about December 27, 1984 to advise that, apparently due to the holiday mail overload, we did not receive your letter dated December 13, 1984 until on or about the time of my call to Ms. Curry. Ms. Curry advised that I provide you with this information.

Please contact the undersigned directly at (305) 462-2800 regarding this matter.

Sincerely,

Dennis A. Haas

Dennis A. Haas

DH:daw

Enclosures

cc: Mr. Stephen H. Whilden

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**INTERROGATORIES TO STEPHEN H. WHILDEN**

1. Please state your present and/or former positions and/or association with the Seminole Tribe of Florida (hereinafter "the Tribe").

ANSWER: General Counsel

2. Please give the dates of tenure of your position(s) with the Tribe.

ANSWER: August 31, 1977 to June 15, 1982

3. What were your duties and responsibilities with regard to this (these) position(s) with the Tribe?

ANSWER: Duties typical of general counsel to a municipality, county, state or federal agency, that is to give legal advice and answers to questions posed by the governing body, in this case, the duly elected tribal council.

4. Did the Tribe levy a charge (said to be $.05), in addition to an eight percent tribal cigarette tax, on each carton of cigarettes sold on the Seminole reservation?

ANSWER: Attorney/client privilege.

5. If such a special levy was assessed, were the proceeds from the levy deposited into a special tribal account (hereinafter also "nickel fund")?

ANSWER: Attorney/client privilege.

6. What was and/or is the purpose of the nickel fund?

ANSWER: Attorney/client privilege.

7. Please list the names of individuals who were authorized to make expenditures from this nickel fund between January 1, 1979, to the present?

ANSWER: Attorney/client privilege.

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8. State whether the monies in the nickel fund came from the nickel levy on cigarettes exclusively? If from another source, please state the name of that source.

ANSWER: Attorney/client privilege.

9. Was the nickel fund used to make contribution to federal candidates and/or committees?

ANSWER: Attorney/client privilege.

10. Was the nickel fund used to reimburse individuals who made contributions to federal candidates and/or committees?

ANSWER: Attorney/client privilege.

11. Was any other fund used to reimburse individuals who made contributions to federal candidates and/or committees? If so, state the name of other accounts, funds or financial institutions used to make reimbursements of contributions to federal candidates and/or committees.

ANSWER: Attorney/client privilege.

12. Who developed the plan to use the nickel fund or any other fund to effect reimbursements to individuals that made contributions to federal candidates and/or committees?

ANSWER: Attorney/client privilege.

13. Give a detailed description of how this plan was implemented.

ANSWER: Attorney/client privilege.

14. Who selected the receipient federal committees and candidates?

ANSWER: Attorney/client privilege.

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15. Identify the individuals that were involved in contacting prospective conduits. Please give names and addresses.

ANSWER: Attorney/client privilege.

16. Please submit a detailed explanation of the process by which persons, asked to serve as conduits, made contributions to federal candidates and/or committees and were subsequently reimbursed.

ANSWER: Attorney/client privilege.

17. Please identify all individuals and entities who received reimbursements from the Tribe, whether from the nickel fund or otherwise, for contributions made by those individuals and/or entities to federal candidates and/or committees between January 1, 1979, to the present. Please give names and addresses.

ANSWER: I am not in possession of the documents containing this information, but if I were it would be attorney/client privilege.

18. Reports filed with the Commission indicate that you made the following contributions: (See attachment "A") Did you in fact make these contributions?

ANSWER: Yes, to the best of my knowledge.

19. Did you make any other contributions to federal candidates and/or federal committees between January 1, 1979, and to the present? If yes, for each such contribution, state the date, amount and name of the federal candidate and/or committee to which the contribution was made.

ANSWER: No, to the best of my recollection.

20. For each contribution listed in question 18 and/or 19, please provide the following information:

a) Please identify the person or entity who requested your contribution. What was the approximate date of the contact?

b) Were you ever told you would be reimbursed for the contribution?

c) How did you make your contribution (e.g., by check; by money order; by credit card)?

d) To whom did you deliver your contribution? Did you mail it directly to the Committee? Did you give it to a person associated with the Seminole Tribe of Florida?

e) Were your personal funds used to make the contribution?
If not, what funds were used?

f) Were you ever reimbursed for this contribution?

g) If you were reimbursed, who made the reimbursement to you?

h) What was the date of the reimbursement?

i) In what form was the reimbursement made (e.g., by check in cash)?

j) If the reimbursement was made by check, upon what account was the check drawn?

k) If the reimbursement was made in cash, what was the source of the funds used?

ANSWER: Attorney/client privilege.

21. Was your own name used to make contributions which you gave to federal candidates and/or committees or was another name used to make these contributions? If you made contributions to federal candidates and/or committees in a name other than your own, please list the name or names that you used.

ANSWER: My own name exclusively.

22. Do you know of any individuals or entities that may have been contacted by the Seminole Tribe of Florida or anyone else to make contributions to federal candidates or committees and were later reimbursed? If yes, please state the name and address of these individuals or entities and state who reimbursed them.

ANSWER: Attorney/client privilege.

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23. You state that one of the $10,000 payments, to the Republican National Committee, was for your 1983 membership. Please explain and submit supporting documentation.

ANSWER: Only $10,000 was given to the Republican National Committee in 1982 representing the annual dues for membership in the Republican Eagles. My 1983 dues were paid early, i.e. prior to January, 1983 and should not have been posted in 1982, but rather should have been posted in 1983. I am expecting documentation from the Republican National Committee verifying this and will provide it to you as soon as I receive the same.

RESPONSE TO LIST OF DOCUMENT AND
MATERIALS TO BE PRODUCE BY STEPHEN H. WHILDEN

I do not have in my possession and control of the documents and materials requested in paragraph 1 through 5 inclusive.

STATE OF FLORIDA )
) ss:
COUNTY OF BROWARD)

Stephen H. Whilden

BEFORE ME, the undersigned authority, personally appeared, Stephen H Whilden, and he acknowledged before me that he executed the foregoing Answers to Interrogatories and that the Answers to same are true and correct to the best of his information, knowledge and belief.

WITNESS my hand and official seal this 8th day of FEBRUARY, 1985.

NOTARY PUBLIC,
State of Florida at Large

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Answers to Interrogatories was furnished by United States mail to: Kenneth A. Gross, Associate General Counsel to the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463 this 13 day of February, 1985.

FINE JACOBSON SCHWARTZ NASH
BLOCK & ENGLAND
Attorneys for Whilden
750 S. E. Third Avenue
Suite 100
Fort Lauderdale, Florida 33316
(305) 462-2800

BY: DENNIS A. HARS

DH:daw

S-66

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| Recipient | Amount | Date Received |
|---|---|---|
| Florida for Kennedy Committee | $ 1,000<br>2,000 | June 1979<br>November 1979 |
| Stack for Congress Committee | 1,000 | September 3, 1980 |
| Stone for Senate Committee | 1,000<br>200 | March 31, 1980<br>April 27, 1979 |
| Kennedy for President Committee | 1,000<br>500 | December 17, 1979<br>February 11, 1980 |
| Carter/Mondale Presidential Committee | 1,000<br>500 | December 3, 1979<br>February 29, 1980 |
| Democratic National Committee | 2,500 | September 24, 1980 |
| Alan S. Becker Campaign Committee | 1,000 | September 25, 1980 |
| Senator John Ware Campaign Committee | 1,000 | July 10, 1980 |
| Citizens for Gunter | 1,000 | October 20, 1980 |
| Committee to Re-Elect Kennedy | 1,000<br>1,000 | May 1, 1981<br>June 14, 1982 |
| DNC Services Corporation | 5,000 | August 13, 1982 |
| Fund for a Democratic Majority | 1,000 | May 21, 1982 |
| Lujan Booster Club | 1,000 | February 5, 1981 |
| National Republican Congressional Committee | 5,000 | May 10, 1982 |
| Minnesota Democratic-Farmer Labor Party | 500 | August 13, 1982 |
| Republican National Committee | 10,000<br>10,000 | July 16, 1982<br>November 23, 1982 |
| Larry Smith for Congress | 500 | January 18, 1982 |

Attachment "A"

0004079040

Re: MUR 1616

MCC# 6546

## ANSWERS TO INTERROGATORIES

1. Yes, I did make this contribution.

2. No, I made no other contributions.

3. a) I was contacted in person.

b) Marge Osceola requested my contribution. I do not remember the date.

c) Yes, I was told I would be reimbursed.

d) I made the contribution by check.

e) I delivered my contribution to Marge Osceola, who was associated with the Seminole Tribe of Florida.

f) Yes, my personal funds were used to make the contribution.

g) Yes, I was reimbursed.

h) Marge Osceola made the reimbursement.

i) The reimbursement was the same or the next day as far as I remember. I do not remember the exact date of the reimbursement.

j) The reimbursement was made by check.

k) As far as I remember, the check was drawn upon an account of the Seminole Tribe.

l) n/a

4. My own name was used to make the contribution as far as I know. I never made contributions to federal candidates in a name other than my own.

9004079010

5. No, I do not know others contacted by the Seminole Tribe to make contributions.

Richard Marcus Cobourn

Richard Marcus Cobourn

State of Florida )
)ss
County of Alachua)

Subscribed and sworn to before me this 28th day of January, 1985.

Janice Morris

Notary Public

My commission expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES OCTOBER 28, 1986

0004079041

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85 MAR 22 A 8:40

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JULIUS F. PARKER (1910-1966)
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MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

March 18, 1985

Ms. Debbie Curry
Federal Elections Commission
Washington, DC 20463

RE: Case No. MUR 1616: Seminole Tribe of Florida, et al.

Dear Ms. Curry:

On January 9, 1985, Carol Cobourn, Associate General Counsel for the Seminole Tribe of Florida, and I met with you, Gary Johansen and Associate General Counsel for the FEC, Kenneth Gross. The purpose of the meeting was to discuss the status of the above case, the FEC's requests for information pursuant to certain interrogatories and the FEC's requests to review Tribe records. The Tribe was concerned about production of certain of those records and the issue of the Tribe's sovereignty. Following that meeting, you, Mr. Johansen and Mr. Gross were going to meet to discuss this matter and determine what records, if any, would be necessary to reach some time of conciliation in this matter. I understood that you would advise us of your position.

Approximately two to three weeks following our meeting, I called Mr. Johansen and he advised me that you had met, but that you had not yet decided concerning whether any modification would be made on the original requests. He also advised me that he was leaving and that you would be handling this matter in the future.

Since that date I have not received any contact from the FEC regarding your meeting or the status of this case. The Tribe continues to believe that its sovereignty protects it from the FEC's request for production of records. However, as we have indicated throughout this case, it is the Tribe's intention to attempt to reach a resolution of this matter without litigating the question of sovereignty and the FEC's jurisdiction over the Tribe. Provided, of course, that a reasonable settlement or conciliation can be reached.

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Would you please advise me as to the current status of this case and the FEC's position concerning conciliation of this matter.

Sincerely,

Ronald A. Labasky

RAL:kfs

cc: Ms. Carol Coburn
Seminole Tribe of Florida
6073 Sterling Road
Hollywood, FL 33024

2 0 0 4 0 7 9 0 4 1 2

FCC 2301
Clerk of the FEC
M1616
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REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

APR 26 PM 2:03

April 23, 1985

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 1616
Seminole Tribe of Florida, et al.

Dear Mr. Andersen:

Thank you for your letter of April 18, 1985, concerning our conversation of April 15, 1985, regarding the above matter. In conjunction with that conversation, I merely want to clarify my understanding that the records requested by the Commission at this time are only those records relating to possible reimbursements to individuals from Tribe accounts as authorized by the General Counsel acting for the Tribe at that time. Other items contained in the subpoena previously sent were modified following the review of those records by Gary Johansen and Debbie Curry of the Commission's staff. The interrogatories remain outstanding in the same form propounded, however, issues related to the nickel account have been resolved based upon the review of records previously performed by Mr. Johansen and Ms. Curry.

If this understanding is not correct, would you please clarify it for me immediately as that does have some impact on the question of production of records by the Tribe, if such can be arranged.

Please contact me at your convenience.

Sincerely,

Ronald A. Labasky

RAL:kfs

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85 MAY 20 P1:06

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VALERIE F. SETTLES
MICHAEL B. SHAPIRO
GARY SHERMAN
STUART L. SIMON
TRACYE K. SOLOVE
DONALD R. TESCHER
RICHARD JAY WEISS
LINDA ANN WELLS
JULIE A. S. WILLIAMSON

85 MAY 20 P2:28

May 13, 1985

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MIAMI, FLORIDA 33145
(305) 446-2200
TELEX 522726
CABLE MIAMILAW

OF COUNSEL
GENE ESSNER

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Deborah Curry, Attorney
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission v.
Seminole Tribe of Florida and
Stephen H. Whilden/MUR 1616

Dear Ms. Curry:

This shall serve as formal notice that this law firm no longer represents Stephen H. Whilden in the referenced matters. Accordingly, it is not necessary for you to provide me with copies of any documents, correspondence or other information regarding the same.

Please call me if you have any questions with regard to this.

Sincerely,

Dennis A. Haas

Dennis A. Haas

DH:daw

cc: Mr. Stephen H. Whilden
James E. Billie
Ronald Labasky, Esq.

(07)

00004079415

BEFORE THE FEDERAL ELECTION COMMISSION **SENSITIVE**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Indian Tribe of Florida | ) | MUR 1616 |
| | ) | |

**COMPREHENSIVE INVESTIGATIVE REPORT #1**

On February 5, 1985, the Commission authorized the Office of General Counsel to file civil suits to enforce subpoenas and orders directed against the following: Seminole Tribe of Florida; James E. Billie; Howard E. Tommie; Stephen H. Whilden; Wanda Bowers; Eloise Oceola; Jacob Oceola; Max Oceola; and Moses Oceola. Upon further review of the Commission's investigation and consideration of these proposed subpoena enforcement actions, the General Counsel has determined to limit the subpoena enforcement actions to the Seminole Tribe of Florida and Stephen H. Whilden. We believe that initiating subpoena enforcement actions against the Seminole Indian Tribe and Stephen H. Whilden (the individual who appears to have organized the activity under investigation in this matter) to be a more prudent use of staff resources than filing multiple lawsuits seeking access to what is essentially the same body of factual information.

On May 13, 1985, FEC v. Seminole Tribe of Florida, et al., Civil No. 83-6377, the Commission's subpoena enforcement action against the Seminole Tribe and Whilden, was filed in the U.S. District Court for the Southern District of Florida.

Charles N. Steele
General Counsel

May 17, 1985
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: MAY 22, 1985

SUBJECT: MUR 1616 - Comprehensive Investigative Report #1 signed May 17, 1985

The above-captioned matter was circulated to the Commission on a 24 hour no-objection basis at 4:00, May 20, 1985.

There were no objections to the Comprehensive Investigative Report at the time of the deadline.

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GCC#8456
85 SEP 4 A10:10

LAW OFFICES

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OF COUNSEL

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JOHN A. MADIGAN, JR. (1919-1984)
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REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

September 3, 1985

85 SEP 4 P3:21

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

Enclosed is the memorandum that I directed to Mr. Jim Shore and Mr. James Billie of the Seminole Tribe of Florida. Mr. Shore is the Tribe's general counsel and Mr. Billie is obviously the Chief of the Tribe.

The memorandum is intended to track the interrogatories that were propounded on the Tribe and which are the issue in the present litigation between the Tribe and the Federal Elections Commission. It was my understanding that, when the records which are requested in the Motion to Produce were reviewed by Gary Johansen and Debbie Curry last October, the questions concerning the nickel fund were resolved. I believe that the memorandum attached covers most of the questions that relate to the nickel fund. Also, the answers are predicated upon the fact that the activities which are involved and the answers which were requested beginning in 1979 would have ceased in July 1982. Therefore, there are no records concerning reimbursements following that date and the answers are based upon that fact.

As the memorandum indicates, this procedure was more haphazard than planned based upon all the information I have and from all the statements I have received from members of the Tribe who would have been principally involved. The memorandum is for working purposes only. However, upon review by Mr. Shore and our analysis of it and any alterations which he suggests or requires, I would then suggest that it be signed by the Chief of the Tribe, Mr. James Billie. Also, as we discussed, we would provide an itemized list of all contributions made and other pertinent data related thereto.

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I look forward to working with you in an attempt to come to some kind of stipulation or conciliation agreement which can be submitted to the Commission and wrap up this matter, at least on behalf of the Seminole Tribe, James Billie and the other Indians and persons who participated unknowingly in this matter.

Sincerely,

Ron Labasky

Ronald A. Labasky

RAL/kfs
Enclosure

The following memorandum is prepared in order to respond to certain interrogatories which were propounded by the Federal Elections Commission on the Seminole Tribe of Florida. The explanation provided herein is an effort to allow the FEC to be apprised of the facts which existed at the time that the Seminole Tribe of Florida was making contributions to federal candidates or committees during elections beginning in 1979 through July of 1982. It is specifically noted that, in July 1982, at the time Mr. Jim Shore began as counsel to the Seminole Tribe of Florida, reimbursement of campaign contributions ceased.

As a preface, it is specifically asserted that the activities which were undertaken concerning reimbursement of campaign contributions were based upon the direction and advice of the Tribe's legal counsel, Stephen Whilden. At all times, Mr. Whilden advised that the activities pursued and undertaken by the Seminole Tribe of Florida and the individuals involved were proper and that all activities were legal within the framework of the federal and state election laws.

Prior to 1979, the Seminole Tribe of Florida began collecting funds from the various smoke shops operating on the Seminole reservation in Hollywood, Florida. The collections were based upon sales of cigarettes and was considered a tax levied under the taxing authority of the Seminole Tribe of Florida. All operators of smoke shops on the reservation were required to pay the nickel assessment. The funds collected and deposited into what has been denominated the "nickel fund" were thereafter utilized to make the reimbursements to individuals who made contributions to candidates or committees. The nickel fund was utilized not only in this manner, but for other expenses as authorized by the tribal chairman. The collection of the fund was not specifically based upon the intent to have money available for political contributions, lobbying efforts, litigation matters or any other particular matters. It was money to be used for the benefit of the Tribe.

There was a view that the Seminole Tribe must participate in the political process. One of the efforts in that regard was to begin to make political contributions as other politically affected businessmen and entities also were doing. There was no specific plan as to how this was to be accomplished. Steve Whilden advised that the process of having the Tribe reimburse individuals who had made contributions pursuant to his direction was totally appropriate and legal. The most available fund for this purpose were those monies kept in the nickel fund (which no longer exists). The general process followed was that Steve Whilden would personally make a contribution and request reimbursement which, pursuant to the normal processes of the Tribe, requires the approval, as would any expenditure, of the Chairman. At times, he would request that other individuals make contributions and advise them to put in for appropriate reimbursement. A requirement



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normally was that a statement as to whom the contribution was made, or why it was being made, or under what circumstances it was being made would accompany a request for reimbursement. In the normal terminology, the "conduits" were chosen at random or by chance. In a few instances, individuals made contributions and thereafter requested reimbursement, without being specifically requested or directed to provide the contribution to the candidate or committee. In summary, therefore, there was no particular plan or direction which was employed in this effort. It was usually at the suggestion or direction of Steve Whilden as he was the most informed politically.

In an effort to settle this matter on behalf of all individuals who were a part of this process, a list, which is attached hereto and incorporated herein, demonstrates the person reimbursed, the amount reimbursed and the recipient of that contribution is attached.

LAW OFFICES

HABEN, PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY

THE MADIGAN BUILDING

318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

RECEIVED AT THE
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85 NOV 4 P1:

October 31, 1985

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RALPH H. HABEN, JR.
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. MCVOY
RONALD A. LABASKY
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DAVID D. EASTMAN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

NOV 4 P3:40

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

Pursuant to our telephone conversation of last week, I will be awaiting your review and comment on the memorandum forwarded to you dealing with the case involving the Seminole Tribe of Florida. Following your review, please contact me and we will attempt to determine whether any further information is necessary and if that information can be produced. The Tribe has advised me that they are preparing a summary of the contributions to be used in conjunction with the memorandum. Hopefully, this will enable us to bring this matter to a close without further litigation in the federal courts.

I look forward to hearing from you some time in the future.

Sincerely,

Ronald A. Labasky

RAL/kfs

cc: Mr. Jim Shore

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86 JAN 15 A11:15

LAW OFFICES
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OF COUNSEL

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JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

January 9, 1986

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

Since our last telephone conversation of many weeks ago, I have not heard from you or any member of your staff concerning any possible stipulation or conciliation agreement in this case. Are we still proceeding in that direction at this time?

I look forward to hearing from you at your earliest convenience.

Sincerely,

Ron

Ronald A. Labasky

RAL/kfs

cc: Mr. Jim Shore

86 JAN 15 P3:29

RECEIVED AT THE FEC
GCC#9563
86 JAN 21 A10:18

LAW OFFICES

HABEN, PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY

THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

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RALPH H. HABEN, JR.
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
ROBERT S. COHEN
TERRELL C. MADIGAN
BOB L. HARRIS
DAVID D. EASTMAN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

January 15, 1986

86 JAN 21 P1:39

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

Enclosed is a decision just published in the Southern Reporter. While the Federal Elections Commission is not a party to this lawsuit, I believe that the language dealing with the sovereignty of the Seminole Tribe and the ability to be sued is appropriate and supplemental to the cases which we cited in our response to your Motion to Compel.

Please contact me if you have any questions concerning the status of this case, the enclosed case or any other matters.

Sincerely,

Ronald A. Labasky

RAL/kfs
Enclosure

cc: Mr. Jim Shore

ry concerning immaterial details of a crime, does not render its admission in any meaningful sense harmful in the defendant's case. *Felton v. Harris*, 482 F.Supp. 448, 455 nn. 12-13 (S.D.N.Y.1979); *Damon v. State*, 397 So.2d 1224 (Fla. 3d DCA 1981). Whether to grant a severance lies within the discretion of the trial court. *Adams v. State*, 445 So.2d 1132 (Fla. 2d DCA 1984). We do not think it can be said the trial court abused its discretion in finding the confessions sufficiently interlocking to be admissible.

[2] Additionally, it appears the harmless error rule [1] would be applicable in this case. In *Schneble v. Florida*, 405 U.S. 427, 430, 92 S.Ct. 1056, 1059, 31 L.Ed.2d 340, 344 (1971), the Supreme Court stated:

> The mere finding of a violation of the *Bruton* rule in the course of the trial, however, does not automatically require reversal of the ensuing criminal conviction. In some cases the properly admitted evidence of guilt is so overwhelming, and the prejudicial effect of the codefendant's admission is so insignificant by comparison, that it is clear beyond a reasonable doubt that the improper use of the admission was harmless error.

In the present case, appellant's confession, combined with the testimony of the victims, Mr. DeNoms and the arresting officer supplied more than enough evidence to find appellant guilty beyond a reasonable doubt. Therefore, it would appear, error, if any, was harmless.

It should also be noted that the prosecutor improperly used the confessions in his jury argument. Again, however, given the overwhelming amount of evidence, this would appear to be harmless error. *See Adams*, 445 So.2d at 1134.

HERSEY, C.J., and HURLEY, J., concur.

1. In some cases, the distinction between the harmless error rule and the *Parker* exception is basically one of semantics. *See Damon; United States v. Roux Laboratories, Inc.*, 437 F.2d 209 (9th Cir.1971) (though we do not think this is necessarily the case when evidence other than the codefendant's confession plays a large part in finding harmless error).

**SEMINOLE POLICE DEPARTMENT and Sergeant D.B. Marshall of the Seminole Police Department, Petitioners,**

**v.**

**Ramon CASADELLA, Fidel Morgado and Lazaro Alfonso, Respondents.**

**No. 85-1585.**

District Court of Appeal of Florida, Fourth District.

Nov. 13, 1985.

Petitioners sued Seminole Police Department and its sergeant for wrongful arrest, and department and sergeant moved to dismiss complaint on ground that they enjoyed sovereign immunity from suit. The Broward County Circuit Court, Miette K. Burnstein, J., denied the motion, and department and sergeant sought writ of common-law certiorari. The District Court of Appeal, Barkett, J., held that department and sergeant had not waived their sovereign immunity as derivative economic organization and agent of Seminole Tribe of Florida by accepting benefits of statutes governing jurisdiction of Florida and tribal counsel.

Writ granted, order of trial court quashed with directions to dismiss complaint.

**1. Indians ⇐2**

An Indian tribe is a dependent sovereign not subject to jurisdiction of courts of the state absent its consent or consent of Congress.

**2. Indians ⇐2**

Sovereign immunity of Seminole Tribe of Florida and its subordinate economic units can only be waived by tribe itself or United States government; state government cannot waive or limit an Indian Tribe's sovereign immunity.

POLICE DEPARTMENT
nt D.B. Marshall of the Sem-
ce Department, Petitioners,

v.

SADELLA, Fidel Morgado
ro Alfonso, Respondents.

No. 85-1585.

urt of Appeal of Florida,
Fourth District.

Nov. 13, 1985.

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its sergeant for wrongful
department and sergeant
iss complaint on ground that
overeign immunity from suit.
County Circuit Court, Miette
J., denied the motion, and
sergeant sought writ of
ertiorari. The District Court
rkett, J., held that depart-
geant had not waived their
unity as derivative economic
nd agent of Seminole Tribe
ccepting benefits of statutes
diction of Florida and tribal

ted, order of trial court
directions to dismiss com-

tribe is a dependent sover-
t to jurisdiction of courts of
it its consent or consent of

mmunity of Seminole Tribe
its subordinate economic
be waived by tribe itself or
government; state govern-
waive or limit an Indian
n immunity.

hough we do not think this is
case when evidence other than
's confession plays a large part
less error).



**3. Indians ⇐32(2)**

Seminole Police Department, a subordinate economic organization of Seminole Tribe of Florida, and Sergeant, an agent of Seminole Police Department, did not waive their right to sovereign immunity by accepting benefits of statute, West's F.S.A. § 285.16, governing Florida jurisdiction within Indian reservations, and statute, West's F.S.A. § 285.18, establishing powers and duties of Seminole tribal council.

---

Shelley H. Leinicke of Wicker, Smith, Blomqvist, Tutan, O'Hara, McCoy, Graham & Lane, Fort Lauderdale, for petitioners.

Saul J. Morgan of Boiko and Morgan, Miami, for respondents.

BARKETT, Judge.

Petitioners, the Seminole Police Department and Sergeant D.B. Marshall of the Seminole Police Department, petition us for writ of common law certiorari.

Both parties agree that petitioner, Seminole Police Department, is a subordinate economic organization of the Seminole Tribe of Florida and that petitioner, Sergeant Marshall, is an agent of the Seminole Police Department. Petitioners were sued in the trial court in an action arising from an alleged wrongful arrest.

Petitioners filed a motion to dismiss the complaint asserting, *inter alia*, that as a derivative economic organization and agent of the Seminole Tribe of Florida they were immune from suit under the doctrine of sovereign immunity. The trial court erroneously denied the motion to dismiss.

[1-3] Respondents recognize that "an Indian Tribe is a dependent sovereign not subject to the jurisdiction of the courts of this state absent its consent or the consent of Congress." *White Mountain Apache Indian Tribe v. Shelley*, 107 Ariz. 4, 480 P.2d 654, 655 (1971). *See also Ramey Construction Company v. Apache Tribe of Mescalero Reservation*, 673 F.2d 315 (10th Cir.1982). They argue, however, that petitioners waived their right to sovereign immunity by accepting the benefits of sections 285.16 and 285.18, Florida Statutes (1983). We cannot agree that this constitutes a waiver of sovereign immunity. Immunity of the Seminole Tribe and its subordinate economic units can only be waived by the tribe itself and/or the United States Government. A state cannot waive or limit an Indian Tribe's immunity. In the landmark decision *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58-59, 98 S.Ct. 1670, 1677, 56 L.Ed.2d 106 (1978), the United States Supreme Court held:

> Indian tribes have long been recognized as possessing the common-law immunity from suit traditionally enjoyed by sovereign powers. This aspect of tribal sovereignty, like all others, is subject to the superior and plenary control of Congress. But "without congressional authorization," the "Indian Nations are exempt from suit."
>
> It is settled that a waiver of sovereign immunity "'cannot be implied but must be unequivocally expressed.'" [Citations omitted.]

Accordingly, we grant the writ and quash the order of the trial court with directions to dismiss the complaint against petitioners.

DOWNEY and GLICKSTEIN, JJ., concur.

C. Wayne SPILLERS, Appellant,

v.

Eugene HALL, Appellee.

BILLY JACK'S INC., Appellant,

v.

Eugene HALL, Appellee.

Nos. 82-395, 82-405.

District Court of Appeal of Florida,
Second District.

Nov. 13, 1985.

Appeal from the Circuit Court for Hillsborough County; Guy W. Spicola, Judge.

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, | ) | MUR 1616 |
| Stephen H. Whilden, et al. | ) | |

MAR 4 A 9:53

COMPREHENSIVE INVESTIGATIVE REPORT #2

In Comprehensive Investigative Report #1, The Office of General Counsel reported that it had filed a subpoena enforcement action against the Seminole Tribe of Florida and Stephen H. Whilden, former General Counsel of the Tribe, on May 13, 1985. On June 14, 1985, the U.S. District Court for the Southern District of Florida heard oral agreement on the Order To Show Cause Why Supboenas And Orders Should Not Be Enforced, And To Enforce Subpoenas And Orders. The judge then took the matter under advisement. He has not reached, as yet, a decision in the action. In the interim, the Office of General Counsel has begun efforts to settle the subpoena enforcement matter with the Tribe. */ This Office will report to the Commission further once it completes its investigation.

Charles N. Steele
General Counsel

March 3, 1986
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

*/ Counsel for Mr. Whilden in the subpoena enforcement action was contacted by the Office of General Counsel. Counsel stated that he is unable to locate Mr. Whilden. Even if the District Court were to rule in our favor on the subpoena enforcement action, we may be unable to locate Mr. Whilden to enforce the subpoena against him.

00040704927

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS/ CHERYL A. FLEMING CAF

DATE: MARCH 5, 1986

SUBJECT: MUR 1616 - COMPREHENSIVE INVESTIGATION REPORT #2
SIGNED MARCH 3, 1986

The above-captioned matter was circulated by the Commission Secretary's Office to the Commissioners on Tuesday, March 4, 1986 at 4:00 P.M.

There were no objections received in the Office of the Secretary of the Commission to the Comprehensive Investigation Report at the time of the deadline.

00040079028

RECEIVED AT THE FEC
QCC# 509
86 MAY 19 P1:24

LAW OFFICES
HABEN, PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY
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GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

May 12, 1986

RECEIVED
GENERAL COUNSEL
86 MAY 19 P4:13

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

This letter is to confirm our telephone conversation concerning the requests for pre-probable cause conciliation by Howard Tommie and Stephen Whilden. At the present time, I have not yet confirmed the situation concerning Stephen Whilden with Ernie Kollra. However, this letter is also to confirm that my file does not indicate that we have ever made a notice of appearance on behalf of Howard Tommie in this case. I am also unaware of any actual complaint or other similar matter being purposed by the Commission concerning Mr. Tommie

Please advise me if there is any question concerning the status mentioned above.

Sincerely,

Ron Labasky

Ronald A. Labasky

RAL/kfs

9004079429

RECEIVED AT THE FEC
GCC 6004
86 MAY 30 A8:56

LAW OFFICES
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GAYLE SMITH SWEDMARK
OF COUNSEL

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JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897--1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

May 27, 1986

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

Please be advised that I have talked to Jim Shore, counsel for the Seminole Tribe of Florida, concerning Howard Tommie. Mr. Shore advised me that Mr. Tommie is still in the area near the reservation and that he will contact Mr. Tommie. Mr. Shore also advised that, absent any unusual set of circumstances, he expects that Mr. Tommie would like for me to represent him before the Commission. Immediately upon receiving any information concerning Mr. Tommie from Jim Shore, I will contact you.

Also, as soon as I receive any further information regarding the status of Steve Whilden, I will advise you.

Sincerely,

Ron Labasky

Ronald A. Labasky

RAL/kfs

86 MAY 30 A10:13

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86 JUN 23 P12:12

LAW OFFICES
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STEVEN T. MINDLIN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

June 20, 1986

86 JUN 23 P3:08
RECEIVED
GENERAL COUNSEL
FEC

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: Howard Tommie
MUR 1616
Seminole Tribe of Florida, Inc.

Dear Lee:

I have been contacted by Mr. Jim Shore, General Counsel for the Seminole Tribe of Florida. Mr. Howard Tommie has contacted Mr. Shore and requested that he be represented by this law firm in all matters dealing with the Federal Elections Commission and the above case.

I believe that Mr. Tommie communicated to the Commission, on or about March 16, 1984, that he had been misquoted in the newspaper, but that he would be more than happy to cooperate with the Commission. I will echo those sentiments at the present time.

Therefore, please consider this to be the designation of counsel on behalf of Howard Tommie and I believe we can now proceed to attempt to settle this matter as quickly as possible.

Please let me know if you have any questions.

Sincerely,

Ronald A. Labasky

RAL/kfs

cc: Mr. Jim Shore
Mr. Howard Tommie

00004074031

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ACC# 849
86 JUL 1 A8:47

LAW OFFICES

HABEN, PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY

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STEVEN T. MINDLIN

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OF COUNSEL

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JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE (904) 222-3730

June 26, 1986

Mr. R. Lee Andersen
Acting Assitant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: Federal Elections Commission v. Seminole Tribe of Florida, Inc., et al. - MUR 1616

Dear Lee:

Today I spoke with Steve Whilden and he will be forwarding to you the pre-probable cause conciliation request. This should now place all parties involved in this case in the posture for pre-probable cause conciliation and conclusion of this matter.

Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

RAL/kfs

86 JUL 1 A10:37
GENERAL COUNSEL

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GENERAL 86 JUL 3 A9:34
86 JUL 3 A10:19

June 26, 1986

Mr. R. Lee Andersen
Acting Assitant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: Federal Elections Commission v. Seminole Tribe of Florida, Inc., et al. - MUR 1616

Dear Mr. Andersen:

Pursuant to my telephone conversation with Ron Labasky, who represents the Seminole Tribe of Florida and members of the Tribe in the above case, I am hereby requesting pre-probable cause conciliation in this matter. I am requesting this on my own behalf, but anticipate participating in the conciliation agreement and stipulation which are being prepared on behalf of the Tribe.

As part of this conciliation agreement, I understand from Mr. Labasky that the proceeding in federal court will be dismissed jointly by the Federal Elections Commission, the Seminole Tribe of Florida and myself. Thereafter, the conciliation agreement will be forwarded to the Commission for acceptance.

Sincerely,

Stephen H. Whilden
4110 Empedrado Street
Tampa, FL 33629

SHW/kfs

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
)
Seminole Indian Tribe of Florida, ) MUR 1616
Stephen H. Whilden, et al. )

SENSITIVE

GENERAL COUNSEL'S REPORT

As reported in Comprehensive Investigative Report #2, dated March 3, 1986, the Office of General Counsel filed a subpoena enforcement action against the Seminole Tribe of Florida and Stephen H. Whilden, former General Counsel of the Tribe, on May 13, 1985. On June 14, 1985, the U.S. District Court for the Southern District of Florida heard oral argument on the Order To Show Cause Why Subpoenas and Orders Should Not Be Enforced, And To Enforce Subpoenas And Orders. The judge then took the matter under advisement. He has not reached a decision in the action.

Litigation Settlement Efforts

The Office of General Counsel has begun efforts to settle the subpoena enforcement matter with the Tribe, as reported in CIR #2. The Tribe is willing to provide information to the Commission in order to settle the matter. At the time CIR #2 was circulated to the Commission, counsel for Mr. Whilden stated he was unable to locate Mr. Whilden. Counsel for the Tribe has since located Mr. Whilden. Mr. Whilden also is willing to provide the information sought by the Commission in order to settle the matter.

Attached is a proposed Joint Stipulation and Order in settlement of the subpoena enforcement action. Attachment 1. The agreement provides that the Tribe and Mr. Whilden will respond to the outstanding Commission Interrogatories in lieu of producing

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documents. The Commission will withdraw the outstanding requests for production of documents and will move for voluntary dismissal of the subpoena enforcement action.

The Office of General Counsel recommends the Commission approve the attached Joint Stipulation and Order.

MUR Conciliation Efforts

Counsel for the Tribe and Mr. Whilden has indicated they want to settle the entire MUR. On June 20, 1984, the Commission declined to enter into pre-probable cause conciliation with the Seminole Tribe of Florida, James E. Billie, and Marcellus Osceola at that time. Counsel for Stephen H. Whilden has requested pre-probable cause conciliation on his behalf. Attachment 2. The Office of General Counsel recommends the Commission enter into pre-probable cause conciliation with the Seminole Tribe of Florida, James E. Billie and Stephen H. Whilden.

9004079435

**Discussion of Conciliation and Civil Penalty**

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**RECOMMENDATIONS**

The Office of General Counsel recommends that the Commission:

1. Approve the Joint Stipulation and Order.
2. Enter into pre-probable cause conciliation with the Seminole Tribe of Florida, James E. Billie, and Stephen H. Whilden.
3. Approve and send the attached letter and the proposed conciliation agreement for the Seminole Tribe of Florida, James E. Billie and Stephen H. Whilden.

Charles N. Steele
General Counsel

Date 7/18/86

BY: Lawrence M. Noble
Lawrence M. Noble
Deputy General Counsel

Attachments
1. Proposed Joint Stipulation and Order
2. Request for Pre-Probable Cause Conciliation
3. Proposed Conciliation Agreement
4. Proposed Letter

00040790437

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/CHERYL A. FLEMING

DATE: JULY 23, 1986

SUBJECT: OBJECTION TO MUR 1616 - GENERAL COUNSEL'S REPORT SIGNED JULY 18, 1986

The above-named document was circulated to the Commission on Monday, July 21, 1986 at 4:00 P.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | X |
| Commissioner Harris | X |
| Commissioner Josefiak | X |
| Commissioner McDonald | X |
| Commissioner McGarry | |

This matter will be placed on the Executive Session agenda for Tuesday, July 29, 1986.

00040790436

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Indian Tribe of Florida, | ) | MUR 1616 |
| Stephen H. Whilden, et al. | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 29, 1986, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 1616:

1. Approve the Joint Stipulation and Order attached to the General Counsel's report dated July 18, 1986.

2. Enter into pre-probable cause conciliation with the Seminole Tribe of Florida, James E. Billie, and Stephen H. Whilden.

3. Approve and send the proposed conciliation agreement attached to the General Counsel's report dated July 18, 1986, subject to the several amendments agreed upon during the meeting, and subject to further change based upon the responses to the Interrogatories of the Joint Stipulation and Order.

4. Direct the Office of General Counsel to amend the letter attached to the July 18, 1986 report to reflect the actions taken this date.

Commissioners Aikens, Elliott, Josefiak, and McGarry voted affirmatively for the decision; Commissioners Harris and McDonald dissented.

Attest:

July 30, 1986
Date

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

2004079439

pelm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 11, 1986

Ronald Labasky, Esquire
HABEN, PARKER, SKELDING, COSTIGAN,
MCVOY & LABASKY
The Madigan Building
318 N. Monroe Street
Tallahassee, Florida 32302

RE: MUR 1616
Seminole Tribe of
Florida
Stephen H. Whilden
James E. Billie

Dear Mr. Labasky:

Enclosed please find the Joint Stipulation and Order as part of settlement of the subpoena enforcement action. Please sign it and forward it to Mr. Ernest Kollra for his signature. After he has signed it, please return it to the Commission for signing and filing with the court. Please note that, according to the Joint Stipulation and Order, you agree to submit within seven days of our filing of the Stipulation your clients' responses to the Commission's outstanding Interrogatories.

On August 24, 1985, the Commission made a number of reason to believe findings. First, it found reason to believe the Seminole Tribe of Florida violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. Second, it found reason to believe James E. Billie violated 2 U.S.C. § 441f by using monies other than his own to make contributions to federal candidates and committees in the names of others. Third, it found reason to believe Mr. Billie violated 2 U.S.C. § 441a(a)(3) by making $28,250 in contributions to federal candidates and committees during 1979-1980 with respect to the 1980 elections. Fourth, the Commission found reason to believe Stephen H. Whilden violated 2 U.S.C. § 441f by using monies other than his own to make contributions to federal candidates and committees in his own name. Fifth, it found reason to believe Mr. Whilden violated 2 U.S.C. § 441a(a)(3) by making $35,000 in contributions to federal candidates and committees during 1981-82 with respect to the 1982 elections. Finally, the Commission found reason to believe Mr. Whilden violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to federal candidates and committees during 1979-1980 and 1981-1982.

00040790440

On July 29, 1986, the Commission determined, at your request, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved subject to necessary changes based upon your clients' responses to the Interrogatories to be submitted to the Commission in accordance with the attached Joint Stipulation and Order. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Lee Andersen, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

cc: Ernest A. Kollra, Esquire
Enclosure

00040790441

LAW OFFICES

PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY

THE MADIGAN BUILDING

318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE (904) 222-3730

RECEIVED BY THE FEC
OCC# 1237
86 AUG 18 A9:49

August 12, 1986

86 AUG 18 A11:35
RECEIVED
GENERAL COUNSEL

Mr. R. Lee Andersen
Acting Assitant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

RE: Federal Elections Commission v. Seminole Tribe of Florida, Inc., et al. - MUR 1616

Dear Lee:

It has been a number of weeks since you and I have talked and I am wondering what the status of the conciliation and settlement in this case may be. In the event there is anything I need to do to expedite this matter, please contact me.

Thank you in advance for your cooperation in this matter.

Sincerely,

Ron Labasky

Ronald A. Labasky

RAL/kfs

**REPORTS ANALYSIS REFERRAL**

**TO**

**OFFICE OF GENERAL COUNSEL**

**DATE:** ~~March 16, 1987~~

**ANALYST:** Alva E. Smith

**I. COMMITTEE:** Seminole Tribe of Florida
(Unregistered)
Ronald A. Labasky, Counsel
6075 Stirling Road
Hollywood, FL 33024

**II. RELEVANT STATUTE:** 2 U.S.C. §§433(a) and 434
11 CFR 102.1(d) and 104

**III. BACKGROUND:**

Failure to Register and Report as a Political Committee

The Seminole Tribe of Florida ("Seminole Tribe") contributed a total of $14,000 to the Democratic Senatorial Campaign Committee ("DSCC") during 1986.

The 1986 April Monthly Report filed by DSCC disclosed two contributions from the Seminole Tribe on March 12, 1986 totalling $4,000 (Attachment 1). Based upon this activity, a Notice was mailed to the Seminole Tribe on May 21, 1986 regarding possible registration and reporting obligations (Attachment 2). The Notice also presented the following alternatives to registering and filing reports: the Seminole Tribe could obtain full refunds of the amounts contributed or direct the recipient committee to transfer the funds to an account not used to influence Federal elections.

A Second Notice was sent to the Seminole Tribe on June 12, 1986 for failure to respond to the original Notice (Attachment 3).

On June 20, 1986, Mr. Ronald A. Labasky, counsel for the Seminole Tribe, contacted the Reports Analysis Division ("RAD") analyst by phone (Attachment 4). Mr. Labasky informed the RAD analyst that he will review the matter of the registration and reporting requirements as soon as possible and then take whatever action is necessary.

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On June 23, 1986, the Commission received a letter from Mr. Labasky which reiterated the phone conversation of June 20, 1986 (Attachment 5). Mr. Labasky also stated, "It is my view at the present time that the Seminole Tribe is not a committee which would require a Statement of Organization, however, that is (sic) issue which remains to be determined."

The 1986 12 Day Pre-General Report filed by DSCC disclosed an additional contribution from the Seminole Tribe on October 14, 1986 for $10,000 (Attachment 6). Based upon this activity, another Notice was mailed to the Seminole Tribe on December 16, 1986 regarding possible registration and reporting obligations (Attachment 7). The Notice presented the following alternatives to registering and filing reports: the Seminole Tribe could obtain a full refund of the amount contributed or direct the recipient committee to transfer the funds to an account not used to influence Federal elections.

A Second Notice was sent to the Seminole Tribe on January 8, 1987 for failure to respond to the original Notice (Attachment 8).

On January 23, 1987, Mr. Labasky's secretary contacted the RAD Compliance Branch Chief by phone regarding the January 8, 1987 Second Notice (Attachment 9). The secretary explained that the Seminole Tribe forwarded the December 16, 1986 Notice to Mr. Labasky. Mr. Labasky sent a response to the Seminole Tribe and he assumed that the Seminole Tribe would handle the matter. The secretary asked what she should do with the Second Notice because Mr. Labasky would not be in the office until January 26, 1987. The Compliance Branch Chief suggested that a response be submitted as soon as possible, including a letter explaining the reason for the delay.

The Commission received a response from Mr. Labasky on January 27, 1987 (Attachment 10). He explained that the Seminole Tribe is currently involved in a disciplinary matter with the Commission; however, any actions concerning registration would be inappropriate pending a resolution of the enforcement action with the Commission. Mr. Labasky also stated: "On or about July 21, 1986, the Seminole Tribe advised Mr. Keith Abbott, Finance Director for the Democratic Senatorial Campaign Committee, that the Tribe was not incorporated, that the contributions did not consist of corporate funds, and that none of the funds received were contributions to the Tribe nor were they received on an earmarked basis."

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Mr. Labasky contacted the RAD analyst by phone on February 19, 1987. He informed the RAD analyst of his intention to request a $14,000 refund from DSCC (Attachment 11).

As of this date, no further response has been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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ATTACHMENT 1

1986 April Monthly Report

**SCHEDULE A** **ITEMIZED RECEIPTS**

Page 13 of 16 for LINE NUMBER 11(a)
(Use separate schedule(s) for each category of the Detailed Summary Page)

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

Name of Committee (in Full)
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE

| A. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt this Period |
|---|---|---|---|
| Alan Keith Shapiro<br>917 Cleveland Road<br>Glendale, CA 91021 | Lord Bissell & Brook<br>Occupation: Attorney | 03/21/86 | $ 1,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Aggregate Year-to-Date-$ 1,000.00 | | |
| B. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Seminole Tribe<br>of Florida<br>6075 Stirling Road<br>Hollywood, FL 33024 | | 03/12/86<br>03/12/86 | $ 1,000.00<br>$ 3,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Aggregate Year-to-Date-$ 4,000.00 | | |
| C. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Mr. Nathan Shapiro<br>22651 Tuxedo Lane<br>Southfield, MI | Consulting Engineering Assoc.<br>Occupation: President | 03/31/86 | $ 1,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Aggregate Year-to-Date-$ 1,000.00 | | |
| D. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Mrs. Marilyn E. Shapo<br>6630 S.W. 120th St.<br>Miami, FL 33156 | Self<br>Occupation: Housewife | 03/07/86 | $ 1,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Aggregate Year-to-Date-$ 1,000.00 | | |
| E. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Mr. Ronald Shapo<br>6631 S.W. 120th St<br>Miami, FL 33156 | Sperber, Shevin, Shapo, Heilbronner<br>Occupation: Attorney | 03/07/86 | $ 1,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Aggregate Year-to-Date-$ 1,000.00 | | |
| F. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Mr. Clyde Shorey<br>3[illegible]0 34th Place, N. W.<br>Washington, DC 20016 | March of Dimes Birth Defects Found.<br>Occupation: Consultant | 03/31/86 | $ 1,000.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify) | Aggregate Year-to-Date-$ 1,000.00 | | |
| G. Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
| Mr. Herbert P. Sillman<br>32[illegible] Cranbrook Ct.<br>Bloomfield Hills, MI 48013 | Touche Ross & Co.<br>Occupation: Managing Partner | 03/31/86 | $ 500.00 |
| Receipt For: ☐ Primary ☐ General ☐ Other (specify) | Aggregate Year-to-Date-$ 500.00 | | |
| SUBTOTAL of Receipts This Page (optional) | | | $ 9,500.00 |
| TOTAL This Period (last page this line number only) | | | |

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 21 1986

Treasurer
Seminole Tribe of Florida
6075 Stirling Road
Hollywood, FL 33024

Dear Treasurer:

This letter is prompted by the Commission's interest in assisting committees which may be subject to the registration and reporting requirements of the Federal Election Campaign Act ("the Act") but are not registered with the Commission.

The Act defines a "political committee" to include any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year (for the purpose of influencing any election for federal office). 2 U.S.C. §431(4).

A review of the receipts reported by the Democratic Senatorial Campaign Committee indicates that your organization has made expenditures in excess of $1,000 during calendar year 1986 to influence federal elections. 2 U.S.C. §431(9) and 11 CFR 100.7(a)(1). This activity may qualify your organization as a "political committee" subject to the registration, reporting and other requirements of the Act. A copy of the receipt schedule(s) which lists your contribution(s) is enclosed for your review.

The Commission advises that you must either:

1) submit a Statement of Organization and file disclosure reports on FEC Form 3X (relevant informational materials and forms are enclosed); or

2) receive a full contribution refund or direct the recipient committee(s) to transfer the funds to an account not used to influence federal elections.

The second alternative must be followed if a) your organization does not wish to register and file disclosure reports; b) the contributions, transfers or expenditures made by your organization were from an account containing corporate or union funds; c) you are a non-federal account of a registered federal committee; or d) the contributions, transfers or expenditures made by your organization were not made in

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accordance with 11 CFR 102.5(a)(2)(i) through (iii) or 102.6(a)(1)(iv). [11 CFR 102.5(a)(2)(i) through (iii) states that contributions received by your committee must be designated for federal purposes; contributions must result from a solicitation which expressly states that they will be used in connection with a federal election; and contributors must be informed of the prohibitions and limitations of the Act. 11 CFR 102.6(a)(1)(iv) states that the transfer of funds between affiliated committees or party committees of the same party may only be made from funds which are permissible under the Act.]

If you believe that your organization is not a political committee, or that the Commission is otherwise in error, please submit documentation which will clarify this matter.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration. Please notify the Commission within fifteen (15) days from the date of this letter of your course of action. If you have any questions, please contact me on the agency's toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Alva E. Smith

Alva E. Smith
Reports Analyst
Reports Analysis Division

00040790448

ATTACHMENT 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1986

Treasurer
Seminole Tribe of Florida
6075 Stirling Road
Hollywood, FL 33024

Dear Treasurer:

This is to inform you that as of this date, the Commission has not received your response to our letter dated May 21, 1986. Our letter notified you that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee. Enclosed is a copy of our original letter.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate legal action to ensure compliance with the Act.

If you should have any questions related to this matter, please contact Alva Smith on our toll-free number (800) 424-9530 or our local number (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

00040079449

**TELECON** ATTACHMENT 4

**ANALYST:** Alva E. Smith

**CONVERSATION WITH:** Ronald A. Labasky

**COMMITTEE:** Seminole Tribe of Florida

**DATE:** June 20, 1986

**SUBJECT(S):** May 21, 1986 letter

Mr. Labasky called to inform me that he is in the process of reviewing the matter of registration and reporting requirements referred to in the May 21, 1986 letter. He will take action as soon as a determination is made.

90040790450

ATTACHMENT 5

RECEIVED BY THE FEC

LAW OFFICES

HABEN, PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY

THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
RALPH H. HABEN, JR.
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
ROBERT S. COHEN
TERRELL C. MADIGAN
BOB L. HARRIS
DAVID D. EASTMAN
STEVEN T. MINDLIN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

86 JUN 23 P12:12

June 20, 1986

Ms. Alva E. Smith
Reports Analyst
Reports Analysis Division
999 E Street, N.W.
Washington, DC 20463

RE: Seminole Tribe of Florida

Dear Ms. Smith:

This letter is to confirm our telephone conversation of today in which I advised you that I have been contacted by the Seminole Tribe concerning your letter stamped May 21, 1986. I will be reviewing your letter as quickly as possible to determine the proper course of action for the Seminole Tribe, if any actions are necessary.

It is my view at the present time that the Seminole Tribe is not a committee which would require a Statement of Organization, however, that is issue which remains to be determined.

I will review the paperwork accompanying your letter and speak with the General Counsel for the Seminole Tribe, and we will respond to your letter as soon as possible.

Thank you for your assistance in this matter.

Sincerely,

Ronald A. Labasky

RAL/kfs

cc: Mr. Jim Shore

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ATTACHMENT 6

**SCHEDULE A** — **ITEMIZED RECEIPTS**

(Use separate schedule(s) for each category of the Detailed Summary Page)

1986 12 Day Pre-General Report

Any information copied from such Reports or Statements may not be used by any person for the purpose of soliciting such Contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (In Full)
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE

| Full Name, Mailing Address and ZIP Code | Name of Employer / Occupation | Date (month, day, year) | Amount of Each Receipt This Period |
|---|---|---|---|
| A. Miss Edith Schuthofer, 7025 Forest Street, New Orleans, LA 70118 — Receipt For: ☐ Primary ☐ General ☐ Other (specify) | Information Requested / Occupation / Aggregate Year-to-Date $ 1,175.00 | 10/10/86<br>10/06/86 | $ 800.00<br>$ 50.00 |
| B. Dr. Bernard A. Scott, 1071 Palace Lane, Sacramento, CA 95130 — Receipt For: ☐ Primary ☐ General ☐ Other (specify) | Self / Occupation: Retired / Aggregate Year-to-Date $ 100.00 | 10/01/86 | $ 100.00 |
| C. Mrs. Eleanor F. Sears, 877 Morris Drive, Niskayuna, NY 12309 — Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Information Requested / Occupation / Aggregate Year-to-Date $ 414.00 | 10/06/86 | $ 80.00 |
| D. Dr. Thomas E. Seddon, 910 S 22nd Street, Eugene, OR 97405 — Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Information Requested / Occupation / Aggregate Year-to-Date $ 300.00 | 10/10/86 | $ 150.00 |
| E. Dr. Stanley Sadny, 7812 South Kilbourn, Chicago, IL 60652 — Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Information Requested / Occupation / Aggregate Year-to-Date $ 270.00 | 10/02/86<br>10/01/86 | $ 35.00<br>$ 40.00 |
| F. Full Name, Mailing Address and ZIP Code: Dr. James Semans, 3413 Elvins Street, Durham, NC 27707. Earmarked Contribution through Sanford for Senate Campaign — Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Name of Employer: Duke University Medical Center / Occupation / Aggregate Year-to-Date $ 1,000.00 | 10/15/86 | $ 1,000.00 |
| G. Full Name, Mailing Address and ZIP Code: Seminole Tribe, 6075 Stirling Road, Hollywood, FL 33024 — Receipt For: ☐ Primary ☐ General ☐ Other (specify): | Name of Employer / Occupation / Aggregate Year-to-Date $ 14,000.00 | 10/10/86 | $ 10,000.00 |
| SUBTOTAL of Receipts This Page (optional) | | | $ 11,853.00 |
| TOTAL This Period (last page this line number only) | | | |

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 16 1986

Treasurer
Seminole Tribe of Florida
6075 Stirling Road
Hollywood, FL 33024

Dear Treasurer:

This letter is prompted by the Commission's interest in assisting committees which may be subject to the registration and reporting requirements of the Federal Election Campaign Act ("the Act") but are not registered with the Commission.

The Act defines a "political committee" to include any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year (for the purpose of influencing any election for federal office). 2 U.S.C. §431(4).

A review of the receipts reported by the Democratic Senatorial Campaign Committee indicates that your organization has made expenditures in excess of $1,000 during calendar year 1986 to influence federal elections. 2 U.S.C. §431(9) and 11 CFR 100.7(a)(1). This activity may qualify your organization as a "political committee" subject to the registration, reporting and other requirements of the Act. A copy of the receipt schedule(s) which lists your contribution(s) is enclosed for your review.

The Commission advises that you must either:

1) submit a Statement of Organization and file disclosure reports on FEC Form 3X (relevant informational materials and forms are enclosed); or

2) receive a full contribution refund or direct the recipient committee(s) to transfer the funds to an account not used to influence federal elections.

The second alternative must be followed if a) your organization does not wish to register and file disclosure reports; b) the contributions, transfers or expenditures made by your organization were from an account containing corporate or union funds; c) you are a non-federal account of a registered federal committee; or d) the contributions, transfers or expenditures made by your organization were not made in

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accordance with 11 CFR 102.5(a)(2)(i) through (iii) or 102.6(a)(1)(iv). [11 CFR 102.5(a)(2)(i) through (iii) states that contributions received by your committee must be designated for federal purposes; contributions must result from a solicitation which expressly states that they will be used in connection with a federal election; and contributors must be informed of the prohibitions and limitations of the Act. 11 CFR 102.6(a)(1)(iv) states that the transfer of funds between affiliated committees or party committees of the same party may only be made from funds which are permissible under the Act.]

If you believe that your organization is not a political committee, or that the Commission is otherwise in error, please submit documentation which will clarify this matter.

Although the Commission may take further legal steps concerning this matter, your prompt action will be taken into consideration. Please notify the Commission within fifteen (15) days from the date of this letter of your course of action. If you have any questions, please contact me on the agency's toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Alva E. Smith

Alva E. Smith
Reports Analyst
Reports Analysis Division

9004079045 4

ATTACHMENT 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1987

Treasurer
Seminole Tribe of Florida
6075 Stirling Road
Hollywood, FL 33024

Dear Treasurer:

This is to inform you that as of this date, the Commission has not received your response to our letter dated December 16, 1986. Our letter notified you that a review of reports filed with the Commission indicates that your organization may have made expenditures which qualify it as a political committee. Enclosed is a copy of our original letter.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate legal action to ensure compliance with the Act.

If you should have any questions related to this matter, please contact Alva E. Smith on our toll-free number (800) 424-9530 or our local number (202) 376-2480.

Sincerely,

John D. Gibson

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

00040790455

ATTACHMENT 9

MEMORANDUM TO THE FILE

CONVERSATION WITH: Secretary for Ron Labasky, Attorney

COMMITTEE: Seminole Tribe of Florida

DATE: January 23, 1987

SUBJECT: Second Letter for Failure to Register and Report

FROM: Shawn Woodhead

The secretary for Mr. Ron Labasky, the counsel for the Seminole Tribe of Florida, called regarding the Second Letter sent January 8, 1987 to the Tribe. She stated that the Tribe had forwarded to Mr. Labasky the First Letter dated December 16, 1986. He sent a response to the Tribe and assumed that the Tribe would handle the situation. She had just received the Second Notice and wanted to know what to do because Mr. Labasky would not be back in the office until Monday, January 26, 1987.

I told her to respond as soon as possible to the Second Notice. I also informed her that she could send a letter explaining the reason for the delay.

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RECEIVED AT THE FEC
HAND DELIVERED
87 JAN 27 P4:13

LAW OFFICES
PARKER, SKELDING, COSTIGAN, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
JOHN W. COSTIGAN
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE (904) 222-3730

January 26, 1987

Via Federal Express

Ms. Alva E. Smith
Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: Seminole Tribe of Florida

Dear Ms. Smith:

I have once again received correspondence directed to the Treasurer of the Seminole Tribe of Florida dealing with federal contributions made by the Seminole Tribe on or about March 12, 1986. I have advised the General Counsel for the Seminole Tribe, Mr. Jim Shore, of my opinion based upon the correspondence received last summer.

At the present time, the Seminole Tribe of Florida is involved in a disciplinary matter with the Federal Election Commission and a portion of the case is before the United States District Court, Southern District of Florida. One of the issues involved in the litigation before that Court is whether the Seminole Tribe is regulated by the provisions of the Federal Election Campaign Act.

While we are very interested in cooperating with the Commission and would be more than happy to discuss the question presented in your letter regarding the contributions previously mentioned, I feel that, at this time, any actions concerning registration would be inappropriate pending a resolution of the enforcement action with the Commission or the decision of the United States District Court.

Mr. Lee Andersen of your office has been handling the enforcement matter concerning the Seminole Tribe and perhaps it may be wise for you to discuss the posture of that case as it relates to your recent request for information. It is the Tribe's intention to amicably resolve your questions, as well as Mr. Andersen's pending litigation. However, in light of the litigation, I cannot advise

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you regarding the Seminole Tribe's intention to register as a political committee, if such is requested by the Commission, or of any further actions.

On or about July 21, 1986, the Seminole Tribe advised Mr. Keith Abbott, Finance Director for the Democratic Senatorial Campaign Committee, that the Tribe was not incorporated, that the contributions did not consist of corporate funds, and that none of the funds received were contributions to the Tribe nor were they received on an earmarked basis. Also, I have examined the question presented by your correspondence and, as we previously advised you on or about June 20, 1986, the Seminole Tribe is not a committee which would require a statement of organization.

We will be more than happy to discuss this matter with you or any other member of the Commission staff, and look forward to a resolution of the issue presented absent any further effort or litigation.

Sincerely,

Ronald A. Labasky

RAL/kfs

cc: Mr. Jim Shore

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ATTACHMENT 11

# TELECON

ANALYST: Alva E. Smith

CONVERSATION WITH: Ron Labasky, Counsel

COMMITTEE: Seminole Tribe of Florida

DATE: 2/19/87

SUBJECT(S):

Mr. Labasky informed me that he has talked to several people, including Mr. Andersen in OGC, in an effort to resolve the matter of the Seminole Tribe registering and reporting as a political committee. He intends to discuss the matter with the Democratic Senatorial Campaign Committee and suggest that they refund the $14,000 to the Seminole Tribe.

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SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

87 JUN 3 P4:19

FIRST GENERAL COUNSEL'S REPORT

REFERRAL # 87L-09
STAFF MEMBER R. Raich

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT: Seminole Tribe of Florida

RELEVANT STATUTES: 2 U.S.C. § 433(a)
2 U.S.C. § 434(a)(1)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was referred to the General Counsel's Office by the Reports Analysis Division of the Federal Election Commission in the normal course of carrying out its supervisory responsibilities.

II. FACTUAL AND LEGAL ANALYSIS

Reports filed with the Commission by the Democratic Senatorial Campaign Committee ("DSCC") disclose that during 1986 the Seminole Tribe of Florida ("Tribe") made contributions totaling $14,000 to DSCC. The Tribe has not registered as a political committee nor has it filed any reports of receipts and disbursements with the Commission.

Each committee (other than an authorized campaign committee or a separate segregated fund) must file a Statement of Organization within ten days after becoming a political committee. 2 U.S.C. § 433(a). The term "political committee" means any committee, club, association, or other group of persons which

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makes expenditures aggregating in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term "expenditure" includes any payment of money for the purpose of influencing any election for federal office. 2 U.S.C. § 431(9)(A)(i). The treasurer of a political committee must file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(1).

The Tribe's contributions to DSCC were payments of money for the purpose of influencing federal elections, and clearly constituted expenditures. The Tribe's expenditures far exceeded $1,000, therefore, the Tribe appears to be a political committee. Furthermore, the Tribe is not an authorized campaign committee nor a separate segregated fund. The Tribe, however, did not file a Statement of Organization within ten days after becoming a political committee. In addition, the Tribe has filed no reports of receipts and disbursements. Accordingly, this Office recommends that the Commission find reason to believe the Tribe violated 2 U.S.C. §§ 433(a) and 434(a)(1).

This matter does not presently involve any claims of Indian sovereignty which are at issue in MUR 1616. This Office will discuss such claims in the context of this MUR if raised by the respondent.

## III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe the Seminole Tribe of Florida violated 2 U.S.C. §§ 433(a) and 434(a)(1).

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3. Approve the attached Factual and Legal Analysis.

4. Approve and send the attached letter.

6/3/87
Date

Lawrence M. Noble
Acting General Counsel

Attachments
I. Referral
II. Factual and Legal Analysis
III. Letter

00040790462

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: JUNE 4, 1987

SUBJECT: OBJECTION TO RAD Ref. 87L-09: FIRST G.C. REPORT SIGNED JUNE 3, 1987

The above-captioned document was circulated to the Commission on Thursday, June 4, 1987 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | X |
| Commissioner Josefiak | X |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Thomas | |

This matter will be placed on the Executive Session agenda for June 9, 1987.

Please notify us who will represent your Division before the Commission on this matter.

00004079045

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
)
Seminole Tribe of Florida )

RAD Referral 87L-09 (MUR 2465)

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session on June 9, 1987, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in Rad Referral 87L-09:

1. Open a Matter Under Review (MUR).

2. Find reason to believe the Seminole Tribe of Florida violated 2 U.S.C. §§ 433(a) and 434(a)(1).

3. Approve the factual and legal analysis attached to the first General Counsel's report dated June 3, 1987.

4. Approve and send the letter attached to the first General Counsel's report dated June 3, 1987.

Commissioners Aikens, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Elliott dissented.

Attest:

6-10-87
Date

Mary W. Dove
Mary W. Dove
Administrative Assistant

0004079064

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Seminole Tribe of Florida
6075 Stirling Road
Hollywood, Florida 33024

RE: MUR 2465
Seminole Tribe of Florida

Dear Seminole Tribe of Florida:

On June 9, 1987, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 433(a) and 434(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). The 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. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating 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 conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

00040790465

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

00407904565

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Seminole Tribe of Florida **MUR:** 2465

This matter was referred to the General Counsel's Office by the Reports Analysis Division of the Federal Election Commission in the normal course of carrying out its supervisory responsibilities.

Reports filed with the Commission by the Democratic Senatorial Campaign Committee ("DSCC") disclose that during 1986 the Seminole Tribe of Florida ("Tribe") made contributions totaling $14,000 to DSCC. The Tribe has not registered as a political committee nor has it filed any reports of receipts and disbursements with the Commission.

Each committee (other than an authorized campaign committee or a separate segregated fund) must file a Statement of Organization within ten days after becoming a political committee. 2 U.S.C. § 433(a). The term "political committee" means any committee, club, association, or other group of persons which makes expenditures aggregating in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term "expenditure" includes any payment of money for the purpose of influencing any election for federal office. 2 U.S.C. § 431(9)(A)(i). The treasurer of a political committee must file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(1).

The Tribe's contributions to DSCC were payments of money for the purpose of influencing federal elections, and clearly

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constituted expenditures. The Tribe's expenditures far exceeded $1,000, therefore, the Tribe appears to be a political committee. Furthermore, the Tribe is not an authorized campaign committee nor a separate segregated fund. The Tribe, however, did not file a Statement of Organization within ten days after becoming a political committee. In addition, the Tribe has filed no reports of receipts and disbursements. Accordingly, this Office recommends that the Commission find reason to believe the Tribe violated 2 U.S.C. §§ 433(a) and 434(a)(1).

00040794568

CCC#3614
RECEIVED AT THE FEC
HAND DELIVERED
87 JUN 16 A11:19

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

June 15, 1987

Via Federal Express

Mr. R. Lee Andersen
Acting Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

87 JUN 16 P3:03

RE: Federal Elections Commission v. Seminole Tribe of Florida, Inc., et al. - MUR 1616

Dear Lee:

Enclosed is the Joint Stipulation and Order, which I have signed on behalf of the Seminole Tribe of Florida. I will be forwarding to you the items discussed in paragraph 1 of the Stipulation within the next few days. I hope to have those items to you by the end of the week, following their review and approval by Jim Shore, General Counsel for the Tribe, and execution of the affidavit by James Billie, Chairman of the Tribe.

Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

RAL/kfs
Enclosure

cc: Mr. Jim Shore

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CCC# 3793
87 JUL 6 A9:03

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
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GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

July 2, 1987

87 JUL 6 A10:42
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Mr. Robert Raich
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Seminole Tribe of Florida
Case MUR 2465

Dear Mr. Raich:

I am in receipt of the Commission's June 16, 1987 letter directed to the Seminole Tribe of Florida. I do not believe any action is warranted in this case as the Seminole Tribe of Florida has consistently operated in good faith in responding to the inquiries of the staff of the Commission and the only reason this matter was not resolved prior to the action of the Commission is due to lack of communication between the Seminole Tribe and the staff members of the Commission. The Democratic Senatorial Campaign Committee has been consistently aware of the matter and has indicated that the contributions involved, if inappropriately or improperly made, can be returned to the Seminole Tribe of Florida.

Therefore, I would submit to you that no action concerning probable cause determination or other matters should be made in this case as sufficient communication between the report analysis division of the Elections Commission and the Seminole Tribe of Florida and myself could have easily resolved this matter by way of agreement between the Commission, the Seminole Tribe and the Democratic Senatorial Campaign Committee.

However, I would also suggest to you that the Commission has no jurisdiction with respect to the Seminole Tribe of Florida. In my January 26, 1987 letter, I explained to Ms. Alva E. Smith, Reports Analyst for the Commission, that at the present time the Seminole Tribe of Florida is involved in a previous case with the Federal Election Commission. A portion of that case is being litigated in the United States District Court for the Southern District of Florida. The issue in that case is the Commission's jurisdiction with respect to the Seminole Tribe based upon its status as a sovereign nation and the lack of sufficient

legislative direction in the Federal Election Commission statutes which would provide jurisdiction to the Commission over any actions of the Tribe.

I advised Ms. Smith in my letter of January 26, 1987, that based upon the posture of that case in the United States District Court, any actions by the Tribe concerning registration or reporting would be inappropriate until the jurisdictional issues raised in the case were resolved by the United States District Court. Mr. Lee Anderson of the Commission's staff is very familiar with that case and he and I at the present time are attempting to resolve that issue for both parties' benefit. Again, on March 12, 1987, I addressed a letter to Ms. Smith advising that we were still examining the issues raised by the Commission's inquiry. That it was our desire to cooperate with the Commission to resolve this issue and inquiry between the Democratic Senatorial Campaign Committee, the Seminole Tribe and the Commission to everyone's satisfaction. From that date I have never heard further from Ms. Smith. However, I must add that I never communicated with Ms. Smith again.

As our initial response to the Commission's inquiry indicated, the Tribe continues to desire to act appropriately and would desire to resolve this matter with no further action being taken by the Commission. A portion of that resolution will rely upon the resolution of the United States District Court action in Federal District Court in Fort Lauderdale which should be very close to being resolved at the present time. Pending a resolution of that situation, it would be extremely prejudicial for the Tribe to act concerning any of the Commission's previous positions on this issue.

Based upon the foregoing, I believe that the Tribe would submit that factually this matter should be held in abeyance and hopefully be resolved without the further efforts of the Commission. I believe that one simple resolution would be a return of those funds by the Democratic Senatorial Campaign Committee. A determination concerning the requirement of the Tribe's registration and appropriate actions from that point on could be determined.

Pending a resolution, however, of the Federal District Court action, any action by the Tribe to register or report would be

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contrary to the position that has been taken in the briefs between the respective parties concerning the jurisdiction of the Commission as it relates to the Seminole Tribe of Florida. As this matter has remained pending for a substantial period of time, it is impossible for me to advise you concerning the eventual determination by the Court on that issue.

As the Tribe has sufficient law, which has been cited in the briefs filed with the United States District Court, concerning the application of the Federal Election Campaign Act to the Seminole Tribe, I will not enclose those at the present time but will be more than happy to provide those to you upon your request.

I look forward to discussing this matter with you and an attempting to easily resolve this matter between the Commission and the Tribe. The Statement of Designation of Counsel will be forwarded to you next week.

Please contact me if there are any questions.

Sincerely,

Ronald A. Labasky

RAL/jns
Enc.

00040794772

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1987

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Ronald A. Labasky, Esquire
Parker, Skelding, McVoy & Labasky
P.O. Box 669
Tallahassee, Florida 32302

RE: MUR 2465
Seminole Tribe of Florida

Dear Mr. Labasky:

On July 15, 1987, Lee Andersen left a message with your office, requesting that you call him so he could discuss the above-referenced matter with you. You have failed to return Mr. Andersen's call.

Be advised that this Office will procede to the next stage of the enforcement process in MUR 2465 if Mr. Andersen does not hear from you within seven days after your receipt of this letter.

Sincerely,

Lois G. Lerner
Associate General Counsel

00040790473

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 28, 1987

Ron Labasky, Esquire
PARKER, SKELDING, MCVOY & LABASKY
The Madigan Building
318 N. Monroe Street
Tallahassee, FL

MURs 1616 and 2465
Seminole Tribe of
Florida

Dear Mr. Labasky:

This is to memorialize your conversation with Lee Andersen on July 22, 1987, with respect to MURs 1616 and 2465. It is our understanding that you will consider the options open to your client, the Seminole Indian Tribe of Florida, concerning MUR 2464 and contact Robert Raich or Lee Andersen within a week or ten days.

It is further our understanding that if we do not hear from you by that time, we will proceed to the next stage in the proceedings with respect to MUR 2465. We note that the Commission will be sending the Stipulation and Order signed by you in the subpoena enforcement litigation associated with MUR 1616 for filing in the U.S. District Court for Southern District of Florida within the next few days.

Again, please contact Robert Raich or Lee Andersen if you have any further questions with regard to the handling of these matters before the Commission at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Acting General Counsel

By: Lois G. Lerner
Associate General Counsel

00040790474

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

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87 AUG 13 AM 11 : 00

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. MCVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

August 7, 1987

87 AUG 13 P12: 11
RECEIVED
GENERAL COUNSEL

Mr. Lee Anderson
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Seminole Tribe of Florida
Case MUR 2465

Dear Lee:

This letter confirms our conversation of Tuesday of this week wherein I advised you that the Seminole Tribe would desire to enter into pre-probable cause conciliation of this case and try to resolve it as quickly and as cheaply as possible. In the event that this can be expidited by being combined with Case MUR 1616, remains to be determined. In light of the fact that I have received the Joint Stipulation and Order, we will be preparing our affidavit and responses with you.

Please contact me if there is any question. I will be out of my office from August 7 through August 14, 1987. However, please contact my secretary, Jan Hightower, and she will be able to assist you in the interim, if such is necessary.

Sincerely,

Ronald A. Labasky

RAL/jch

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GCC#4364

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

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FEDERAL ELECTION COMMISSION
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87 SEP 14 AM 9:33

JULIUS F. PARKER, JR.
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RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

September 10, 1987

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 SEP 14 AM 11:23

Mr. Lee Anderson
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Seminole Tribe of Florida
Case MUR 2465

Dear Lee:

I have received the executed copy of the Order dealing with the disposition of the enforcement matter in the United States District Court for the Southern District of Florida. I have also discussed this matter with Jim Shore the General Counsel for the Seminole Tribe and the affidavit and our attachment are prepared and ready for mailing to you. The last time we discussed this matter you were going to determine whether the 1986 questions that involved the Tribe could be incorporated in the disposition of the original matters.

I understand that you are out of the office this week and, therefore, would you please contact me at your convenience, and we can discuss the conclusion of this stage of the case.

Sincerely,

Ronald A. Labasky

RAL/jch

9004047476

OCC # 4417

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

87 SEP 21 AM 11:56

LAW OFFICES

PARKER, SKELDING, MCVOY & LABASKY

THE MADIGAN BUILDING

318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. McVOY
RONALD A. LABASKY
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J. A. JURGENS

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
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MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

September 18, 1987

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

87 SEP 22 PM 12:15

Mr. Lee Anderson
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Seminole Tribe of Florida
Case MUR 1616 and 2465

Dear Lee:

Pursuant to our telephone conversation earlier this week and your return call, I am enclosing the Affidavit executed by James E. Billie, the Chairman of the Seminole Tribe of Florida, and the accompanying sheet of contributions.

Pursuant to your call of earlier this week, it is my understanding that we will be discussing the merger of the two cases in the conciliation agreement in order to expedite and conclude all matters related to the Seminole Tribe.

I look forward to hearing from you in the near future, and pursuant to the specification in the order entered by Judge Rutger in this case, you will be dismissing the enforcement action in the United States District Court for the Southern District of Florida within seven days of your receipt of this information.

Please contact me if there are any questions.

Sincerely,

Ron Labasky

Ronald A. Labasky

RAL/jch

Enclosures

00004027971

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| SEMINOLE TRIBE OF FLORIDA and | ) | MUR 1616 |
| JAMES E. BILLIE. | ) | |
| | ) | |

## AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BROWARD

BEFORE ME, the undersigned authority, personally appeared JAMES E. BILLIE, and, being by me first duly sworn, deposes and says:

1. Affiant is Chairman of the Seminole Tribe of Florida and was Chairman of the tribe at all times between 1979 to 1982.

2. This Affidavit is submitted in response to, and in lieu of, Interrogatories which were propounded by the Federal Elections Commission (FEC) on the Seminole Tribe of Florida (Tribe) and the undersigned. The statement provided herein is made to allow the FEC to be apprised of the facts which existed at the time that the Tribe was making contributions to federal candidates or committees during elections beginning sometime in 1979 or 1980 through July of 1982, and, in some instances, reimbursed individuals.

3. In July 1982, the Tribe ceased reimbursements of campaign contributions to persons based upon advice of its attorneys.

4. It is specifically noted that the reimbursement of campaign contributions were based upon the direction and advice of the Tribe's legal counsel during that period, Mr. Stephen Whilden. Mr. Whilden advised the Tribe that the activities pursued and undertaken

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by the Tribe and the individuals involved were proper and legal, within the requirements of the federal and state election laws.

5. Prior to 1979, the Tribe began collecting funds from the various smoke shops operating on the Seminole reservation in Hollywood, Florida. The collections were based upon sales of cigarettes and were considered a tax levied under the taxing authority of the Tribe. All operators of smoke shops on the reservation were required to pay a nickel (five cent) assessment per carton sold.

6. The funds collected and deposited into what was called the "nickel fund" were utilized in many ways for numerous expenses as authorized by the Tribe's chairman. The nickel fund was also utilized to make the reimbursements to individuals who made contributions to candidates or committees. The collection of the funds was not specifically based upon the intent to have money available for political contributions, lobbying efforts, litigation matters, or any other matters in particular. It was money to be used for the benefit of the Tribe. This tribal fund no longer exists.

7. There was a view that the Tribe must participate in the political process. One of the efforts in that regard was to begin to make political contributions, as other politically affected businessmen and entities were doing. There was no specific plan as to how this was to be accomplished. Stephen Whilden advised that the process of having the Tribe reimburse individuals who had made contributions was appropriate and legal. The funds most readily available were those monies kept in the nickel fund.



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8. The process generally followed was that a person would make a contribution and request reimbursement. The normal procedure of the Tribe requires the approval, as with any expenditure, of the Chairman. At various times, Stephen Whilden would request that individuals make contributions to the recipient.

9. Usually, but not in all cases, a statement as to whom the contribution was made or why it was being made would accompany a request for reimbursement. Persons involved as the "conduits" were chosen at random or by chance. In some instances, individuals made contributions and thereafter requested reimbursement without being requested or directed to provide the contribution to the candidate or committee. There was no particular plan or direction which was employed in this effort. It was usually at the suggestion or direction of Stephen Whilden, as he was the most politically informed at that time.

10. In an effort to attempt to settle this matter amicably on behalf of all individuals who were a part of the process, this Affidavit is submitted, along with a list, which is attached hereto and incorporated herein, of the persons reimbursed, the amounts reimbursed, and the recipients of the contributions beginning in January 1981, which is the only period for which records still exist. Contribution reimbursements ceased in July of 1982.

11. This Affidavit is made solely for the purpose of reaching a Conciliation Agreement between the FEC and the Tribe and James E. Billie.



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Further Affiant sayeth not.

JAMES E. BILLIE

Sworn to and subscribed before me this 22nd day of June, 1987.

NOTARY PUBLIC
State of Florida at Large

NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES MAY 29, 1990.
BONDED THRU NOTARY PUBLIC UNDERWRITERS

| CHECK DATE | PAYEE | PURPOSE | AMOUNT |
|---|---|---|---|
| 1/6/81 | Wanda Hodge | Reimbursement for contribution to Congressman M. Lujan | $1,000 |
| 1/6/81 | Stephen H. Whilden | Reimbursement for contribution to Congressman M. Lujan | 1,000 |
| 4/16/81 | Stephen H. Whilden | Reimbursement for contribution to Real Majority (via Rep. George Sheldon) | 3,000 |
| 5/13/81 | Stephen H. Whilden | Reimbursement for Kennedy dinner | 1,000 |
| 8/14/81 | Stephen H. Whilden | Reimbursement for contribution to George Sheldon campaign fund | 1,000 |
| 8/19/81 | Democratical National Comm. | Registration Fee | 200 |
| 10/8/81 | Stephen H. Whilden | Reimbursement for contribution to Alan Becker campaign fund | 1,000 |
| 1/13/82 | Marcellus Osceola | Reimbursement for Van Poole fundraiser | 1,000 |
| 1/13/82 | Claudia Manick | Reimbursement for Van Poole fundraiser | 1,000 |
| 1/13/82 | Joel Frank | Reimbursement for Van Poole fundraiser | 1,000 |
| 1/18/82 | Jim Clare | Reimbursement for contribution to:<br>1K - Skip Bafalis<br>1K - E. Clay Shaw<br>1K - Dick Nelson<br>1K - Ray Shamie | 4,000 |
| 1/28/82 | Stephen H. Whilden | Reimbursement for contribution to Larry Smith campaign fund | 500 |
| 1/28/82 | Jim Clare | Reimbursement for contributions - no details | 500 |
| 2/11/82 | Marge Osceola | Reimbursement for contribution to Van Poole campaign fund | 1,000 |

| CHECK DATE | PAYEE | PURPOSE | AMOUNT |
|---|---|---|---|
| 2/11/82 | Jim Clare | Reimbursement for contribution to George Sheldon campaign fund | $ 500 |
| 3/1/82 | Jim Clare | Reimbursement for contribution to campaign funds of Van Poole and George Sheldon | 2,000 |
| 3/12/82 | Joel Frank | Reimbursement for tickets for reception for William Lehman | 250 |
| 4/12/82 | Marcus Cobourn | Reimbursement for tickets for Jack Kemp's dinner | 500 |
| 3/31/82 | Bobbi Lou Billie | Reimbursement for contribution to Skip Bafalis campaign fund | 3,000 |
| 4/30/82 | Jim Clare | Reimbursement for contribution to George Sheldon fundraiser | 1,000 |
| 5/12/82 | Joel Frank | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Nettie Doctor | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Marcus Cobourn | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Geneva Gooden | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Helen Williamson | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Jean Fontana | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Pauline Grant | Reimbursement for contribution to Van Poole campaign fund | 1,000 |

| CHECK DATE | PAYEE | PURPOSE | AMOUNT |
|---|---|---|---|
| 5/12/82 | Jan McLeod | Reimbursement for contribution to Van Poole campaign fund | $1,000 |
| 5/12/82 | Maria Rodriguez | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 5/12/82 | Pat Diamond | Reimbursement for contribution to Van Poole campaign fund | 1,000 |
| 6/4/82 | Joel Frank | Reimbursement for ticket to reception for Dante Fascell | 300 |
| 6/4/82 | Joel Frank | Reimbursement for ticket to reception for Claude Pepper | 300 |
| 6/21/82 | Joel Frank | Reimbursement for contribution to George Sheldon campaign fund | 50 |
| 6/23/82 | Joel Frank | Reimbursement for contribution to Skip Bafalis campaign fund | 200 |
| 7/28/82 | Joel Frank | Reimbursement for contribution to Larry Smith campaign fund | 500 |

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 5, 1987

Mr. Robert M. March
Clerk of Court
United States District Court
for the Southern District of Florida,
Fort Lauderdale Division
299 East Broward Boulevard
Fort Lauderdale, Florida 33301

RE: Federal Election Commission v. Seminole Tribe of Florida, et al., and Stephen H. Whilden, Civil Action No. 85-6377--Roettger, (S.D. Fla., filed May 13, 1985)

Dear Mr. March:

We have received a signed Order Granting an Emergency Motion for an Extension of Time. This Order was signed by Judge Marcus for Judge Roettger. We have not received, however, a copy of the motion from the Respondent, Mr. Stephen H. Whilden. Yesterday I telephoned your office and was advised to write you to request a copy of the motion. We therefore wish to request that you please send us a copy of the motion, item number 20 in your file, along with a copy of the certificate of service, so that our files may be complete. Please send these documents addressed to my attention. Thank you for your assistance in this matter.

Very Truly Yours,

Jim Voegeli

Jim Voegeli
Attorney

00040790483

2606 Hawthorne Circle
Tampa, Florida 33629
813-837-9172
25 November 1987

87 DEC -3 AM 9:08

MUR 1616

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 DEC -3 AM 10:13

Re: Civil Action No. 85-6377, USDC SF

Dear FEC:

Submitted herewith per the enclosed Order Granting Emergency Motion for Extension of Time are the responses to the Interrogatories which you put to me.

After reviewing Attachment "A", I must restate the following: I did not contribute "$1500 for the primary election to the Carter/Mondale Presidential Committee during 1979-1980," I contributed $1000 for the primary election and $500 for the general; I did not contribute "$2000 for the primary election to the Committee to Re-Elect Kennedy during 1981-1982", I contributed $1000 for the primary and $1000 for the general. If the Committee records do not reflect this fact, then the Committee records are in error. Each Committee in question can rectify this matter by either correcting its records or refunding to me the amount of the alleged excessive contribution. If the FEC would be so kind as to furnish me with the current mailing addresses of the Committees in question, I would be delighted to write to them and make them aware of their options and obligations.

Although I no longer keep records of my career as General Counsel to the various Indian tribes, I have asked the Indian Law Library of the Native American Rights Fund to furnish you with a copy of the Red Lake Chippewa case upon which my advice to the Seminoles and their decision was based.

Respectfully submitted,

Stephen H. Whilden

## ANSWERS TO INTERROGATORIES

1. General Counsel.

2. August 31, 1977 - June 15, 1982.

3. Duties and responsibilities typical of a general counsel to a municipality, county commission, or state or Federal agency, i.e. to give legal advice in response to questions posed by the governing body which, in this case was the duly elected Tribal Council of the Seminole Tribe of Florida, a sovereign dependent nation.

4. The Tribe levied a five cent per carton wholesale tax on the distributors who sold cigarettes to the retail shops on the Reservation; this was in addition to the 8% tax on Tribal retailers.

5. Yes.

6. The Tribal Council could have used these funds for any purpose it chose; it chose to use them for political action.

7. To the best of my recollection, all checks drawn on this fund were signed by the same Tribal officials who signed all other Tribal checks.

8. Exclusively from the wholesale tax.

9. Yes.

10. Yes.

11. No.

12. The Tribal Council, often on advice of counsel.

13. In implementation, this plan was patterned after and similar to the action plans of registered Political Action Committees.

14. The Tribal Council, often on advice of counsel.

15. These records are not in my possession; in general, the "conduits" volunteered to help the Tribe and sought out the opportunity to participate in the political process for the first time in their history.

16. Checks were written by Tribal members and employees to various campaign funds; checks in like amount were issued by the Tribe to these same Tribal Members and employees.

17. These records are not in my possession, and I have no recollection of who contributed how much and to whom.

0004079487

18. Records of these contributions are no longer in my possession and without reference thereto I can only say that Attachment "A" may be correct.

19. No, to the best of my recollection.

20.a. Contributions were not usually requested of the Tribe; contributions were made in accordance with the plan described in #13 above.
b. Yes.
c. Check.
d. Handed to candidate or representative of candidate on the Reservation.
e. Personal funds.
f. Sometimes.
g. Tribal check drawn on account described in #5 above.
h. Simultaneously, or nearly so, with contribution.
i. Check.
j. See g. above.
k. No Cash.

21. My name only.

22. To the best of my knowledge, only Tribal members and employees were involved and all activities were carried out on the Reservation.

23. The $10,000 given to the RNC July 16, 1982 was for my 1982 dues; the $10,000 given to the RNC November 23, 1982 was for my 1983 dues and should have been posted January 1, 1983. This error has been corrected by the RNC refunding the $10,000 posted in November, 1982; copies of the check and correspondence from the RNC are attached herewith. This correction brings my contributions in 1982 below the $25,000 limit per contributor. My contributions to the Florida for Kennedy Committee were correct; since Kennedy was not an announced candidate at that time, no limits per candidate were in effect. The Kennedy for President Committee caught the excess $500 contribution very soon after it was made; their refund check was cashed and I have no copies of it or any other record of their refund; if the Committee records do not reflect this, then their records are in error. They may nevertheless be prevailed upon to refund the $500 again. All other contributions appear to be within the limit of $1000 per candidate per primary election and $1000 per candidate per general election.

RESPONSE TO LIST OF DOCUMENTS AND MATERIALS TO BE PRODUCED BY STEPHEN H. WHILDEN

I have none of the requested documents or materials in my possession or control.

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U Whilden
Stephen H. Whilden

STATE OF LOUISIANA )
) ss:
PARISH OF VERNON )

Before me personally appeared Stephen Hennington Whilden, known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 17 day of March 1987.

Sandie L Hamm
NOTARY PUBLIC

My commission expires:

At My Death

0004079 0 4 8 7

REPUBLICAN NATIONAL FINANCE COMMITTEE
310 FIRST STREET, SE.
WASHINGTON, D.C. 20003

2082

'976

June 7 19 85 $\frac{88-408}{560}$

PAY TO THE ORDER OF STEPHEN WHILDEN $ 10,000.00

***Ten thousand and 00/100*** DOLLARS

Bank of Virginia
Downtown City Office
Arlington, Virginia 22202

FOR REFUND

⑈0002082⑈ ⑆056004089⑆ 651⑈722064 3⑈

Republican
National
Committee

**E. Mark Braden**
Chief Counsel

**Catherine E. Gensior**
**Michael A. Hess**
Deputy Chief Counsels

June 7, 1985

Mr. Richard Draft
Rachlin & Cohen, CPAs
Suite 400
700 Southeast 3rd Avenue
Fort Lauderdale, FL 33316

Dear Mr. Draft:

Attached is the Republican National Finance Committee's check #2092 in the amount of Ten Thousand Dollars ($10,000) paid to the order of Stephen Whilden. As you are aware, Mr. Whilden requested a complete refund of a contribution he made to the Republican National Committee on November 23, 1982. It is the Republican National Committee's policy to honor requests for refunds from its supporters.

Please contact me at 202/863-8638 if you have additional questions.

Sincerely,

Catherine E. Gensior

Catherine E. Gensior

CEG:jd
Enclosure

cc: Stephen Whilden

Dwight D. Eisenhower Republican Center: 310 First Street Southeast, Washington, D.C. 20003. (202) 863-8638. Telex: 70 11 44

HAND DELIVERED

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. MCVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS
JENNIFER PARKER LAVIA

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

February 24, 1988

Via Federal Express

Mr. Lee Andersen
Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

Re: Federal Elections Commission v. Seminole Tribe of Florida; CA #85-6377

Dear Lee:

Pursuant to our previous discussions and somewhat later than expected, I enclose various summaries which have been provided to me by the accounting offices of the Seminole Tribe of Florida. I believe that this summary will reconcile a substantial number of the issues of difference which were raised in your compilation and listing of differences between the affidavit originally provided by the Seminole Tribe of Florida, and the notes by the FEC staff upon review by them of records at the Tribe a number of years ago.

Attached to this letter as Exhibit "A" is a reconstruction and comparison of the records of ~~the Tribe with~~ the summary of contributions list which you prepared. This summary sheet details or explains differences between the FEC records and the Seminole affidavit and provides statements concerning contributions which were reimbursed to individuals. In the case of entry numbers 8 and 16, the positive amount may be explained by the attachment. Exhibit "A" also provides information concerning entry numbers 5, 12, 13, 14, 18, 23, and 25 (which appears to be duplicate entries on your report), 27, 28, 30, 33, and 34. As indicated on the attachment, we have no record of any involvement by an F. or C. Wright as indicated on your entry number 24. The differences between the FEC records and the original Seminole affidavit as indicated in entry numbers 3, 6, 7, 15, 19, 20, 21, and 36 can not be found to exist or explained.

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Concerning entries 1 and 2, attached as Exhibit "B" is a sheet prepared showing reimbursements to James Billie during the effected time frames totalling $29,800. Your records indicate duplicate entries for 11/79. The remaining difference would be approximately $1,100 which we can not explain.

Finally, attached as Exhibit "C" are reimbursements to Steven Whilden during the effected time periods which provide and demonstrate reimbursement in the amount of $40,400. That amount should be more properly $39,900 as I do not believe that the indicated reimbursement on 1/28/82 to Fred Lippman campaign is in fact a contribution to a candidate for federal office, but he was a candidate for state office. This listing of contributions should leave a difference of approximately $1,000 between the FEC records and the original Seminole affidavit and this update.

There appears to be a $10,000 difference between the FEC records and the Seminole records as it would relate to all other persons besides James Billie and Steven Whilden. As to James Billie, the reported contributions apparently leave a difference of $1,100 and to Steven Whilden $1,000. I do not believe we have any further information which can be provided and which would deal with those differences. It is possible that some of the records which the Commission's staff reviewed were not contributions to federal candidates or were not contributions at all but matters of payment for some other reason. Please contact me at your convenience concerning any questions related to this and our further actions, as we of course would like to resolve this matter as quickly as possible now that all differences have been examined and have been attempted to be answered.

I have provided the United States District Court in the Southern District of Florida a response to your Petition for Reinstatement and naturally it speaks for itself, but I do not believe that there is any need for reinstatement as it would relate to the Seminole Tribe of Florida at this time since we have now provided the Commission with all information and reconciliations that are available to us. Once again, please contact me at your convenience.

Sincerely,

Ronald A. Labasky

RAL/jch
Enclosures

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FEC
SUMMARY #

5 Theodore Boyd - Reimbursement for contribution to Carter/Mondale 11/39/79 $1,000.00

8 Jim Clare - Reimbursement for contributions as follows:

| | | |
|---|---|---|
| 2/11/82 | George Sheldon | $ 500.00 |
| 2/24/82 | George Sheldon | 1,000.00 |
| 2/24/82 | Van Poole | 1,000.00 |
| 1/18/82 | E. Clay Shaw | 1,000.00 |
| 4/23/82 | George Sheldon | 1,000.00 |

12 Donna Faison - Reimbursement for contributions as follows:

| | |
|---|---|
| 7/10/80 - John Ware Campaign | $1,000.00 |
| 10/20/80 - Dem. Victory Fund | 1,000.00 |

13 Bonnie Fiering - Reimbursement for contribution Bill Gunter Campaign 9/18/80 $1,000.00

14 Jean Fontana - Reimbusements for contributions as follows:

| | | |
|---|---|---|
| 5/12/82 | Van Poole Campaign | $1,000.00 |
| 11/30/79 | Carter/Mondale | 1,000.00 |
| 9/18/80 | Bill Gunter | 1,000.00 |

16 Joel Frank - Reimbursements for contributions as follows:

| | | |
|---|---|---|
| 5/12/82 | Van Poole | $1,000.00 |
| 6/4/82 | Dante Fascell | 300.00 |
| 6/17/82 | George Sheldon | 50.00 |
| 1/13/82 | Van Poole | 1,000.00 |
| 3/12/82 | William Lehman | 250.00 |
| 6/4/82 | Claude Pepper | 300.00 |
| | | $2,900.00 |

18 Ray Lederman - Reimbursement for contribution 11/30/79 - Carter/Mondale $1,000.00

23 Deborah Osceola - It would appear that this entry is included in Entry #25. Our records indicate that Deborah Osceola was reimbursed on December 7, 1979 in the amount of $4,000.00. We show $2,000.00 for

EXHIBIT "A"

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the Florida for Kennedy Campaign. However, our records do not indicate what the remaining $2,000.00 was for.

24 F. or C. Wright - We can find no record of any reimbursement in this regard.

25 Deborah Osceola - See Entry #23 above.

27 Marge Osceola - Reimbursement for contribution
11/30/79 - Carter/Mondale $1,000.00

28 Max Osceola - Reimbursement for contribution
11/30/79 - Carter/Mondale $1,000.00

30 Claudia Davis - Reimbursements for contributions as follows:

| | |
|---|---|
| 10/30/80 - Carter/Kennedy Unity Dinner | $1,000.00 |
| 10/15/80 - Bill Gunter | 1,000.00 |
| 11/30/79 - Carter/Mondale | 1,000.00 |

33 Sarah Marrero - Reimbursement for contribution
11/30/79 - Carter/Mondale $1,000.00

34 Michael Rich - Reimbursements for contributions as follows:

| | |
|---|---|
| 9/23/80 - Bill Gunter | $ 100.00 |
| 9/18/80 - Bill Gunter | 1,000.00 |
| | $1,100.00 |

0004079049

## Reimbursements to James E. Billie

| Date | Purpose | Amount |
|---|---|---|
| 8/18/80 | Reimbursement for contribution to Democratic National Committee | $10,000.00 |
| 6/20/80 | Reimbursement for contribution to Democratic National Committee | $10,000.00 |
| 10/15/80 | Reimbursement for contribution to Bill Gunter Campaign | $1,000.00 |
| 9/26/80 | Reimbursement for contribution to Dan Fugua Campaign | $500.00 |
| 9/26/80 | Reimbursement for contribution to Sam Gibbons Campaign | $500.00 |
| 9/26/80 | Reimbursement for contribution to Dan Mica Campaign | $500.00 |
| 9/26/80 | Reimbursekent for contribution to Andy Ireland Campaign | $300.00 |
| 9/26/80 | Reimbursement for contribution to Charles Bennett Campaign | $300.00 |
| 9/26/80 | Reimbursement for contribution to William Chappell Campaign | $300.00 |
| 9/26/80 | Reimbursement for contribution to Earl Hutto Campaign | $300.00 |
| 9/26/80 | Reimbursement for contribution to William Lehman Campaign | $300.00 |
| 9/4/80 | Reimbursement for contribution to Bill Young Campaign | $1,000.00 |
| 9/4/80 | Reimbursement for contribution to Claude Pepper Campaign | $1,000.00 |
| 9/4/80 | Reimbursement for contribution to Ed Stack Campaign | $1,000.00 |
| 9/26/80 | Reimbursement for contribution to Dante Fascell Campaign | $300.00 |
| 9/26/80 | Reimbursement for contribution to Bafalis Campaign | $500.00 |
| 7/10/80 | Reimbursement for contribution to John Ware Campaign | $1,000.00 |

EXHIBIT "B"

00407047

| | | |
|---|---|---|
| 11/30/80 | Reimbursement for contribution to Carter/Mondale Campaign | $1,000.00 |
| | Total | $29,800.00 |

C.10.8.A

00040704908

## Reimbursements to Steven Whilden

| Date | Purpose | Amount |
|---|---|---|
| 4/30/80 | Reimbursement for contribution to Florida for Kennedy campaign | $2,000.00 |
| 4/30/80 | Reimbursement for contribution to Kennedy for President | $1,000.00 |
| 4/30/80 | Reimbursement for contribution to Carter/Mondale Campaign | $ 500.00 |
| 1/6/81 | Reimbursement for contribution to Manuel Lujan campaign | $1,000.00 |
| 12/1/80 | Reimbursement for contribution to Kennedy for President | $1,000.00 |
| 10/15/80 | Reimbursement for contribution to Bill Lehman campaign | $ 200.00 |
| 10/15/80 | Reimbursement for contribution to Bill Gunter campaign | $1,000.00 |
| 9/4/80 | Reimbursement for contribution to Ed Stack campaign | $1,000.00 |
| 4/2/80 | Reimbursement for contribution to Senator Stone campaign | $1,000.00 |
| 9/25/80 | Reimbursement for contribution to Alan Becker campaign | $1,000.00 |
| 1/28/82 | Reimbursement for contribution to Larry Smith campaign | $ 500.00 |
| 1/28/82 | Reimbursement for contribution to Fred Lippman campaign | $ 500.00 |
| 4/29/80 | Reimbursement for contribution to Richard Stone campaign | $ 200.00 |
| 4/29/80 | Reimbursement for contribution to Florida for Kennedy | $1,000.00 |
| 9/23/80 | Reimbursement for contribution to Senator Tom Lewis | $1,000.00 |
| 5/4/82 | Reimbursement for contribution to Senate/House Dinner | $10,000.00 |
| 10/30/80 | Reimbursement for contribution to Carter/Kennedy Unity Dinner | $1,000.00 |

EXHIBIT "C"

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| | | |
|---|---|---|
| 9/22/80 | Reimbursement for contribution to Democratic National Committee | $2,500.00 |
| 1/28/82 | Reimbursement for contribution to House Democratic Fund | $1,000.00 |
| 8/14/81 | Reimbursement for contribution to George Sheldon campaign | $1,000.00 |
| 10/24/79 | Reimbursement for contribution to Ed Stack campaign | $1,000.00 |
| 7/10/80 | Reimbursement for contribution to John Ware campaign | $1,000.00 |
| 11/30/79 | Reimbursement for contribution to Carter/ Mondale campaign | $1,000.00 |
| 10/8/81 | Reimbursement for contribution to Alan Becker campaign | $1,000.00 |
| 5/11/81 | Reimbursement for contribution to Bill Gunter campaign | $1,000.00 |
| 4/22/81 | Reimbursement for Kennedy campaign dinner | $1,000.00 |
| 7/23/81 | Reimbursement for Democratic NFC dues | $5,000.00 |
| 9/23/80 | Reimbursement for House Democratic Campaign Funds | $1,000.00 |
| | Total | $40,400.00 |

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FEDERAL ELECTION COMMISSION
SECRETARIAT
88 MAR -4 AM 9:07

SENSITIVE

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al., and Stephen H. Whilden | ) | MURS 1616 and 2465 |
| | ) | |

**COMPREHENSIVE INVESTIGATIVE REPORT**

On February 25, 1988, the Commission finally received, from the Seminole Tribe of Florida, satisfactory answers to long-standing interrogatories, in accordance with a Joint Stipulation and Order. The Commission also received satisfactory responses from Stephen H. Whilden on December 3, 1987. When this Office has completed analyzing the materials submitted from the Tribe, we will report to the Commission with appropriate recommendations.

Date 3/3/88

Lawrence M. Noble
General Counsel

Staff: Jim Voegeli

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: MARCH 7, 1988

SUBJECT: MURs 1616 and 2465 - COMPREHENSIVE INVESTIGATIVE REPORT
SIGNED MARCH 3, 1988

The above-captioned matter was received in the Office of the Secretary of the Commission Friday, March 4, 1988 at 9:07 A.M. and circulated to the Commission on a 24-hour no-objection basis Friday, March 4, 1988 at 12:00 P.M.

There were no objections received in the Office of the Secretary of the Commission to the Comprehensive Investigative Report at the time of the deadline.

00407905074

GCC#9029

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

FEDERAL ELECTION COMMISSION
88 APR 11 PM 1:24
MUR 1616

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. MCVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS

April 7, 1988

GAYLE SMITH SWEDMARK
OF COUNSEL

JULIUS F. PARKER (1910-1966)
JOHN A. MADIGAN, JR. (1919-1984)
MILLARD F. CALDWELL (1897-1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730

FEDERAL ELECTION COMMISSION
88 APR 12 PM 12:53
RECEIVED

Mr. R. Lee Anderson
Acting Assistant General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: FEC v. Tommie

Dear Lee:

Enclosed is the Statement of Designation of Counsel of Howard E. Tommie. Also, pursuant to the Statement of Designation of Counsel, we would hereby request conciliation of this matter. As we discussed last week, the review of all of the information which has been relevant to this case indicates Mr. Tommie did not receive any reimbursements or take any other actions which were inappropriate in the instant case.

Please contact me concerning any further information which may be necessary.

Sincerely,

Ronald A. Labasky

RAL:pw

enc.

0 0 0 4 0 7 0 5 0 5

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: RONALD A. LABASKY

Parker, Skelding, McVoy & Labasky

ADDRESS: Post Office Box 669

Tallahassee, Florida 32302

TELEPHONE: (904)222-3730

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

4-4-88
Date

Signature

NAME: HOWARD TOMMIE

ADDRESS: 4500 N. St. Road 7
Hollywood, Florida 33021

HOME PHONE: (305)583-1435

BUSINESS PHONE:

00040704

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of )
)
Seminole Tribe of Florida, et al., ) MURs 1616 and 2465
James E. Billie and Stephen H. Whilden )

GENERAL COUNSEL'S REPORT

EXECUTIVE SESSION
MAY 03 1988

I. BACKGROUND

A. MUR 1616

This matter concerns a scheme whereby the Seminole Tribe of Florida (the "Tribe") illegally reimbursed individual members of the Tribe for a series of contributions they made to various federal candidates and committees from 1979 through 1982. On April 24, 1984, the Commission found reason to believe that the Tribe; the Chairman of the Tribe, James E. Billie; then Tribal General Counsel, Stephen H. Whilden; Howard E. Tommie; and Marcellus Osceola violated 2 U.S.C. § 441f by carrying out the reimbursement scheme. In addition, the Commission found reason to believe that James E. Billie violated 2 U.S.C. § 441a(a)(3) and Stephen H. Whilden violated 2 U.S.C. §§ 441a(a)(3) and 441a(a)(1)(A) by making excessive contributions.

The Commission authorized the Office of the General Counsel to conduct an investigation of this matter, however, this investigation was frustrated by the Tribe's unwillingness to make relevant documents available for copying, 1/ and also by

1/ On October 2, 1984, the Commission authorized the issuance of subpoenas for the production of documents and orders to answer written questions to the Tribe, James E. Billie, Stephen H. Whilden and Howard E. Tommie. On October 25, 1984, Commission staff went to Hollywood, Florida to conduct document production. The Tribe produced a number of documents, including checks and memos, which evidenced that contributions were made to political committees by individuals who were then reimbursed by the Tribe. Although the Commission staff was allowed to view the documents and take notes concerning the documents, the Tribe refused to give up possession of the documents or allow them to be copied.

Respondent Whilden's unwillingness to answer questions about his role in the reimbursement scheme. Thus on February 5, 1985, the Commission authorized the filing of a subpoena enforcement action with the U.S. District Court in furtherance of the Commission's investigation of this matter. On May 13, 1985, this Office filed a subpoena enforcement action with the U.S. District Court for the Southern District of Florida. On June 14, 1985, a hearing was held and the court took the case under advisement. At the hearing the court strongly urged the parties to seek grounds for settlement of the subpoena enforcement action. This Office engaged in lengthy negotiations with the Tribe, Mr. Billie and Mr. Whilden which ultimately resulted in the resolution of the issues of the subpoena enforcement action as described below.

1.) Respondent Tribe

On August 20, 1987, the court approved a Joint Stipulation and Order between the Commission and the Tribe. Accordingly, the Tribe agreed to answer the Commission's discovery questions by affidavit, and the Commission, in turn, agreed to voluntarily dismiss the subpoena enforcement action within seven days of receipt of a satisfactory response.

The Tribe's first response to the Joint Stipulation and Order arrived on September 21, 1987. (Attachment 1) Review of that response revealed that the Tribe's answers were incomplete, as indicated by numerous financial discrepancies with information already obtained by the Commission. (Attachment 2) The most salient discrepancy was that the Tribe listed a total of only $35,800 in reimbursements to Tribe members for their

contributions to federal candidates and committees, whereas information obtained by the Commission 2/ revealed that the Tribe reimbursed $122,700 for contributions made during the same period. Based upon this significant difference, on September 30, 1987, this Office petitioned the court to hold dismissal of the subpoena enforcement action in abeyance pending the Tribe's full compliance with the court's order.

The Commission provided the Tribe's legal counsel with a summary compilation of the financial discrepancies described above. (Attachment 2) Meanwhile, a Commission attorney telephoned this counsel on several occasions and discussed obtaining clarification as to the number and amounts of contributions actually made by Tribe members. The Tribe's legal counsel said that a further response would be forthcoming. After considerable time passed, on February 10, 1988, this Office filed an additional motion with the court hoping to further promote a suitable response from the Tribe. 3/

Finally, on February 25, 1988, the Commission received the additional information that it had sought, in the form of summary pages of reimbursements and a cover letter from the Tribe's legal counsel. (Attachment 3) Given the thoroughness of this response, this Office determined that the Tribe had fulfilled the terms of the Joint Stipulation and Order and thus, on March 4, 1988, filed

---

2 Id.

3/ On February 3, 1988, the court on its own motion dismissed the subpoena enforcement action, but invited the Commission to file a new motion to reinstate the action if this were necessary. On February 10, 1988, this Office filed a motion to reinstate this action pending the Tribe's full compliance with the court's order.

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notice with the court and withdrew the motion of February 10, 1988.

In this new response the Tribe admitted making $80,800 in additional reimbursements for Tribe members' contributions during the period in question. The Tribe claimed, however, $6,200 in adjustments off the $35,800 previously reported in the first response of September 21, 1987. By accepting the adjustments of $6,200, and adding the $80,800 in newly admitted reimbursements, the total reimbursements admitted by the Tribe rises to $110,400. [$35,800 - ($6,200) + $80,800 = $110,400] This revised total is $12,300 short of the Commission's summary compilation total of $122,700 for which the Commission has records, as described in footnote 1 and as found summarized in attachment 2. Of this difference, the Tribe admits that it cannot explain $8,000, and also admits that it has no records for one $1,000 reimbursement. Although this Office recommends allowing the $6,200 in adjustments, we see no basis for allowing the additional $9,000 [$8,000 + $1,000] in reductions from the Commission's records. Thus, the factual statements portion of the attached proposed conciliation agreement for the Tribe includes $9,000 in addition to the $110,400 admitted by the Tribe, for a total of $119,400 in illegal reimbursements for Tribe members' contributions.

2.) Respondent Billie

Mr. Billie was Chairman of the Tribe at all times pertinent to these matters. The Tribe's response of February 25, 1988, indicates that the Tribe reimbursed $29,800 to Mr. Billie for contributions he made to federal candidates and committees. Further, this response, together with information from recipient

committee reports, and Commission records, indicates that Mr. Billie made contributions in excess of $25,000 with respect to the 1980 elections, as originally alleged, in violation of 2 U.S.C. § 441a(a)(3). Mr. Billie's violation of this section is included in the conciliation agreement for the Tribe.

3.) Respondent Whilden

Mr. Whilden was the Tribe's legal counsel from August 31, 1977 until June 15, 1982. Based upon the Tribe's responses, and also a "Miami Herald" article, it appears that Mr. Whilden was most responsible for developing the reimbursement scheme. This Office is proposing a separate conciliation agreement for Mr. Whilden because: (1) it appears that Mr. Whilden played a central role in developing the reimbursement scheme; (2) he received large reimbursements for his many contributions to federal candidates and committees; and (3) he is not a member of the Tribe.

On October 5, 1987, the Court ordered Mr. Whilden to comply with the Commission's subpoena and questions within 20 days. After the court granted him an extension of time, the Commission received his response on December 3, 1987, (Attachment 4) in which he stated that he no longer had records of his contributions to federal candidates and committees. Mr. Whilden also stated that he did not have any recollection, nor any records, concerning the names of individuals or entities receiving reimbursements from the Tribe in connection with contributions to federal candidates and committees. Further, Mr. Whilden stated that he was unable to furnish any information concerning the amounts of reimbursements or contributions

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except for one $10,000 contribution which apparently was returned.

The Commission found reason to believe that Mr. Whilden violated 2 U.S.C. §§ 441f, 441a(a)(3) and 441a(a)(1)(A). First, it appears that Mr. Whilden violated 2 U.S.C. § 441f as alleged. Based upon the Tribe's response of February 25, 1988, the Tribe reimbursed Mr. Whilden a total of $39,900 for his contributions to federal candidates and committees during 1979-82. This $39,900 total is very close to the total amounts reported by the various committees to which Mr. Whilden made contributions for the period in question ($38,700). Additionally, the Tribe's $39,900 figure is consistent with, and independent of, the $10,000 which Mr. Whilden asserts was refunded. Thus, the apparent 2 U.S.C. § 441f violations are included in the attached proposed conciliation agreement for Mr. Whilden.

Second, it does not appear that Mr. Whilden violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3) as alleged. From the Tribe's records provided in the response of February 25, 1988, it appears that Mr. Whilden made contributions to federal candidates and committees of $18,400 during 1979-80, with respect to the 1980 elections, and $21,500 during 1981-82 with respect to the 1982 elections. Thus, it does not appear that the section 441a(a)(3) limit was violated.

It continues to appear that three of Mr. Whilden's contributions did exceed the limits contained in 2 U.S.C. § 441a(a)(1)(A). Because the Tribe reimbursed the contributions

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which caused these violations, however, these violations are attributable to the Tribe instead of to Mr. Whilden. Thus, this Office recommends that the Commission take no further action with respect to Mr. Whilden regarding these contributions, and instead, permit this Office to incorporate reference to these 2 U.S.C. § 441a(a)(1)(A) violations in the conciliation agreement for the Tribe. This Office has contacted the Tribe's legal counsel who has no objection to the incorporation of these violations into the Tribe's conciliation agreement.

4.) Respondent Osceola

The Commission found reason to believe that Marcellus Osceola violated 2 U.S.C. § 441f based upon information which appeared in a "Miami Herald" article. Our investigation has revealed that Mr. Osceola's two violations do not appear to constitute the same level of gravity as do the apparent violations committed by Mr. Billie and Mr. Whilden who contributed much larger sums of money and who appear to have had central roles in planning and implementing the reimbursement scheme. Rather, Mr. Osceola's apparent violations of this section, which amounted to $2,000, are more similar in scope to the apparent violations of the approximately 33 other tribal members who accepted tribal reimbursements for their contributions to federal candidates and committees, but who were not named as respondents. Because of this similarity, this Office wishes to treat Mr. Osceola's violations in a manner consistent with the violations of the majority of the other Tribe

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members who received reimbursements. Therefore, this Office recommends that the Commission take no further action and close the file with respect to Mr. Osceola. It should be noted that the Tribe's conciliation agreement takes into account all of the apparent violations committed by all Tribe members.

5.) Respondent Tommie

Like Mr. Osceola, the Commission originally found reason to believe that Mr. Tommie violated 2 U.S.C. § 441f based upon information which appeared in a "Miami Herald" article, and also based upon a recipient committee's report that showed one contribution. 4/ With respect to Mr. Tommie, however, the investigation did not confirm that he was reimbursed for contributions to federal candidates or committees. As discussed earlier, the records ultimately provided by the Tribe are summaries of reimbursements which do not, in all cases, match the original information obtained by Commission staff. Because of the time that has gone by since the events occurred and the discrepancies in the records available, this Office recommends that the Commission take no further action and close the file with respect to Mr. Tommie.

B. MUR 2465

On June 9, 1987, the Commission found reason to believe that the Tribe violated 2 U.S.C. §§ 433(a) and 434(a)(1) when it failed to file a Statement of Organization and failed to make reports of receipts and disbursements, but made contributions

4/ A Reagan for President Committee report showed a $250 contribution from Mr. Tommie on June 9, 1980.

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totaling $14,000 to the Democratic Senatorial Campaign Committee ("DSCC") during 1986. On August 13, 1987, the Commission received a request from the Tribe for pre-probable cause conciliation. Thus, this Office recommends that the Commission enter into pre-probable cause conciliation with the Tribe for violations associated with MUR 2465.

II. MERGER OF MUR 1616 WITH MUR 2465

This Office recommends that the Commission merge MUR 1616 with MUR 2465 because: (1) both MURs involve the Tribe; (2) merger will hopefully avoid reopening jurisdictional issues of the types raised by the Tribe during the course of MUR 1616 and which precipitated the subpoena enforcement action that significantly delayed this matter; (3) merger promotes administrative efficiency since conciliation is taking shape with respect to both matters; and (4) the Tribe has indicated that it would like to resolve these matters through a single conciliation agreement. (Attachment 5) Informal conciliation efforts have taken place during the litigation, and this Office is now, for the first time, able to present to the Commission suitably proposed conciliation agreements resolving all issues with all parties.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES

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IV. RECOMMENDATIONS

The Office of the General Counsel recommends that the Commission:

1. Merge MUR 1616 with MUR 2465.

2. Enter into pre-probable cause conciliation with the Seminole Tribe of Florida for the apparent violations associated with MUR 2465.

3. Take no further action with respect to the violation of 2 U.S.C. § 441a(a)(1)(A) by Stephen H. Whilden.

4. Take no further action with respect to the violation of 2 U.S.C. § 441a(a)(3) by Stephen H. Whilden.

5. Take no further action and close the file with respect to Marcellus Osceola.

6. Take no further action and close the file with respect to Howard E. Tommie.

7. Approve the attached conciliation agreements and letters.

4/21/88
Date

Lawrence M. Noble
General Counsel

Attachments

1. Tribe's response of September 21, 1987
2. Summary compilation of discrepancies in the Tribe's response of September 21, 1987
3. Tribe's response of February 25, 1988
4. Mr. Whilden's response of December 3, 1987
5. Letter from the Tribe's legal counsel on combined conciliation of both MURs
6. Proposed conciliation agreement for the Tribe, et al., and Mr. Billie (one)
7. Proposed conciliation agreement for Mr. Whilden (one)
8. Proposed letters (four)

Staff: Jim Voegeli

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/MARY W. DOVE

DATE: April 25, 1988

SUBJECT: MURS 1616 and 2465

The above-captioned document was circulated to the Commission on April 22, 1988.

Objections have been received from the Commissioners as indicated by the name(s) checked:

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | X |
| Commissioner Josefiak | |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Thomas | X |

This matter will be placed on the Executive Session agenda for Tuesday, May 3, 1988.

Please notify us who will represent your Division before the Commission on this matter.

00040790517

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MURS 1616 and 2465 |
| James E. Billie and | ) | |
| Stephen H. Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 3, 1988, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in the above-captioned matters:

1. Merge MUR 1616 with MUR 2465.

2. Enter into pre-probable cause conciliation with the Seminole Tribe of Florida for the apparent violations associated with MUR 2465.

3. Take no further action with respect to the violation of 2 U.S.C. § 441a(a)(3) by James E. Billie.

4. Take no further action with respect to the violation of 2 U.S.C. § 441a(a)(1)(A) by Stephen H. Whilden.

5. Take no further action with respect to the violation of 2 U.S.C. § 441a(a)(3) by Stephen H. Whilden.

(continued)

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6. Take no further action and close the file with respect to Marcellus Osceola.

7. Take no further action and close the file with respect to Howard E. Tommie.

8. Approve the conciliation agreements attached to the General Counsel's report dated April 21, 1988, subject to amendment pursuant to the actions noted above and the meeting discussion.

9. Direct the Office of General Counsel to send appropriate letters pursuant to the actions noted above and the meeting discussion.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present at the meeting.

Attest:

5/5/88
Date

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

00040705519

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Labasky
Parker, Skelding, McVoy & Labasky
The Madigan Building
318 North Monroe Street
P.O. Box 669
Tallahassee, Florida 32302

RE: MUR 2465
(Merged with MUR 1616)
Seminole Tribe of
Florida, et al., James E.
Billie, Howard E. Tommie
and Marcellus Osceola

Dear Mr. Labasky:

On April 26, 1984, the Federal Election Commission found reason to believe that the Seminole Tribe of Florida, James E. Billie, Howard E. Tommie, and Marcellus Osceola each violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. The Commission also found reason to believe that James E. Billie violated 2 U.S.C. § 441a(a)(3) by making excessive contributions to federal candidates during 1979-80 with respect to the 1980 elections. On June 9, 1987, the Commission found reason to believe that the Tribe violated 2 U.S.C. §§ 433(a) and 434(a)(1) when it made contributions in excess of $1,000 for the purpose of influencing federal elections in 1986.

On May 3, 1988, the Commission decided to take no further action with respect to the violation of 2 U.S.C. § 441a(a)(3) by James E. Billie. The Commission also decided to take no further action and close the file with respect to Howard E. Tommie and Marcellus Osceola, and to merge MUR 1616 into MUR 2465.

Please note the following with respect to the closing of the file as it pertains to Mr. Tommie and Mr. Osceola. The file will be made part of the public record within 30 days after the matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record on behalf of Mr. Tommie and Mr. Osceola, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

As this matter remains open as it pertains to the Seminole Tribe of Florida, James E. Billie, and another respondent, it is

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important that this matter remain confidential, since the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when this matter has closed with respect to all respondents.

At your request, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter with the Tribe and Mr. Billie prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please have your clients sign it and return it to the Commission. We request that you respond to this notification as soon as possible.

If you have any questions or suggestions, please contact R. Lee Andersen or Jim Voegeli at (202) 376-8200.

Sincerely,

Lawrence M. Noble (JH)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stephen H. Whilden
2606 Hawthorne Circle
Tampa, Florida 33629

RE: MUR 2465
(Merged with MUR 1616)
Stephen H. Whilden

Dear Mr. Whilden:

On April 26, 1984, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. The Federal Election Commission also found reason to believe that you violated 2 U.S.C. § 441a(a)(3) by making excessive contributions to federal candidates during 1981-82 with respect to the 1982 elections; and violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to federal candidates during 1979-80 and 1981-82.

In response to your letter dated November 25, 1987, you will note that the Commission had decided to take no further action with respect to violations of 2 U.S.C. §§ 441a(a)(3) and 441a(a)(1)(A) by you. With respect to the 2 U.S.C. § 441a(a)(1)(A) violation, this Office has compared your contribution dates to primary and general election dates. (See 11 C.F.R. § 110.1 for further clarification.) Accordingly, it continues to appear that this section was violated as alleged. However, because you received reimbursements for the contributions associated with this violation, we are now attributing this violation to the respondent who made the reimbursements.

At your request, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. We request that you respond to this notification as soon as possible.

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If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact R. Lee Andersen or Jim Voegeli, at (202) 376-8200.

Sincerely,

Lawrence M. Noble (JFA)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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6CLF7609

R. Lee Anderson, Esq.
Office of the General Counsel
Federal Election Commission
Washington, DC 20463

88 JUN 23 AM 8:41

RE: MUR 2465 (merged with MUR 1816)

Dear Mr. Anderson:

The Conciliation Agreement forwarded to me under cover of your letter of 12 May 1988 is acceptable in all respects save one: I cannot pay the civil penalty.

As you requested, I have enclosed a copy of my General Discharge in bankruptcy, together with the portion of the Creditors' Matrix listing the FEC as a creditor. The explanatory material furnished by the USBC for the Middle District of Florida lists non-dischargeable debts as "...taxes... alimony, maintenance and child support, and... student loans." There appears to be no basis to determine that any sum owed to or on account of the FEC would be non-dischargeable.

If you wish to amend the Conciliation Agreement accordingly, please forward it to me at: HQ, USMCA-GSN, Box 287, APO NY 09169-1610, & I will sign it.

I will be available to meet with you, if necessary, on 14 July at 4 PM.

Thank you for your consideration.

Sincerely,

Stephen N. Whilden

STEPHEN N. WHILDEN

88 JUN 29 AM 11:35

BOF27J
(8/83)

# United States Bankruptcy Court

For the Middle District of Florida

In re Stephen HEnnington Whilden
d/b/a Stephen Hennington Whilden, P.A. and
Bernice JEan Whilden, a/k/a Dorothy Williams,
Dorothy Whilden

*Debtors**

Case No. 86-0853

SS# 550-58-1017
527-64-2498

## DISCHARGE OF DEBTORS

It appearing that the persons named above have filed a petition commencing a joint case under title 11, United States Code on the 7th day of March, 1986 that an order for relief was entered under chapter 7 and that no complaint objecting to the discharge of the debtors was filed within the time fixed by the court [*or* that a complaint objecting to discharge of one or both of the debtors was filed and, after due notice and hearing, was not sustained], it is ordered that

1. The above-named debtors be and they hereby are released from all dischargeable debts.

2. Any judgment heretofore or hereafter obtained in any court other than this court be and it hereby is null and void as a determination of the personal liability of the debtors with respect to any of the following:

(a) debts dischargeable under 11 U.S.C. §523;

(b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from the discharge under clauses (2), (4) and (6) of 11 U.S.C. §523 (a);

(c) debts determined by this court to be discharged under 11 U.S.C. §523.

3. All creditors who debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above be and they hereby are enjoined from commencing, continuing or employing any action, process or act to collect, recover or offset any such debt as a personal liability of the debtor, or from property of the debtors, whether or not discharge of such debt is waived.

Dated: September 2, 1987

BY THE COURT

*Bankruptcy Judge*

*Include all names used by debtors within last 6 years*

cc: MAtrix

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# EXPLANATION OF DISCHARGE

The Bankruptcy Code was devised by Congress, in part, to give individual debtors a fresh start in life. The document enclosed represents the legal release of all your personal obligations with the exception of certain types which are nondischargeable, such as certain types of taxes, obligations based on alimony, maintenance and child support, and certain types of student loans; or unless a complaint was filed against you and a particular obligation was found to be nondischargeable. With these exceptions, however, all your personal obligations are now discharged and released, which simply means that creditors can no longer employ any means which are designed to compel you or coerce you to repay a debt which is covered by the bankruptcy Discharge.

Your Discharge includes permanent injunctions; that is, a prohibition against commencement or continuation of any lawsuit filed or which may be filed against you by a creditor, a lawsuit which is based on a discharged obligation. In addition, creditors are prohibited from employing informal means of attempting to collect a discharged obligation such as mailing dunning letters either to you or to your employer, or contacting your employer in any manner, or doing anything else which is designed to compel you or coerce you to repay a discharged obligation.

The Discharge gives you limited protection against discrimination in employment. Employers, government or private, are prohibited from terminating your job or discriminating

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AO 72A
(Rev.8/82)

against you in your employment in any other fashion just because you filed a petition in bankruptcy. Ordinarily, in order to carry on a profession, a trade, or an occupation you are required to obtain and hold a valid occupational license. These licenses are issued by state agencies. Your bankruptcy Discharge protects you against revocation, suspension, or denial of an occupational license just because you sought protection in bankruptcy courts and filed your petition.

Under the law of this State every operator of an automobile must have a valid operator's license. Pursuant to a specific Statute of this State, if an operator of a vehicle has been involved in an automobile accident and as a result of the accident there is a claim made against the operator, either for personal injury or property damage, the Commissioner of the Department of Motor Vehicles for the State of Florida is authorized to suspend the license of the driver until the driver satisfies the claim asserted by the third party involved in the accident and furnishes proof of adequate insurance. This is, however, not the case if you properly scheduled the claim asserted against you by the third party involved in the accident, and the claim of that person has been discharged in bankruptcy. Under this situation, the Commissioner of the Department of Motor Vehicles is prohibited either to suspend, to revoke, or deny your license.

It must be emphasized, however, that all these protections afforded to you by the bankruptcy discharge against discrimination, either in employment or involving your right to

AO 72A
(Rev. 8/82)

carry on a trade, profession or occupation, or to drive an automobile, are limited and the protection extends only to discriminatory actions against you just because you filed bankruptcy. Thus, if there are some other independent reasons to take the actions against you, such as, if you have accumulated too many points, your license may be revoked; your job may be terminated for cause, or state agencies may be permitted to deny or revoke your occupational license for valid reasons other than your bankruptcy.

While a Discharge gives you full protection against collection efforts of personal obligations, a discharge in bankruptcy has no impact whatsoever on any liens which represent a valid charge of any property you are retaining after bankruptcy or property you are acquiring after bankruptcy. This simply means that a trustee in charge of your estate cannot seize the property and liquidate the same for the benefit of general unsecured creditors. That does not mean, however, that valid liens encumbering the property are nullified or rendered unenforceable. For instance, if you are buying a home and you claimed the home as a homestead exemption and it was allowed as such, you still must live up the contractual mortgage arrangements and make the regular monthly payments if you want to keep the home. This is so because if you do not, the holder of the mortgage will be permitted to commence a foreclosure action and ultimately cause the home to be sold at a foreclosure sale.

AO 72A
(Rev.8/82)

The same example is equally applicable to any major credit transaction whereby a creditor retained a lien on a specific piece of property. For instance, if you are purchas on time an automobile, a mobile home, a major appliance, furniture and the like, and the contract requires you to make monthly payments, you will have to live up to the arrangment i you want to keep the item involved, because if you do not, the holder of the lien will be permitted to repossess the items a ultimately cause the same to be sold.

The only protection you are receiving from the bankruptcy Discharge in the two examples previously given is that if the liquidation, that is, the sale of the collateral foreclosure or after repossession, did not bring enough money satisfy the outstanding balance on the particular contract, t portion of the obligation is wiped out, rendered legally unenforceable, because that is protected by and covered by th bankruptcy Discharge.

Some creditors may file a lawsuit against you in sp of a bankruptcy Discharge. If that happens, it is important that as soon as you are served with a summons, either by the marshal or by the sheriff or through the mail, a summons whic commands you to appear in a court of law to respond to a complaint filed against you by a creditor, that you contact t Clerk of the Bankruptcy Court and obtain a certified copy of your Discharge and file the same at once in the court where t suit has been filed against you.

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(Rev.8/82)

This is important, because unless you put that court on notice that a suit filed against you is prohibited by law and prohibited by the permanent injunction included in your Discharge, the creditor will no doubt proceed and obtain a default judgment against you, place the same on the public records, and that will create a lot of difficulty for you in your future life.

While you cannot be compelled to repay a discharged obligation, you may do so voluntarily if you want to. You may voluntarily repay some of it, all of it, or none of it, but you cannot be compelled to do so even if you signed a piece of paper sometimes called a Reaffirmation Agreement, unless you and the creditor complied with certain specific provisions of the law which are as follows:

Any agreement in writing by you to repay a discharged obligation is legally unenforceable and not valid unless it was executed, that is, signed, by you before the receipt of the Discharge; 60 days elapsed after you signed it and you did not change you mind and tear up the agreement, because the law gives you 60 days to think it over and change your mind; and if your attorney negotiated the agreement with the creditor on your behalf, he must file a verified statement or an affidavit with this Court stating (1) that you have entered into the agreement voluntarily, (2) that you fully understand the legal consequences of the agreement, and (3) that the terms of the agreement do not represent an undue hardship on you or your dependents. If you did not have an attorney, or you had one but

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(Rev.8/82)

he did not negotiate the Reaffirmation Agreement, then you or the creditor must seek and obtain an approval of the agreement by this Court. It must be emphasized, however, that you are not required by law to reaffirm any debts, and the reaffirmation is basically contrary to the overall policy of the bankruptcy courts, which is, as noted earlier, to give you a fresh start in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debts.

The fact that you received a Discharge does not mean your case is finished or completed. It is your responsibility to notify the Clerk of the Bankruptcy Court and the trustee in charge of your case in writing each time you change your address. This is very important because if you fail to notify the Court, any interested party is entitled to rely on the address you initially stated on the petition, and all notices of hearings during the pendency of the case will be mailed to your old address. You must keep in mind that things may develop requiring a hearing at which time your rights may be adversely affected and you may loss the opportunity to appear and state your case unless the Court has the right address.

You have the continuing duty and obligation to cooperate with the trustee who is in charge of your case. You have the affirmative obligation to notify the trustee if you learn that you became entitled to receive some property within 180 days, that is, 6 months, from the date you filed your petition, either as a result of inheritance, as a result of a property settlement in connection with a divorce, or as the

AO 72A
(Rev.8/82)

result of a settlement of a life insurance policy. This simply means, for instance, that if somebody died within 6 months of the date you filed your petition and named you as an heir in their Last Will and Testament, or you became an heir by operation of the law, as a result of which you will ultimately receive some property from the estate of a deceased person, you must notify the trustee of that event when you learn about it, and when you receive the property you must make the same available for administration. The term "property" does not mean real estate only. It includes any and all things which have any value whatsoever. This is an important provision because if you do not comply with the same, this might result in revocation of your Discharge, which, in turn, would nullify all the benefits you sought to achieve through the bankruptcy Discharge proceeding.

Any questions concerning your particular case should be directed to your attorney. No one connected with the Court, including the judge, is authorized to give legal advice concerning your particular case.

AO 72A
(Rev.8/82)

Vincent Ella
2300 Financial Ct.
Des Moines, IA

David Heward
4 W. Maple
Merchantville, NJ 08109

Lummi Indian Tribe
o Larry Kinley, Chairma
2616 Kwina Rd.
Bellingham, Wa. 90226

Charles B. Entwistle
155 Sands Pt. Rd.
Sands Pt., NY 11050

Bernard Hocevar
7201 Trevor Lane
Parma, OH 44129

James Leonard, Sr.
P.O. Box 210
Fallbrook, Ca. 92028

Federal Elections Comm.
1325 K. Street NW
Washington, D.C.

Anne L. Howard
2801 New Mexico NW #408
Washington, D.C.

Lander Valley Family
596 Garfield
Lander, Wy. 82520

Linda Friedman
143 Amoretti
Lander, WY 82520

B. Reid Halton
507 Roma NW
Alburquerque, NM 87102

MM Consumer Credit
P.O. Box 7050
Buffalo, N.Y. 14270

Federal Deposit Insur.
P.O. Box EE
Lander, WY 82520

Hertz Corporation
P.O. Box 26141
Oklahoma City, OK 73126

MCI
P.O. Box 467969
Atlanta, Ga. 30346

Federal Express
P.O. Box 727
Memphis, Tn. 38194

Hodges, Gossett, McDonald
Gossett and Crawford PA
3595 Sheridan St.
Suite 204
Hollywood, Ca. 33021

Marine Midland Bank, N.A.
P.O. Box 4215
Buffalo, NY 14240

City of Ft. Lauderdale
Utility Collections
P.O. Box 14130
Ft. Lauderdale, Fl. 33302

Warren Jackman
9th Floor
Oneok Plaza
Tulsa, Ok. 74103

Maryland Bank, N.A.
P.O. Box 15089
Wilmington, DE 19850

Fine, Jacobson, Schwartz,
Nash, Block & England
750 SE 3rd Avenue
Suite 100
Ft. Lauderdale, Fl. 33316

Katherine C. Keck
1801 Avenue of the Stars
Suite 430
Los Angeles, Ca. 90067

Mesa Grande - Mastercard
Visa
P.O. Box 25999
Albuquerque, NM

Carol Farthing
116 Eugene
Lander, WY 82520

Marjorie Kastman
2420 Quaker Avenue
Suite 5
Lubbock, TX. 79410

Mundt, Macgiegor, Happel
Falconer, Zulauf & Hall
4200 First Interstate Ctr.
Seattle, Wash. 98104

Hobbs, Straus, Dean &
Wilder
1819 H St. NW
Washington, D.C. 20006

Memorial Hospital
P.O. Box 11879
Ft. Lauderdale, Fl. 33339

Mountain Bell
5325 Zuni
Denver, Co. 80244

GCC#9687

RECEIVED
FEDERAL ELECTION COMMISSION

88 JUL -5 AM 9:54

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. MCVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
J. A. JURGENS
JENNIFER PARKER LAVIA
LINDA C. COX

GAYLE SMITH SWEDMARK
OF COUNSEL

DIANA M. HADI*
GOVERNMENTAL CONSULTANT

JULIUS F. PARKER (1910 - 1966)
JOHN A. MADIGAN, JR. (1919 - 1984)
MILLARD F. CALDWELL (1897 - 1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

*NOT A MEMBER OF THE FLORIDA BAR

June 28, 1988

Mr. R. Lee Anderson, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Lee:

Just to formally advise you following our conversation of last week I have discussed the status of the concillation agreement with Mr. Jim Shore, the General Counsel of the Seminole Tribe of Florida, and he has advised me that they are reviewing that matter.

Also, we have contacted the Democratic Senatorial Campaign Committee concerning their receipt of the monies which the Tribe had made as contributions in 1986. I will be back in touch with you as soon as I hear from the Democratic Senatorial Campaign Committee or have any further information.

Sincerely,

Ronald A. Labasky

RAL:gm

88 JUL -6 AM 11:36

FEDERAL ELECTION COMMISSION

**BEFORE THE FEDERAL ELECTION COMMISSION**

88 JUL 25 AM 9:44

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | |
| and Stephen H. Whilden | ) | MUR 2465 |

**GENERAL COUNSEL'S REPORT**

In its last consideration of this matter on May 3, 1988, the Commission approved proposed conciliation agreements for respondents Seminole Tribe of Florida (the "Tribe") and Stephen H. Whilden. The Commission also voted to take no further action with respect to two other respondents and to merge MUR 1616 with MUR 2345. Proposed conciliation agreements were mailed to respondents and the Office of General Counsel has engaged in conciliation negotiations with both the Tribe, and Mr. Whilden.

In a letter dated June 28, 1988, and received by the Office on July 5, 1988, (Attachment 1) the Tribe has indicated that they were reviewing the proposed agreement.

Counsel for the Tribe represented that he has requested a refund of the $14,000 contribution to the Democratic Senatorial Campaign Committee that gave rise to the RAD Referral portion of MUR 2465.

Counsel for the Tribe is on vacation until August 1, 1988, at which time he will contact this office for further discussions.

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With respect to respondent Stephen H. Whilden, this Office received an undated letter on June 28, 1988, indicating Mr. Whilden's willingness to accept the proposed language of the conciliation agreement, except for that part relating to the payment of the proposed civil penalty.

Mr. Whilden takes the position in this letter that any civil penalty proposed by the Commission was discharged in his bankruptcy proceeding.

This Office notes that the Commission determined to enter into pre-probable cause conciliation with Mr. Whilden on July 29, 1986, subsequent to the discharge of his debts in bankruptcy on March 7, 1986. Furthermore, it is the position of this office that at this stage in the conciliation proceedings, there is no claim or debt to be considered for discharge in bankruptcy. All that exists at this time is a proposal by the Commission that respondent pay a civil penalty. Furthermore, it is the view of this Office, based upon preliminary research, that a civil penalty is not dischargeable in bankruptcy.

In a telephone conversation with respondent Whilden on July 13, 1988, staff of the Commission explained position of this Office on the bankruptcy claim. While Mr. Whilden disagreed with this legal interpretation, he set the question of the dischargability of the civil penalty to one side, and, instead, represented that he simply lacked the funds or credit resources to pay the full civil penalty proposed. He has verbally agreed, however, to send a signed conciliation agreement to the

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Commission for consideration.

Since Mr. Whilden was required to return to Europe where he now lives before sending the agreement, he estimated that the Commission would receive his counterproposal by the end of July.

The thirty-day conciliation period expired in this case on June 3, 1988. Because there seems to be a strong probability of settling this matter, however, and because of the length of time that it has taken to bring the matter to this stage of the Commission proceedings, as well as the inherent difficulty in corresponding quickly by mail with an overseas respondent, we are extending conciliation negotiations through August 31, 1988. Upon receipt of signed conciliation agreements or counterproposals from respondents, this Office will report further to the Commission with appropriate recommendations.

Date 7/25/88

Lawrence M. Noble
General Counsel

Attachments
1. Letter from counsel for the Tribe.
2. Letter from Mr. Whilden.

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 OCT -3 PM 12:32

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER
JACK M. SKELDING, JR.
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GAYLE SMITH SWEDMARK
OF COUNSEL

DIANA M. HADI*
GOVERNMENTAL CONSULTANT

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REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE. (904) 222-3730

*NOT A MEMBER OF THE FLORIDA BAR

September 26, 1988

Mr. R. Lee Anderson, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Lee:

Enclosed please find a signed Conciliation Agreement which has been executed by James E. Billie, Chairman and Chief of the Seminole Tribe of Florida.

As per our discussions, in order to effect this Conciliation Agreement it will be necessary that some payment arrangement over a period of time be made. I would like to request, on behalf of the Tribe, that payments be made over a year period from the effective date of the Conciliation Agreement and that payments be made on a quarterly basis. I hope that the Commission can see fit to agree to such an arrangement as it would be virtually impossible for the Tribe to otherwise arrange for payment at this time.

Please contact me as soon as anything else needs to be undertaken in this matter. Thank you for your patience and cooperation in the resolution of this matter.

88 OCT -3 PM 3:14

Sincerely,

Ronald A. Labasky

RAL:gm

Enclosure

cc: Jim Shore, Esquire

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
88 OCT 31 AM 10:49

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

**SENSITIVE**

GENERAL COUNSEL'S REPORT

In its last consideration of this matter on May 3, 1988, the Commission approved proposed conciliation agreements for respondents Seminole Tribe of Florida (the "Tribe") and Stephen H. Whilden. The Commission also voted to take no further action with respect to two other respondents and to merge MUR 1616 with MUR 2345. Proposed conciliation agreements were mailed to respondents and the Office of General Counsel has engaged in conciliation negotiations with both the Tribe and Mr. Whilden. On July 25, 1988, this Office further reported to the Commission, noting that negotiations with respondents Tribe and Whilden were continuing. At that time this Office proposed an extension of the conciliation period to August 31, 1988. During the intervening time period communications with the Tribe have continued.

Seminole Tribe

On October 3, 1988, the Commission received a signed conciliation agreement from the Tribe, as approved by the Commission in its May 3, 1988, consideration of this matter. Respondent Tribe has requested, however, that payment of the civil penalty be extended over one year, with payments to be made on a quarterly basis. (Attachment 1.) Since the Tribe has agreed to pay the full $32,000 civil penalty proposed by the Commission, the Office of the General Counsel recommends that the

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Commission accede to this request and approve the acceptance of the agreement with the proposed modification. Thus, there is attached revised pages 12, 13 and 14 reflecting this modification. (See Attachment 2.) Respondents have examined the revised agreement and have agreed that these pages may be substituted for those in their original signed agreement.

Stephen H. Whilden

The Commission has not, however, received the counterproposed conciliation agreement from Mr. Whilden that he agreed to mail to the Commission during a telephone conversation on July 13, 1988, (referenced in this Office's July 25, 1988, report on the status of conciliation negotiations). Furthermore, efforts to obtain a telephone number for Mr. Whilden overseas have been unsuccessful, as was an effort to determine whether the "APO" address Mr. Whilden has given the Commission indicates United States government employment. Accordingly, this Office recommends sending the attached letter to Mr. Whilden, requesting that he respond to the Commission within five days of the receipt of the letter and informing him that failure to do so will result in the Commission's proceeding to the next step in the enforcement process.

## II. RECOMMENDATIONS

1. Approve the attached letter and revised conciliation agreement with the Seminole Tribe of Florida and James E. Billie.

2. Close the file with respect to the Seminole Tribe of Florida and James E. Billie.

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3. Approve and send the attached letter to Stephen H. Whilden.

10/28/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement from Tribe
2. Conciliation Agreement, as revised
3. Letters to respondents

Staff Person: R. Lee Andersen

00040790541

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 2, 1988, the Commission decided by a vote of 6-0 to take the following actions in MUR 2465:

1. Approve the letter and revised conciliation agreement with the Seminole Tribe of Florida and James E. Billie, as recommended in the General Counsel's report signed October 28, 1988.

2. Close the file with respect to the Seminole Tribe of Florida and James E. Billie.

3. Approve and send the letter to Stephen H. Whilden, as recommended in the General Counsel's report signed October 28, 1988.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

11/2/88
Date

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

| | | | |
|---|---|---|---|
| Received in the Office of Commission Secretary: | Mon., | 10-31-88, | 10:49 |
| Circulated on 48 hour tally basis: | Mon., | 10-31-88, | 11:00 |
| Deadline for vote: | Wed., | 11-02-88, | 11:00 |

00040790542

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

Ronald A. Labasky, Esquire
Parker, Skelding, McVoy & Labasky
318 N. Monroe Street
Tallahassee, Florida 32302

RE: MUR 2465
Seminole Tribe of Florida
and James E. Billie

Dear Mr. Labasky:

On November 2, 1988, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441f, 441a(a)(1)(A), 433 and 434(a), provisions of the Federal Election Campaign Act of 1971, as amended. I note that the agreement has been modified at your request to include an extended payment plan. Accordingly, the file has been closed in this matter as it pertains to your clients. This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any

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questions, please contact R. Lee Andersen, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al., | ) | MUR 2465 |
| and James E. Billie | ) | (Merged with MUR 1616) |

CONCILIATION AGREEMENT

The matter of MUR 1616 was initiated by a signed, sworn, and notarized complaint by Mr. Paul Harvill. The Federal Election Commission (the "Commission") found reason to believe that the Seminole Tribe of Florida (the "Tribe"), James E. Billie ("Billie"), Howard E. Tommie and Marcellus Osceola violated 2 U.S.C. § 441f by making contributions to federal candidates in the names of others. The Commission also found reason to believe that James E. Billie violated 2 U.S.C. § 441a(a)(3) by making excessive contributions to federal candidates and committees during 1979 and 1980 with respect to the 1980 elections. The Commission conducted an investigation. On May 3, 1988, the Commission decided to take no further action with respect to the violation of 2 U.S.C. § 441a(a)(3) by James E. Billie, and also to take no further action and close the file with respect to Howard E. Tommie and Marcellus Osceola. The Tribe and Billie are hereinafter referred to as the "Respondents."

The matter of MUR 2465 was initiated by the Commission, pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Tribe violated 2 U.S.C. § 433(a) by failing to file a Statement of Organization, and 2 U.S.C. § 434(a)(1) by failing to file required reports, when the Tribe made contributions in excess of $1,000 to the Democratic Senatorial Campaign Committee in 1986.

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

I. The Commission has jurisdiction over the subject matters of these proceedings. The Respondents enter into this agreement voluntarily in order to settle these matters between the Commission and the Respondents. The statements contained herein are to be binding only in the instant matters between the Respondents and the Commission.

II. Respondents have had a reasonable opportunity to demonstrate that no actions should be taken in these matters and have provided the Commission with a statement of facts and particulars related to the matter of MUR 1616.

III. The pertinent facts in these matters are as follows:

1. Respondent, the Tribe, is an Indian tribe organized and created pursuant to 25 U.S.C. § 476.

2. Respondent, the Tribe, used $119,400 of Tribal funds to reimburse 35 individuals, from 1979 through 1982, who had made contributions to federal candidates and committees in their own names. This amount includes Billie's contributions of $29,800 to federal candidates and committees. The names of the 35 individuals were supplied to the Commission by the Tribe, or otherwise determined by the Commission as part of its investigation conducted for the matter of MUR 1616.

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3. Respondent, Billie, is the present, and was at all times pertinent hereto, Chairman of the Tribe.

4. Respondent, Billie, made contributions to federal candidates and committees and was reimbursed $29,800 by the Tribe.

5. Respondent, the Tribe, reimbursed Stephen H. Whilden $1,500 for a contribution to the Kennedy for President Committee for the 1980 primary election, $1,500 for a contribution to the Carter/Mondale Presidential Committee for the 1980 primary election, and $2,000 for a contribution to the Committee to Re-Elect Kennedy for the 1982 primary election.

6. Respondent, the Tribe, made contributions totaling $14,000 to the Democratic Senatorial Campaign Committee in 1986.

7. Respondent, the Tribe, has not registered as a political committee, or registered a political committee, with the Commission, nor has it filed any reports of receipts and disbursements with the Commission.

IV. With respect to these matters:

1. The Tribe's reimbursements of Billie, and other individuals who the Commission has specified, of $119,400 from 1979 through 1982, constituted contributions in the names of other persons, which action was prohibited by 2 U.S.C. § 441f.

2. Billie's acceptance of reimbursements from the Tribe of $29,800 for contributions he made to federal candidates and committees was in violation of 2 U.S.C. § 441f.

3. The Tribe's reimbursement of $1,500 to Stephen H. Whilden for a contribution to the Kennedy for President Committee for

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the 1980 primary election was in excess of the contribution limit by $500, in violation of 2 U.S.C. § 441a(a)(1)(A).

4. The Tribe's reimbursement of $1,500 to Stephen H. Whilden for a contribution to the Carter/Mondale Presidential Committee for the 1980 primary election was in excess of the contribution limit by $500, in violation of 2 U.S.C. § 441a(a)(1)(A).

5. The Tribe's reimbursement of $2,000 to Stephen H. Whilden for a contribution to the Committee to Re-Elect Kennedy for the 1982 primary election was in excess of the contribution limit by $1,000, in violation of 2 U.S.C. §441a(a)(1)(A).

6. The Tribe's failure to register as a political committee, or register a political committee, with the Commission, and its failure to file reports of receipts and disbursements with the Commission, when it made contributions in excess of $1,000 in 1986 for the purpose of influencing elections for federal offices, were in violation of 2 U.S.C. §§ 433 and 434(a).

V. Respondent, the Tribe, will pay on behalf of the Tribe and Billie, a civil penalty to the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, in the amount of Thirty Two Thousand dollars ($32,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VI. It is the express intent and understanding of all parties involved that this Agreement has the effect of an Agreement entered into pursuant to 2 U.S.C. § 437g(a)(4)(A)(i),

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and unless violated, is a complete bar to any further action pertaining to the subject matters of MUR 1616 and MUR 2465 by the Commission against the Tribe, Billie, and other Tribe members who are not respondents and who may have received reimbursements from the Tribe during the period 1979 through 1982 for political contributions.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, the Commission may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Thirty-Two Thousand Dollars ($32,000), pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

1. An initial payment of $8,000 to be paid within thirty (30) days from the date this Agreement becomes effective;

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2. Thereafter, beginning on the third month after the initial payment, three consecutive payments at three month intervals of $8,000 each;

3. Each payment described in subparagraph 2 above shall be paid on the first day of the month in which it becomes due;

4. In the event that any installment payment is not received by the Commission by the fifth day of the month in which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is

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not contained in this written agreement, shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 11/4/88

FOR THE RESPONDENTS:

James E. Billie, Chairman
Seminole Tribe of Florida

Date 9/13/88

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flm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Stephen H. Whilden
HQ, USMCA-GSN
Box 287
APO New York 09109-1610

RE: MUR 2465
Stephen H. Whilden

Dear Mr. Whilden:

On May 20, 1988, you were notified that, at your request, the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations has expired. Unless we receive a response from you within ten (10) days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact R. Lee Andersen, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

2004070552

06C1367

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 DEC 12 AM 10: 05

**HAND DELIVERED**


LAW OFFICES

**PARKER, SKELDING, MCVOY & LABASKY**

THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
ROSS A. McVOY
RONALD A. LABASKY
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
JENNIFER PARKER LaVIA
LINDA C. COX

GAYLE SMITH SWEDMARK
OF COUNSEL

DIANA M. HADI*
GOVERNMENTAL CONSULTANT

JULIUS F. PARKER (1910 - 1966)
JOHN A. MADIGAN, JR. (1919 - 1984)
MILLARD F. CALDWELL (1897 - 1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

*NOT A MEMBER OF THE FLORIDA BAR


December 9, 1988

Mr. Lawrence M. Noble
General Counsel
Federal Elections Commission
East E Street, N.W.
Washington, D.C. 20463

88 DEC 12 PM 3: 03

RE: MUR2465 (Merged with MUR1616)
Seminole Tribe of Florida, et al; James E. Billie

Dear Mr. Noble:

Enclosed is a check in the amount of $8,000 payable to the Federal Elections Commission which represents the first installment on the fine in the above matter payable pursuant to the Conciliation Agreement entered into between the Seminole Tribe of Florida and the Federal Elections Commission. Pursuant to my understanding of the Conciliation Agreement the next installment on this fine will be due in 90 days.

In the event there are any questions please contact me.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL:sm

Enclosure

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FEDERAL ELECTION COMMISSION
SECRETARIAT
89 JAN 6 PM 2:29

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

GENERAL COUNSEL'S REPORT

In its last consideration of this matter on November 2, 1988, the Commission approved a revised conciliation agreement with the Seminole Tribe of Florida and James E. Billie, and closed the file as to these respondents. The Commission has recently received the first $8,000 payment toward the total civil penalty of $32,000 provided for in the agreement.

The Commission also approved a letter to be sent to respondent Stephen H. Whilden. Mr. Whilden had engaged in pre-probable cause conciliation negotiations with staff of this Office, had agreed to forward a counterproposed conciliation agreement, but then had failed to do so. Additionally, as this Office reported, Mr. Whilden had provided the Commission an overseas "APO" address, but our attempts either to obtain a telephone number for him overseas, or to determine whether the "APO" address indicated United States government employment, were unsuccessful. Accordingly, the letter requested Mr. Whilden to respond immediately, and stated that absent a response this Office would consider pre-probable cause negotiations terminated. On November 7, 1988, this Office sent the letter by certified mail to Mr. Whilden at the "APO" address. On December 29, 1988, the letter was returned to the Commission by the Post Office as

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undeliverable. We intend to make additional efforts to locate Mr. Whilden and will report further to the Commission with appropriate recommendations.

Date 1/5/89

Lawrence M. Noble
General Counsel

Staff Person: Jonathan Bernstein

00040755

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89 JAN 10 AM 9:50

LAW OFFICES
PARKER, SKELDING, MCVOY & LABASKY
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318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
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GAYLE SMITH SWEDMARK
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JOHN A. MADIGAN, JR. (1919 - 1984)
MILLARD F. CALDWELL (1897 - 1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

*NOT A MEMBER OF THE FLORIDA BAR

January 6, 1989

Jonathan Bernstein, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

89 JAN 10 PM 2:44

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Mr. Bernstein:

Thank you for your recent call to my office concerning the above case. Lee Anderson advised me that you would be assuming responsibility for the handling of this matter in the future. I will direct any further correspondence or questions to you, and I will also direct any future payments by the Seminole Indians to your attention for prompt disposition.

In the event that anything should occur, please contact me immediately.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL:gm

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OGC 2022

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89 MAR -3 PM 3:51

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 MAR -1 AM 10:26


LAW OFFICES

PARKER, SKELDING, MCVOY & LABASKY

THE MADIGAN BUILDING

318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
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GAYLE SMITH SWEDMARK
OF COUNSEL

DIANA M. HADI*
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JOHN A. MADIGAN, JR. (1919 - 1984)
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REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

*NOT A MEMBER OF THE FLORIDA BAR


February 27, 1989

FEDERAL EXPRESS

Jonathan Bernstein, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Mr. Bernstein:

Enclosed is a check in the amount of $8,000 as the second consecutive payment of the fine in the above matter pursuant to the Conciliation Agreement entered into between the Seminole Tribe of Florida and the Federal Elections Commission. Pursuant to my understanding, the next installment on this file will be due in 3 months, which will be June 1, 1989.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL:gm

Enclosure

cc: Jim Shore, Esq.

LAW OFFICES

PARKER, SKELDING, LABASKY & CORRY

A PROFESSIONAL ASSOCIATION

THE MADIGAN BUILDING

318 NORTH MONROE STREET

TALLAHASSEE, FLORIDA

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
RONALD A. LABASKY
WILLIAM W. CORRY, P.A.
GAYLE SMITH SWEDMARK
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
JENNIFER PARKER LaVIA
LINDA C. COX

MILLARD F. CALDWELL (1897 - 1984)
JULIUS F. PARKER (1910 - 1966)
JOHN A. MADIGAN, JR. (1919 - 1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

June 1, 1989

FEDERAL EXPRESS

Jonathan Bernstein, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Mr. Bernstein:

Enclosed is the Seminole's check for $8,000, which was received in my office this morning, as the third consecutive payment of the fine in the above matter pursuant to the Conciliation Agreement entered into between the Seminole Tribe of Florida and the Federal Elections Commission. Pursuant to my understanding, the next installment on this file will be due in 3 months, which will be September 1, 1989.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL:gm

Enclosure

cc: Jim Shore, Esq.

HAND DELIVERED

89 JUN -2 AM 11:11

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 SEP -1 PM 3:49

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |
| | ) | |
| | ) | |

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter principally involves the reimbursement of individual contributions to federal candidates by the Seminole Tribe of Florida. On November 2, 1989, the Commission approved a conciliation agreement with the Seminole Tribe and James E. Billie and closed the file as to these respondents. The Commission has so far received three of the four civil penalty installment payments agreed to by the Seminole Tribe.

The Commission had also approved a letter to be sent to respondent Stephen H. Whilden regarding pre-probable cause conciliation earlier requested by Mr. Whilden. This Office sent the letter by certified mail to Mr. Whilden at an overseas Army Post Office address he had provided. On January 5, 1989, this Office advised the Commission that the letter was returned by the Post Office as undeliverable, and that we intended to make additional efforts to locate Mr. Whilden.

II. ANALYSIS

Despite repeated efforts, this Office has been unable to locate Mr. Whilden. Telephone inquiries of defense and other

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agencies failed to establish that Mr. Whilden is employed by the military or other branches of government or that he could be found at the APO address provided to the Commission.[1/] Additionally, telephone inquiries to directory assistance in Tampa and neighboring Florida cities, as well as to the state and county bar associations, failed to provide a new Florida address for Mr. Whilden.

We have not employed an investigator to attempt to locate and contact Mr. Whilden and do not recommend the Commission do so at this time. Although Mr. Whilden was a culpable participant in the reimbursement practice, the Commission has conciliated with the Seminole Tribe and Mr. Billie, its Chairman. After protracted proceedings in this matter, the bulk of which relates to contributions made from 1979 to 1982, the Tribe is shortly to make its last payment toward the $32,000 civil penalty provided for in the conciliation agreement.[2/] In view of all these circumstances, and in the proper ordering of Commission priorities and resources, see Heckler v. Chaney, 470 U.S. 821 (1985), this Office recommends that the Commission take no further action against Mr. Whilden and close the file in this matter.

---

1/ Despite repeated attempts, staff of this Office were unable to get a direct telephone line to the Giessen, West Germany military facility described by the APO number. Telephone inquiries to the U.S. Information Agency, AID, the State Department, the Marine Corps, the Worldwide Locator, as well as a House Armed Services subcommittee disclosed no record of Mr. Whilden.

2/ Mr. Whilden resisted liability for a separate civil penalty in part because of his personal bankruptcy. His debts were discharged in late 1987 and it is unclear what financial resources Mr. Whilden might currently possess.

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III. **RECOMMENDATIONS**

1. Take no further action against Stephen H. Whilden.

2. Close the file in this matter.

3. Approve the attached letters.

9/1/89
Date

Lawrence M. Noble
General Counsel

Attachments
Proposed letters

Staff assigned: J. Bernstein

00040790561

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES R. HARRIS DRH
COMMISSION SECRETARY

DATE: SEPTEMBER 8, 1989

SUBJECT: MUR 2465 - GENERAL COUNSEL'S REPORT DATED SEPTEMBER 1, 1989

The above-captioned document was circulated to the Commission on Tuesday, September 5, 1989 at 11:00 a.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | |
| Commissioner Josefiak | |
| Commissioner McDonald | xxxxx |
| Commissioner McGarry | |
| Commissioner Thomas | |

This matter will be placed on the meeting agenda for Tuesday, September 19, 1989 at 10:00 a.m.

Please notify us who will represent your Division before the Commission on this matter.

00040705562

LAW OFFICES
PARKER, SKELDING, LABASKY & CORRY
A PROFESSIONAL ASSOCIATION
THE MADIGAN BUILDING
318 NORTH MONROE STREET
TALLAHASSEE, FLORIDA

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 SEP -6 PM 2:23

JULIUS F. PARKER, JR.
JACK M. SKELDING, JR.
RONALD A. LABASKY
WILLIAM W. CORRY, P.A.
GAYLE SMITH SWEDMARK
KEITH C. TISCHLER
TERRELL C. MADIGAN
DAVID D. EASTMAN
JENNIFER PARKER LAVIA
LINDA C. COX

MILLARD F. CALDWELL (1897 - 1984)
JULIUS F. PARKER (1910 - 1966)
JOHN A. MADIGAN, JR. (1919 - 1984)

REPLY TO: P. O. BOX 669
TALLAHASSEE, FL 32302
TELE: (904) 222-3730
FAX: (904) 224-6422

September 5, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 SEP -8 PM 3:46

FEDERAL EXPRESS

Jonathan Bernstein, Esquire
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2465 (Merged with MUR 1616)
Seminole Tribe of Florida, et al., James E. Billie, Howard E. Tommie and Marcellus Osceola

Dear Mr. Bernstein:

Enclosed is the Seminole's check for $8,000, which is the fourth and final installment of the civil penalty imposed on the Seminole Tribe regarding the above matter. As my secretary indicated to you, we received this check in this morning's mail and are forwarding it to you by federal express for your prompt receipt.

Please contact me if you have any questions.

Sincerely,

Ronald A. Labasky

Ronald A. Labasky

RAL:gm
Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session of September 19, 1989, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2465:

1. Reject the recommendations of the General Counsel listed in the Report dated September 1, 1989.

2. Conclude pre-probable cause conciliation; and

3. Proceed to the next stage in the enforcement process.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

9/20/89
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant
Office of the Secretariat

00040079056 4

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 OCT -4 AM 11:27

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 4, 1989

**MEMORANDUM**

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2465

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 were mailed on October 4, 1989. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letter to respondent

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 4, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stephen Hennington Whilden
4110 Empedrado Street
Tampa, FL 33629

RE: MUR 2465
Stephen H. Whilden

Dear Mr. Whilden:

Based on a complaint filed with the Federal Election Commission on January 16, 1984 (MUR 1616), the Commission found that there was reason to believe you violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. The Commission later merged MUR 1616 with MUR 2465. Thereafter, the Commission determined to take no further action with respect to a violation of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3) by you.

With regard to the Commission's section 441f finding, at your request, the Commission entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On September 19, 1989, the Commission terminated conciliation because correspondence to an address provided by you was returned as undeliverable and you failed to respond to the Commission's conciliation proposal. After considering all the evidence available to the Commission, the Office of the General Counsel is now prepared to recommend that the Commission find probable cause to believe that you violated 2 U.S.C. § 441f.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Jonathan Bernstein, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9004074056/

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Stephen H. Whilden | ) | MUR 2465 |
| | ) | |
| | ) | |

**GENERAL COUNSEL'S BRIEF**

## I. BACKGROUND

This matter involves Stephen H. Whilden's use of the Seminole Tribe of Florida's funds for contributions he made in his own name to federal candidates and committees.

On the basis of a complaint filed by Paul Harvill on January 16, 1984, the Commission found that there was reason to believe that Stephen H. Whilden violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), and 441f. Thereafter, the Commission determined to take no further action with respect to a violation of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3) by Mr. Whilden.

At Mr. Whilden's request, the Commission had entered into pre-probable cause conciliation with regard to the section 441f violation. The Commission terminated conciliation, however, when correspondence to an address provided by Mr. Whilden was returned as undeliverable and Mr. Whilden failed to respond to the Commission's conciliation proposal.

## II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended, prohibits the making of contributions in the name of another, and specifically prohibits any person from knowingly permitting his name to be used to effect a contribution in the name of another. 2 U.S.C. § 441f.

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Mr. Stephen H. Whilden was the Tribe's legal counsel from August 31, 1977 until June 15, 1982. According to sworn statements, Mr. Whilden initiated a scheme whereby the Seminole Tribe of Florida reimbursed him and others for a series of contributions made to various federal candidates and committees from 19879 through 1982. Specifically, according to documents produced by the Tribe detailing reimbursement check numbers, dates, and amounts, Mr. Whilden used funds of the Seminole Tribe for a total of $39,900 in contributions he made in his name to federal candidates and committees during this period (see attached list). In sworn responses to interrogatories, Mr. Whilden admitted that he helped develop the reimbursement scheme, that he advised the Tribe on selection of the candidates to receive contributions, that individuals were reimbursed for their contributions from Tribal funds, and that at least "sometimes," he himself received reimbursements for his contributions. By receiving reimbursements from the Tribe for his contributions, Mr. Whilden knowingly allowed his name to be used to effect contributions made in the name of another. Accordingly, there is probable cause to believe Stephen H. Whilden violated 2 U.S.C. § 441f.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Stephen H. Whilden violated 2 U.S.C. § 441f.

10/4/89
Date

Lawrence M. Noble
General Counsel

0004070557

## Reimbursements to Steven Whilden

| Date | Purpose | Amount |
|---|---|---|
| 4/30/80 | Reimbursement for contribution to Florida for Kennedy campaign | $2,000.00 |
| 4/30/80 | Reimbursement for contribution to Kennedy for President | $1,000.00 |
| 4/30/80 | Reimbursement for contribution to Carter/Mondale Campaign | $ 500.00 |
| 1/6/81 | Reimbursement for contribution to Manuel Lujan campaign | $1,000.00 |
| 12/1/80 | Reimbursement for contribution to Kennedy for President | $1,000.00 |
| 10/15/80 | Reimbursement for contribution to Bill Lehman campaign | $ 200.00 |
| 10/15/80 | Reimbursement for contribution to Bill Gunter campaign | $1,000.00 |
| 9/4/80 | Reimbursement for contribution to Ed Stack campaign | $1,000.00 |
| 4/2/80 | Reimbursement for contribution to Senator Stone campaign | $1,000.00 |
| 9/25/80 | Reimbursement for contribution to Alan Becker campaign | $1,000.00 |
| 1/28/82 | Reimbursement for contribution to Larry Smith campaign | $ 500.00 |
| 4/29/80 | Reimbursement for contribution to Richard Stone campaign | $ 200.00 |
| 4/29/80 | Reimbursement for contribution to Florida for Kennedy | $1,000.00 |
| 9/23/80 | Reimbursement for contribution to Senator Tom Lewis | $1,000.00 |
| 5/4/82 | Reimbursement for contribution to Senate/House Dinner | $10,000.00 |
| 10/30/80 | Reimbursement for contribution to Carter/Kennedy Unity Dinner | $1,000.00 |

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| | | |
|---|---|---|
| 9/22/80 | Reimbursement for contribution to Democratic National Committee | $2,500.00 |
| 1/28/82 | Reimbursement for contribution to House Democratic Fund | $1,000.00 |
| 8/14/81 | Reimbursement for contribution to George Sheldon campaign | $1,000.00 |
| 10/24/79 | Reimbursement for contribution to Ed Stack campaign | $1,000.00 |
| 7/10/80 | Reimbursement for contribution to John Ware campaign | $1,000.00 |
| 11/30/79 | Reimbursement for contribution to Carter/ Mondale campaign | $1,000.00 |
| 10/8/81 | Reimbursement for contribution to Alan Becker campaign | $1,000.00 |
| 5/11/81 | Reimbursement for contribution to Bill Gunter campaign | $1,000.00 |
| 4/22/81 | Reimbursement for Kennedy campaign dinner | $1,000.00 |
| 7/23/81 | Reimbursement for Democratic NFC dues | $5,000.00 |
| 9/23/80 | Reimbursement for House Democratic Campaign Funds | $1,000.00 |
| | TOTAL: | $39,900.00 |

00040790571

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 APR 24 AM 11:09

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 19, 1989, the Commission voted to reject this Office's recommendation to take no further action against Stephen H. Whilden in this matter and to close the file. Instead the Commission decided to conclude pre-probable cause conciliation and directed this office to proceed to the next stage in the enforcement process regarding Mr. Whilden. On October 4, 1989, this Office mailed a probable cause brief by first class mail and by certified mail to two addresses of Mr. Whilden in Tampa, Florida, but by mid November these mailings were returned as undeliverable by the Post Office. This Office then contacted a private investigator in Tampa to aid the Commission in locating Mr. Whilden (Attachment 1).

The investigator uncovered Mr. Whilden's last known domestic address to be in Fort Lauderdale, Florida in March of 1988 and could find no additional trace of him (Attachment 2). This Office paid the investigator $800 for his services. We attempted to follow up the additional addresses provided by the investigator

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but were unsuccessful.[1/] We also made informal inquiries of counsel to the Seminole Tribe, and information provided by the Tribe's General Counsel reiterated this Office's previous reports to the Commission: that as of more than a year ago Whilden moved to Germany with an affiliation with the Department of State. As noted in prior reports, however, the Commission's letter to the APO address in Germany given us by Whilden was returned as undeliverable, and we have been unable to confirm any formal link between Whilden and a government agency or department.[2/]

This Office thus far has not been able to give effective notice to Mr. Whilden of the General Counsel's Brief. If the Commission desires this Office to make further efforts to locate

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1/ The investigative report revealed that Mr. Whilden had owned a residence in Fort Lauderdale until 1985. Credit records accessed by the investigator, however, showed it as his residence as of March of 1988 (as noted, the investigator could find no record of Whilden after that date). We mailed additional copies of the probable cause brief to this address, but thus far have received no response. Also according to the report, the Tampa address which was the last good address for Whilden (and which apparently belonged to Whilden's parents) was sold. The investigator provided a Plano, Texas forwarding address for Whilden's father. We mailed copies of the brief to this address, but it is unclear whether this mailing is effective notice to Whilden: although this package apparently was signed for by the new spouse of Whilden's father, we have received no response and have not been able to reach Whilden's father by telephone. We made telephone directory inquiries to locate Joy Whilden, Whilden's mother, but these were unsuccessful. Based on contacts with the Seminole Tribe described next in text, Whilden's mother may have passed away.

2/ We again made telephone inquiries of the State Department to ascertain if Whilden is in fact employed by that Department. We were told that attorneys are rarely employed on contract with the Department; that if such a person were under contract, his or her name would be included in the Personnel Locator data base (a listing for those State Department employees serving overseas); and that Mr. Whilden is not listed in the Personnel Locator.

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Mr. Whilden, we would retain an investigator in Germany to attempt to trace Whilden. For the reasons expressed in earlier reports, it is possible that the added resources needed for such an effort could be better spent on other pending matters. On the other hand, at its last meeting on this matter, the Commission expressed interest in locating and pursuing Mr. Whilden further. Therefore, this Office proposes to expend up to $2,000 to make further inquiries in Germany about Mr. Whilden's whereabouts and if located to serve him with the General Counsel's brief. Under the unusual circumstances presented, this Office desires to put the matter before the Commission for decision.

II. RECOMMENDATION

Approve the hiring by the Office of the General Counsel of an investigator in Germany to locate Mr. Stephen Whilden and to serve him with a copy of the General Counsel's Brief in this matter.

4/23/90
Date

Lawrence M. Noble
General Counsel

Attachments
1. Letter to S. Fernandez
2. Report of F&F Global Investigations

Staff assigned: J. Bernstein

00407057 4

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DELORES HARRIS DH
COMMISSION SECRETARY

DATE: APRIL 27, 1990

SUBJECT: MUR 2465 - GENERAL COUNSEL'S REPORT DATED APRIL 23, 1990

The above-captioned document was circulated to the Commission on Tuesday, April24, 1990 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

| | |
|---|---|
| Commissioner Aikens | XXXX |
| Commissioner Elliott | XXXX |
| Commissioner Josefiak | XXXX |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Thomas | XXXX |

This matter will be placed on the meeting agenda for Tuesday, May 1, 1990.

Please notify us who will represent your Division before the Commission on this matter.

00040705750

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Seminole Tribe of Florida, et al. | ) | MUR 2465 |
| and Stephen H. Whilden | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 1, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to the above-captioned matter:

1. Close the file, with the provision that the case would be reopened at any time that Mr. Stephen Whilden became available for legal process.

2. Direct the Office of General Counsel to show on the record that the case had been closed because of the Commission's inability to serve Mr. Stephen Whilden with a copy of the General Counsel's Brief in this matter.

(continued)

9004070570

3. Direct the Office of General Counsel to send appropriate letters puruant to the above-noted actions.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

5-2-90
Date

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

9004079057

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Harvill
2443-A Ramblewood Court
Tallahassee, FL 32303

RE: MUR 2465

Dear Mr. Harvill:

This is in reference to the complaint you filed with the Federal Election Commission on January 16, 1984 (MUR 1616), alleging the reimbursement of campaign contributions by the Seminole Tribe of Florida. The Commission later merged this matter with MUR 2465.

The Commission found that there was reason to believe the Seminole Tribe of Florida, Howard E. Tommie, and Marcellus Osceola violated 2 U.S.C. § 441f, that Stephen H. Whilden violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), and 441f, and that James E. Billie violated 2 U.S.C. §§ 441a(a)(3) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. The Commission then conducted an investigation in this matter.

Thereafter, the Commission determined to take no further action with respect to Messrs. Tommie and Osceola. On November 2, 1988, a conciliation agreement with James E. Billie and the Seminole Tribe of Florida was accepted by the Commission. A copy of this conciliation agreement is enclosed for your information. On September 6, 1989, the Commission received the final installment payment of the civil penalty provided for in the conciliation agreement.

Because of its inability to serve Stephen H. Whilden with the General Counsel's Probable Cause Brief, on May 1, 1990, the Commission determined to close the file in this matter, with direction that the matter be reopened when Mr. Whilden is located.

If you have any questions, please contact Jonathan Bernstein, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9004070577

CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1990

Ronald A. Labasky, Esquire
Parker, Skelding, McVoy & Labasky
318 N. Monroe Street
Tallahassee, Florida 32302

RE: MUR 2465
Seminole Tribe of Florida
James E. Billie
Howard E. Tommie
Marcellus Osceola

Dear Mr. Labasky:

This letter is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Jonathan Bernstein, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

90040705890