



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

84040474311

THIS IS THE END OF MUR # 1719

Date Filmed 9/31/81 Camera No. --- 1

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FEDERAL ELECTION COMMISSION

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The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act; 5 U.S.C. Section 552(b):

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| <input type="checkbox"/> | (4) Trade secrets and commercial or financial information | <input type="checkbox"/> | (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> | (5) Internal Documents | | |

Signed J. Curry
date 8-30-84

FEC 9-21-77

G Johnson
8/30/84

OM LANTO
Democrat
Congress

RECEIVED AT THE F

84 AUG 27 P 2:24

13404017431

RETURN RECEIPT
REQUESTED

Ms. Deborah Curry
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, DC 20463

CERTIFIED

P 672 191 544

MAIL

P.O. Box 611
Burlingame, CA 94010



TOM LANTOS

RECEIVED AT
AUG 23 1984

August 23, 1984

GCC
#4481

Ms. Deborah Curry
Office of the General Counsel
Federal Election Commission
1325 K St, N.W.
7th Floor
Washington, D.C. 20463

RE: MUR 1719

Dear Ms. Curry:

We are pleased to note that the Commission agrees with our position that the several monetary contributions under review were properly allocated by our committee.

We reiterate the fact, however, that the in-kind contribution (printed matter) was used in both the primary and general elections and was therefore appropriately allocated by our committee to both elections.

Both the facts and the logic of the case support our position in this matter. If an in-kind contribution received prior to the primary election but used in toto for the general election cannot properly be allocated to the primary, clearly materials used in both elections are properly allocable to both elections.

Furthermore the total absence of primary election opposition for either candidate makes it clear that the overriding purpose and usage of the printed matter was for general election purposes.

In summary, we note with approval the decision of the Commission to take no action on what was a complaint lacking in merit in the first place.

Sincerely,

Y. Katrina Lantos-Swett, Treasurer
Tom Lantos for Congress Committee

YKLS:efl

15:51 AUG 28 1984

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

R 4 0 4 0 4 7 4 3 1 4

PERKINS, COIE, STONE, OLSEN & WILLIAMS

1110 VERMONT AVENUE, N.W.
WASHINGTON, D.C. 20005

Ms. Deborah Curry
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

84040174315

BCC 44361

PERKINS, COIE, STONE, OLSEN & WILLIAMS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SEATTLE OFFICE
1999 WASHINGTON BUILDING
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TELEPHONE: (206) 459-6500

ANCHORAGE OFFICE
SUITE 201
480 "L" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 279-6801

PLEASE REPLY TO WASHINGTON, D.C. OFFICE

PORTLAND OFFICE
ONE MAIN PLACE
SUITE 1600
101 S.W. MAIN STREET
PORTLAND, OREGON 97204
TELEPHONE: (503) 299-4400

August 17, 1984

BY HAND

AUG 17 P 4: 47

Ms. Deborah Curry
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

RE: MUR 1719

Dear Ms. Curry:

This letter is to acknowledge receipt of notification by the Federal Election Commission of dismissal of the complaint filed against Congressman Tom Lantos and his campaign committee. The Congressman is pleased the Commission decided to take no action and to close the file.

This letter will also serve to advise you that a statement will be submitted in the next few days to be placed in the file when it is released to the public. We appreciate the opportunity to comment.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Robert F. Bauer /sc

Robert F. Bauer
Counsel
Congressman Tom Lantos
Tom Lantos for Congress
Committee
Katrina Lantos-Swett (individually and as Treasurer)

RFB/taw

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy, Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

Re: MUR 1719

Dear Mr. Avakian and Ms. Poindexter:

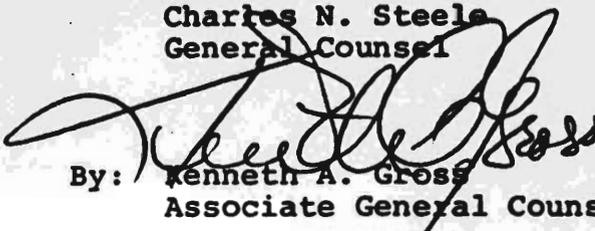
8 4 0 4 0 4 7 4 3 1 7

The Federal Election Commission has reviewed the allegations of your complaint dated May 31, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent, there is reason to believe that the Tom Lantos for Congress Committee and Katrina Lantos-Swett as treasurer violated 2 U.S.C. § 441a(f) a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Additionally, the Commission found reason to believe Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley as treasurer violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 104.14(d) and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr as treasurer violated 2 U.S.C. § 441a(a)(2)(A). However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

Robert F. Bauer
Perkins, Cole, Stone, Olsen & Williams
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 1719
Tom Lantos for Congress
Committee and Katrina
Lantos-Swett as treasurer

Dear Mr. Bauer:

On July 31, 1984, the Commission found reason to believe that your clients violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that accepting an excessive contribution of \$500 from Engineers Political Education Committee and Supporters of Engineers Local 3 Federal Endorsed Candidates nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott
Lee Ann Elliott
Chairman

84040474318



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

Michael Fanning, Counsel
International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

RE: MUR 1719
Engineers Political Education
Committee/International Union of
Operating Engineers and Frank
Hanley as treasurer

Dear Mr. Fanning:

On July 31, 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 104.14(d) in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that making an excessive contribution of \$500 to the Lantos Committee and inaccurate reporting of receipts and expenditures nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Lee Ann Elliott
Chairman

84040474319



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1984

Joe R. McCray
McCray & Lewis
433 Turk Street
San Francisco, California 94102

Re: MUR 1719
Supporters of Engineers Local
3 Federal Endorsed Candidates
and Robert Marr as treasurer

Dear Mr. McCray:

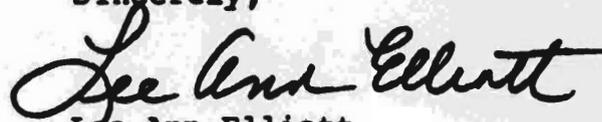
On July 31, 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

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Sincerely,


Lee Ann Elliott
Chairman

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy, Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

D.C.

Re: MUR 1719

Dear Mr. Avakian and Ms. Poindexter:

The Federal Election Commission has reviewed the allegations of your complaint dated May 31, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent, there is reason to believe that the Tom Lantos for Congress Committee and Katrina Lantos-Swett as treasurer violated 2 U.S.C. § 441a(f) a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Additionally, the Commission found reason to believe Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley as treasurer violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 104.14(d) and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr as treasurer violated 2 U.S.C. § 441a(a)(2)(A). However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

84040474321



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert F. Bauer
Perkins, Cole, Stone, Olsen & Williams
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

J.C.

RE: MUR 1719
Tom Lantos for Congress
Committee and Katrina
Lantos-Swett as treasurer

Dear Mr. Bauer:

On July , 1984, the Commission found reason to believe that your clients violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

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If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

84040474322



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Michael Fanning, Counsel
International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

J.C.
J.C.

RE: MUR 1719
Engineers Political Education
Committee/International Union of
Operating Engineers and Frank
Hanley as treasurer

Dear Mr. Fanning:

On July , 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 104.14(d) in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

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The Commission reminds you that making an excessive contribution of \$500 to the Lantos Committee and inaccurate reporting of receipts and expenditures nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

84040474323



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Joe R. McCray
McCray & Lewis
433 Turk Street
San Francisco, California 94102

J.C.

Re: MUR 1719
Supporters of Engineers Local
3 Federal Endorsed Candidates
and Robert Marr as treasurer

Dear Mr. McCray:

On July , 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that making an excessive contribution of \$500 to the Lantos Committee nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

84040474324

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Tom Lantos for Congress)
Committee, et al.)

MUR 1719

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 31, 1984, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1719:

1. Find reason to believe that the Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. § 441a(f), but take no further action.
2. Find reason to believe the Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 104.14(d), but take no further action.
3. Find reason to believe Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), but take no further action.
4. Close the file.
5. Approve the letters attached to the General Counsel's report dated July 23, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, and McGarry voted affirmatively; Commissioner Reiche did not cast a vote.

Attest:

8/2/84

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

84040474325

SENSITIVE

FEDERAL ELECTION COMMISSION OFFICE OF THE
1325 K Street, N.W. COMMISSION SECRETARY
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT 7/24/84 A 8:49

DATE AND TIME OF
TRANSMITTAL BY OGC
TO THE COMMISSION 7/24/84
8:50

MUR 1719
DATE COMPLAINT RECEIVED
BY OGC 5-31-84
DATE OF NOTIFICATION TO
RESPONDENT 6-7-84
STAFF MEMBER: DEBORAH CURRY

COMPLAINANT'S NAME: James Edward Antosh

RESPONDENTS' NAMES: Thomas P. Lantos
Tom Lantos for Congress Committee and
Katrina Lantos-Swett as treasurer
Engineers Political Education Committee/
International Union of Operating Engineers
and Frank Hanley as treasurer
Supporters of Engineers Local 3 Federal
Endorsed Candidates and
Robert Marr as treasurer

RELEVANT STATUTE: 2 U.S.C. §§ 441a(a)(2)(A), 441a(a)(5) and
441a(f), 11 C.F.R. §§ 110.1(a) and
104.14(d)

INTERNAL REPORTS CHECKED: Tom Lantos for Congress Committee,
Engineers Political Education
Committee/International Union of
Operating Engineers, and
Supporters of Engineers Local 3
Federal Endorsed Candidates

SUMMARY OF ALLEGATIONS

On May 31, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1) from James Edward Antosh (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by Thomas P. Lantos, Tom Lantos for Congress Committee (hereinafter "Lantos Committee") and Katrina Lantos-Swett, as treasurer, Engineers Political Education Committee/International Union of Operating Engineers (EPEC/IUOE)

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and Frank Hanley, as treasurer, and Supporters of Engineers Local 3 Federal Endorsed Candidates (SELFEC) and Robert Marr, as treasurer, (all hereinafter "Respondents").

Based on a review of the disclosure reports of Respondents, Complainant alleges that the EPEC/IUOE and SELFEC made an excessive contribution of \$3,600 to the Lantos Committee for the 1982 primary election. Complainant also alleges that the Lantos Committee accepted an excessive contribution of \$3,600 from EPEC/IUOE and SELFEC for the 1982 primary election.

Therefore, Complainant alleges that Respondents have violated 2 U.S.C. §§ 441(a)(f) and 441a(a)(2)(A). Complainant also alleges that the Lantos Committee's treasurer's failure to accurately report information constituted a violation of 11 C.F.R. § 104.14(d).

On June 26, 1984, the Office of General Counsel received responses to the notification of a complaint from EPEC/IUOE (See Attachment 3) and from counsel for Supporters of Engineers Local 3 Endorsed Candidates ("SELEC") the successor group to SELFEC (See Attachment 4). On June 28, 1984, the Office of General Counsel received a response to the notification of a complaint from counsel for the Lantos Committee and its treasurer (See Attachment 2).

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any federal election which in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(f) prohibits a candidate or committee from knowingly

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accepting contributions in violation of the \$5,000 aggregate limitation imposed on contributions under this section.

2 U.S.C. § 441a(a)(5) provides that for purposes of the contribution limitations all contributions made by political committees established or financed or maintained or controlled by a labor organization, including any subsidiary, branch, division, department, or local unit of the labor organization shall be considered to have been made by a single political committee.

11 C.F.R. § 110.1(a) provides that a contribution designated in writing by a contributor for a particular election shall be attributable to that election. Except, that a contribution made after the primary election, shall be allowed only if the recipient committee has outstanding primary debts on the date of the contribution which are equal to or greater than the contribution. 11 C.F.R. § 110.1(a) further provides that contributions not designated in writing by a contributor for a particular election are attributable to the primary election if made on or before the date of the primary election and are attributable to the general election if made after the date of the primary election.

11 C.F.R. § 104.14(d) provides that the treasurer of a political committee must timely and accurately file committee reports of receipts and disbursements.

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a) EPEC/IUOE and SELFEC

A review of the reports filed with the Federal Election Commission reveals that the following contributions were made to the Lantos Committee:

<u>Contributor</u>	<u>Amount</u>	<u>Date Reported Given</u>	<u>Election Reported by Contributor</u>	<u>Date Reported Received</u>	<u>Election Reported by Recipient</u>
EPEC/IUOE	\$ 600	5-6-81	Primary	5-13-81	General '80 deficit
EPEC/IUOE	2,500	6-22-81	Primary	6-25-81	General '80 deficit
EPEC/IUOE	500	2-9-82	Primary	2-16-82	Primary
SELFEC	5,000	6-7-82	Primary (purchase of printing of campaign literature for Tom Lantos)	6-7-82	Primary (in kind)
Total	\$8,600				

The California primary election was held on June 8, 1982.

The report filed by EPEC/IUOE and SELFEC indicate that they are affiliated political committees. Commission records reflect that EPEC/IUOE and SELFEC are multicandidate committees.

In response to the complaint, the Lantos Committee indicated that an error had been made in the designation of some of the above mentioned contributions by EPEC/IUOE. The Lantos Committee states that two of the contributions in question, in the amounts of \$600 and \$2,500 contributed by EPEC/IUOE "had been specifically solicited by the Lantos Committee in the course of a sustained effort to raise the funds necessary to retire a substantial 1980 general campaign debt" (See Attachment 2 page 13 of the attachments). The Lantos Committee explains further that the contribution of \$600 was made by EPEC/IUOE "in connection

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with a debt retirement reception held by the Lantos Committee on May 21, 1981 at the National Democratic Club in Washington, D.C."

An affidavit signed by Tom Lantos is submitted to support this claim (See Attachment 2, page 13 and 17-18 of the attachments). Further solicitations by the Lantos Committee for the 1980 campaign debt were made. According to the Lantos Committee, EPEC/IUOE responded by contributing an additional \$2,500. The letter accompanying the check for \$2,500 specified that it was for the 1980 campaign deficit (See Attachment 2, page 13 and 18, Attachment 3, page 23 of the attachments)

The Lantos Committee maintains that the \$5,000 contribution from SELFEC was an in-kind contribution made primarily for the general and not primary election. The in-kind contribution was the printing costs of campaign flyers and literature by SELFEC for the Lantos Committee. According to the Lantos Committee it was agreed with SELFEC that all costs in "excess of \$5,000 would be paid by the Committee, but the balance of \$5,000 would be assumed as a contribution in-kind to the [Lantos] Committee." The total cost for the flyers was \$6,275.50. (See Attachment 2, page 14 of the attachments).

The Lantos Committee states that "the nature of the contribution made in this context-- i.e., primary or general election related -- was not clearly addressed by the Lantos Committee at that time." However, the Lantos Committee contends that circumstances show that the contribution "was made in connection with both the primary and general election campaigns in 1982." (Ibid). The Lantos Committee claims that due to a

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clerical error the entire contribution was designated for the 1982 primary election. (See Attachment 2, page 14 of the attachments).

The contention of the Lantos Committee is premised on the fact that Congressman Lantos and his opponent ran unopposed in their respective primaries. Therefore, the Lantos Committee concludes that the "overriding purpose in seeking the in-kind contribution of printing cost services -- and its predominant use -- related to the Congressman's pending general election campaign." (See Attachment 2, pages 14-15 of the attachments). The affidavit of Timber Dick, campaign manager of the Lantos for Congress Committee was submitted to affirm this contention. (See Attachment 2, pages 19-20 of the attachments). According to the Lantos Committee, after the clerical error came to their attention, a review of Committee's records ensued. The review indicated that "75% of the in kind contribution -- or \$3,750-- was allocable to the general election, whereas 25 percent or \$1,250-- was allocable to the Congressman's primary election campaign." (See Attachment 2, page 14 of the attachments). On May 24, 1984, an amended report was filed.

In response to the complaint EPEC/IUOE notes that in reviewing its records an error was discovered necessitating an amendment of its FEC disclosure reports. The transmittal letter accompanying the \$2,500 contribution designated the contribution for the 1980 campaign deficit, however, EPEC/IUOE disclosure reports erroneously designated the contribution for the 1982 primary election.

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EPEC/IUOE also notes that upon information and belief the \$5,000 SELFEC in-kind contribution was utilized for the primary and general election and allocated \$1,250 and \$3,750 respectively. An amended FEC Form 3 was filed.

In response to the complaint, SELEC states that SELFEC had no knowledge of EPEC/IUOE contributions and that SELFEC itself did not exceed the applicable limit. According to the SELEC response it was not known until now that the intended use of the \$5,000 in-kind contribution was primarily for the general election (See Attachment 4, pages 26-27 of the attachments).

The Lantos Committee Reports indicated that it had a 1980 general election deficit of at least \$25,966. The affidavit of Congressman Lantos and the contemporaneous letter accompanying the \$2,500 contribution demonstrate that the \$600 and \$2,500 contributions were for the 1980 general election deficit. EPEC/IUOE's failure to properly designate the contribution was a violation of 11 C.F.R. § 104.14(d).

The argument by the Lantos Committee that the \$5,000 in-kind contribution was primarily for the purpose of influencing the general election is without merit. The in-kind contribution made by SELFEC arose at the time that the campaign material was printed and received by the Lantos Committee. SELFEC's making of the in-kind contribution does not extend in time to the date of the ultimate use of the campaign material. Therefore, the \$5,000 in-kind contribution by SELFEC to the Lantos Committee was properly attributable by the parties to the 1982 primary election.

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Consequently, the excessive contribution made by EPEC/IUOE and SELFEC and accepted by the Lantos Committee is \$500. Due to the small amount in question, however, the Office of General Counsel recommends that Commission take no further action.

RECOMMENDATIONS

1. Find reason to believe that the Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. § 441a(f), but take no further action.
2. Find reason to believe the Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 104.14(d), but take no further action.
3. Find reason to believe Supporters fo Engineers Local 3 Federal Endorsed Candidates and Robert Marr, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), but take no further action.
4. Close the file.
5. Approve the attached letters.

Charles N. Steele
General Counsel

July 25, 1984
Date

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

Attachments

1. Complaint (pages 1-11)
2. Response of Lantos Committee (pages 12-20)
3. Response of EPEC/IUOE (pages 21-26)
4. Response of SELFEC (pages 27-28)
5. Letters to Respondents (pages 29-31)
6. Letter to Complainant (pages 32)

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①

Attachment 1

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

James Edward Antosh
13 Gilpin
Shawnee, Oklahoma 74801,

Complainant,

v.

Thomas P. Lantos, Tom Lantos for
Congress Committee, Engineers
Political Education Committee/
International Union of Operating
Engineers and its affiliated
separate segregated fund, SELPEC:
Supporters of Engineers Local 3
Federal Endorsed Candidates, and
all the Committees' treasurers,

Respondents.

Complaint
MUR No. 1719

84040474334

I. INTRODUCTION

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1. Pursuant to 2 U.S.C. §437g(a)(1) James Edward Antosh brings this complaint against candidate for federal public office, Thomas P. Lantos, Tom Lantos for Congress Committee, Engineers Political Education Committee/International Union of Operating Engineers ("EPEC/IUOE") and its affiliated separate segregated fund ("SSF"), SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates ("SELFEC"), and all the Committees' treasurers individually and in their capacities as treasurers for the making and receiving of excessive contributions in violation of 2 U.S.C. §441a(f) and 2 U.S.C. §441a(a)(2)(A).

II. PARTIES

2. Complainant is James Edward Antosh who resides at 13 Gilpin, Shawnee, Oklahoma 74801. He is a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

Respondents are:

- a. Thomas P. Lantos,
P.O. Box 611
Burlingame, California 94010,

3819 South 14th Street
Arlington, Virginia 22204, and

P.O. Box 2884
Washington, D.C. 20013.

84040474335

- b. Y. Katrina Lantos - Swett, individually and in her capacity as treasurer of Tom Lantos for Congress Committee,
 P.O. Box 611
 Burlingame, California 94010,
 3819 South 14th Street -
 Arlington, Virginia 22204, and
 P.O. Box 2884
 Washington, D.C. 20013. -
- c. Tom Lantos for Congress Committee,
 P.O. Box 611
 Burlingame, California 94010,
 3819 South 14th Street
 Arlington, Virginia 22204, and
 P.O. Box 2884
 Washington, D.C. 20013.
- d. Frank Hanley, individually and in his capacity as treasurer of Engineers Political Education Committee/International Union of Operating Engineers,
 1125 17th Street, N.W.
 Washington, D.C. 20036.
- e. Engineers Political Education Committee/International Union of Operating Engineers,
 1125 17th Street, N.W.
 Washington, D.C. 20036.
- f. Robert P. Marr, individually and in his capacity as treasurer of SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
 474 Valencia Street
 San Francisco, California 94103.
- g. SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
 474 Valencia Street
 San Francisco, California 94103.

III. LIABILITY

3. Liability may be imposed upon the candidate, Thomas P. Lantos,

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Tom Lantos for Congress Committee, EPEC/IUOE and its affiliated SSP, SELPEC, pursuant to 2 U.S.C. §441a(a) which establishes the \$5,000.00 (FIVE THOUSAND DOLLAR) maximum contribution ceiling and 2 U.S.C. §441a(f) which proscribes a candidate or political committee from accepting any contributions in excess of \$5,000.00 (FIVE THOUSAND DOLLARS).

4. Liability may be imposed on the treasurers, personally and in their capacities as treasurers pursuant to 11 C.F.R. §104.14(d).

5. For purposes of this complaint, contributions made by EPEC/IUOE and its affiliated SSP, SELPEC, are treated as contributions made from a single committee in accordance with 2 U.S.C. §441a(a)(5) as implemented through 11 C.F.R. §100.5(g)(1)(B).

IV. OVERVIEW

6. Based on Complainant's information and belief, Respondents have contributed or received an aggregate in excess of \$5,000.00 (FIVE THOUSAND DOLLARS) for the 1982 federal primary election in which Thomas P. Lantos was a candidate for public office. Complainant bases his belief on review of the Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" which Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer; EPEC/IUOE and its treasurer; and SELPEC and its treasurer filed for the 1982 federal primary election.

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7. For the 1982 federal primary election, excessive funds were contributed to Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer by EPEC/IUOE and its treasurer, and SELFEC and its treasurer.

8. These unlawful contributions constitute a violation of the Federal Election Campaign Act, 2 U.S.C. §441a(a)(2)(A), which provides that a multicandidate political committee may not contribute more than \$5,000.00 (FIVE THOUSAND DOLLARS) to any candidate and his authorized political committee with respect to any election for federal office and §441a(f) which prohibits a candidate from receiving illegal contributions.

**V. VIOLATIONS OF THE F.E.C.A. BY
TOM LANTOS FOR CONGRESS COMMITTEE
IN THE 1982 FEDERAL PRIMARY ELECTION**

9. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, Complainant believes that candidate for public office, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer, in violation of 2 U.S.C. §441a(f), knowingly accepted contributions for the 1982 federal primary election from EPEC/IUOE and SELFEC in the amount of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

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10. Candidate Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer, for the 1982 federal primary election, accepted contributions from EPEC/IUOE and SELPEC in the following amounts:

<u>Date Received</u>	<u>Amount</u>	<u>Contributor</u>	<u>F.B.C. Microfilm Location</u>
5/13/81	\$600.00	EPEC/IUOE	81012043312
6/25/81	\$2,500.00	EPEC/IUOE	81012043312
2/16/82	\$500.00	EPEC/IUOE	82012141800
6/7/82	<u>\$5,000.00</u>	SELPEC	82012204894
Total		\$8,600.00	

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11. A running total of the amount of contributions received from EPEC/IUOE and its affiliated SSP, SELPEC, would have put on notice Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer that they had received \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) on February 16, 1982. On that date, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer were only permitted to accept an additional contribution of \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS). In violation of 2 U.S.C. §441a(f), they accepted additional contributions and thereby exceeded the maximum \$5,000.00 (FIVE THOUSAND DOLLARS) the statute permits them to accept.

12. Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer failed to accurately report the \$600.00 (SIX HUNDRED DOLLAR) contribution of May 6, 1981, and the \$2,500.00 (TWO

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THOUSAND FIVE HUNDRED DOLLAR) contribution of June 22, 1981 which were designated by EPEC/IUOE as contributions for the primary election. (See F.E.C. Microfilm #81032023988). In violation of 11 C.F.R. §104.14(d), Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer reported them as contributions for the 1980 general election deficit. (See F.E.C. Microfilm #81012043312) F.E.C. regulation, 11 C.F.R. §104.14(d), provides that a treasurer "shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained therein."

**VI. VIOLATIONS OF THE F.E.C.A. BY
EPEC/IUOE AND SELFEC
IN THE 1982 FEDERAL PRIMARY ELECTION**

13. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, the Complainant believes that EPEC/IUOE and SELFEC for the 1982 federal primary election contributed to candidate Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer a total of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

14. EPEC/IUOE and SELFEC contributed the following amounts:

a. On May 6, 1981, EPEC/IUOE contributed \$600.00 (SIX HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

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b. On June 22, 1981, EPEC/IUOE contributed \$2,500.00 (TWO THOUSAND FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

c. On February 9, 1982, EPEC/IUOE contributed \$500.00 (FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #82032253391).

d. On June 7, 1982, SELPEC contributed \$5,000.00 (FIVE THOUSAND DOLLARS). (See F.E.C. Microfilm #82032351219).

15. A running total of the amount contributed to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer would have put on notice EPEC/IUOE and its affiliated SSP, SELPEC, that as of February 9, 1982, they had contributed \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) and that they could only contribute an additional \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS) if they wished to meet the mandates of the law. In violation of 2 U.S.C. §441a(a)(2)(A), a \$5,000.00 (FIVE THOUSAND DOLLAR) contribution was made to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer. This amount exceeded the statutory monetary ceiling by \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS).

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VII. CONCLUSION

16. As documented above, Respondents have violated the spirit and letter of the Federal Election Campaign Act.

17. Complainant requests that an investigation into this complaint be undertaken, that Respondents be ordered to return the accepted

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excess contributions and that civil sanctions be imposed on
the Respondents.

Michael Ernest Avakian
Michael Ernest Avakian
Center on National Labor Policy

Martha M. Poindexter
Martha M. Poindexter
Center on National Labor Policy
5211 Port Royal Road, Suite 400
North Springfield, VA 22151
(703) 321-9180

Attorneys for Complainant

June 1, 1984

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VERIFICATION OF CITIZEN COMPLAINANT

Shawnee)
State of Oklahoma) ss.

Purquant to 2 U.S.C. §437g(a)(1), I, James Edward Antosh, being first duly sworn, say that I have read the foregoing complaint and know the contents thereof, and that the same is true on information and belief. This complaint was not filed at the request or suggestion of any candidate. I am a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

James Edward Antosh

Subscribed and sworn to before me this 21st day of May 1984.

Shirine R. Allison
Notary Public

My Commission expires:
My Commission Expires Sept. 17, 1986

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DESIGNATION OF COUNSEL

I, James Edward Antosh, a complainant to the attached complaint designate the attorneys identified below as complainant's attorneys of record. The Federal Election Commission shall direct all written and oral communications in connection with this matter to my designated counsel.

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Nov 21 1984
Date

James Edward Antosh
Complainant

DESIGNATED COUNSEL

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy
Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

PERKINS, COIE, STONE, OLSEN & WILLIAMS

A PARTNERSHIP HOLDING PROFESSIONAL CORPORATIONS

1110 VERMONT AVENUE, N.W.
WASHINGTON, D.C. 20005

TELEPHONE: (202) 557-6000

FACSIMILE: (202) 557-6000

TELEX: 44-0577

PLEASE REPLY TO WASHINGTON, D.C. OFFICE

(Handwritten circled 'A')

BELLEVUE OFFICE
ONE BELLEVUE CENTER
SUITE 1000

451 - 10TH AVENUE N.E.
BELLEVUE, WASHINGTON 98004
TELEPHONE: (206) 485-0000

PORTLAND OFFICE
ONE MAIN PLACE
SUITE 1000

101 S.W. MAIN STREET
PORTLAND, OREGON 97204
TELEPHONE: (503) 225-4400

SEATTLE OFFICE
1800 WASHINGTON BUILDING
SEATTLE, WASHINGTON 98101
TELEPHONE: (206) 461-0770
CABLE "PERKINS SEATTLE"
TELEX: 55-0010

ANCHORAGE OFFICE
SUITE 301
450 "L" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 570-0001

June 27, 1984

Attachment 2

Mr. Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1719

Dear Mr. Steele:

In response to your notification of June 7, 1984, that a complaint had been received from the Center for National Labor Policy on behalf of one James Edward Antosh, this letter is submitted on behalf of the Tom Lantos for Congress Committee ("the Lantos Committee"), Congressman Thomas P. Lantos and Katrina Lantos-Swett (individually and as treasurer of the Committee).^{1/}

The Antosh complaint seeks to make out a complaint based on the Lantos respondents' acceptance of contributions allegedly in excess of \$ 441a limits from the Engineers Political Education Committee/International (EPEC), and Supporters of Engineers Local 3 Federal Endorsed Candidates (SELFEC).^{2/} The complaint specifically claims that the Lantos respondents accepted \$8,600.00 in contributions from these two committees

^{1/} All of these respondents will be hereinafter referred to collectively as the "Lantos respondents."

^{2/} EPEC and SELFEC are "affiliated" political committees within the meaning of FEC regulations. See 11 C.F.R. § 110.3(a)(1)(ii)(B).

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Mr. Charles Steele
June 27, 1984
Page 2

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combined for the primary election in 1982, in violation of § 441a.

As set forth below, there is no merit to the allegations of the complaint. These allegations rest on the demonstrably erroneous assumption that all of the contributions received by the Lantos Committee related to the primary election campaign of Congressman Lantos in 1982. In fact, however, two of these contributions were made by EPEC for the intended purpose of retiring the Lantos Committee debt from the 1980 general election, while an additional contribution was made by SELFEC toward the Congressman's 1982 general election campaign.

DEBT RETIREMENT CONTRIBUTIONS FROM EPEC

Two of the contributions in question, the amounts of \$600 and \$2,500, were contributed by EPEC to the Lantos Committee in May and June, 1981, respectively. These contributions had been specifically solicited by the Lantos Committee in the course of a sustained effort to raise the funds necessary to retire a substantial 1980 general campaign debt. See affidavit of Congressman Lantos (attached hereto as Exhibit "A") ¶ 2. The contribution of \$600 was made by EPEC in connection with a debt retirement reception held by the Lantos Committee on May 21, 1981 at the National Democratic Club in Washington, D.C. The function of this reception as a debt retirement event was known to all contributors and was stressed by the Congressman and other staff of the Lantos Committee in solicitations made to contributors. See Lantos Aff. ¶ 3. Moreover, after this reception was held, both EPEC and other known supporters of Congressman Lantos and prior contributors to the Lantos Committee continued to be solicited for contributions toward the retirement of the 1980 general election campaign deficit. Thus, the \$2,500 EPEC contribution, received by the Lantos Committee in 1981, was both solicited for this debt retirement purpose, see Lantos Aff. ¶ 5, and accompanied by a cover letter from EPEC identifying the check as related to the 1981 debt retirement effort of the Lantos Committee. See Attachment "B".

Accordingly, with respect to both the \$600 and \$2,500 EPEC contributions, the debt retirement intent of both the Lantos Committee and the contributor is clear from all surrounding facts and circumstances. Accordingly, as even the complainant notes, the contributions were duly reported at the time as debt

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Mr. Charles Steele
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retirement contributions related to the 1980 general election campaign debt. These contributions totalling \$3,100 were therefore erroneously attributed by complainant to the 1982 primary election campaign of Congressman Lantos.

SELFEC "IN-KIND" CONTRIBUTION OF \$5,000 IN PRINTING

SELFEC, an affiliated committee of EPEC, also made an "in-kind" contribution of printing costs to the Lantos Committee in 1982, received by that committee in the form of printed campaign flyers. In the course of seeking assistance from SELFEC with the printing of these flyers, the Lantos Committee reached agreement with SELFEC that all costs in excess of \$5,000 would be paid by the Committee, but that the balance of \$5,000 would be assumed as a contribution in-kind to the Committee. In the end, the total printing costs for the flyers was \$6,275.50; the Lantos Committee therefore paid \$1,275.70, while the \$5,000 balance was borne by SELFEC as a contribution in-kind.

While the nature of the contribution made in this context--i.e., primary or general election related--was not clearly addressed by the Lantos Committee at that time, the facts and circumstances show that this contribution of printing costs was made in connection with both the primary and general election campaigns in 1982. Due to clerical error, however, the contribution was reported in its entirety as a contribution toward the 1982 primary election. Once the error came to the attention of the Committee in May, 1984, a review of the Committee's records was immediately begun, and this review showed that, in fact, 75% of the in-kind contribution--or \$3,750--was allocable to the general election, whereas 25%--or \$1,250--was allocable to the Congressman's primary election campaign.

The position taken by the Committee on this point is fully supported by all relevant facts and circumstances. Congressman Lantos had no opposition in the primary election campaign; this fact was known to his supporters, of course, whose primary aim, therefore, was to enhance his prospects for the general election campaign in which the Congressman faced significant opposition from the Republican nominee. In addition, it is noted that the Congressman's Republican opponent also had no primary opposition, so the parameters of the general election campaign were set and well-known in mid-March. The overriding

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purpose in seeking the in-kind contribution of printing cost services--and its predominant use--related to the Congressman's pending general election campaign. See Affidavit of Timber Dick, campaign manager of the Lantos for Congress Committee (attached hereto as Exhibit "C").

Indeed this predominant general election function was true not only of those brochures which were distributed after the date of the primary election, but also of those which were distributed prior to the date of that election. Those brochures distributed prior to the primary served a variety of general election purposes including, but not limited to: fundraising, volunteer recruitment and building candidate name recognition. The only primary election purpose served by the brochures was to increase voter turnout. Since this voter turnout had no real bearing on the Congressman's re-election effort, this purpose was far less important than those which related to the general election.

As indicated above a significant portion of the in-kind printed materials were distributed during the period of the general election. The material served throughout the summer and fall months as the pamphlet used in connection with both the campaign field operations and fundraising efforts. Clearly its distribution in this context was exclusively for purposes of the general election.

In seeking to determine the appropriate allocation of the in-kind printing contribution between the primary and general elections, the committee sought to take into account, on a reasonable basis, the substantial general election purposes of those brochures distributed before the primary as well as the significant level of distribution after the primary election. An overall examination of the ratio of general election spending to primary election shows a ratio of approximately \$900,000.00 to \$210,000.00, or roughly 80% for the general to 20% for the primary. Using this overall ratio as a rough guideline, viewed also in light of the actual purpose and usage of the contributed material, the Committee concluded that an allocation of 75% of the in-kind printing contribution to the general election and 25% to the primary election would be conservative but realistic. Accordingly on May 24, 1984, the Committee filed an amendment with the FEC correcting the

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Mr. Charles Steele
June 27, 1984
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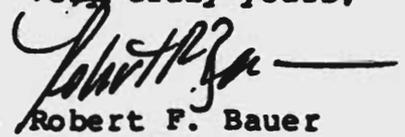
original clerical error and so allocating the in-kind contribution.

CONCLUSION

The Lantos respondents maintain that the Lantos Committee properly reported the May and June, 1981, contributions from EPEC as contributions towards the 1980 general election deficit. It further maintains that due to a clerical error the June, 1982 \$5,000.00 in-kind contribution from SELFEC was reported in its entirety as a contribution to the 1982 primary election. When this clerical error was brought to the attention of the Committee, a review of available information was begun. Based on that review an amendment reflecting a reasonable allocation of the contribution in-kind to both primary and general election was filed with the Commission.

The Committee believes that the facts clearly demonstrate that there has been no acceptance of excessive campaign contributions by the Lantos respondents. The Commission should take no further action in this matter.

Very truly yours,



Robert F. Bauer
Counsel
Congressman Tom Lantos
Tom Lantos for Congress Committee
Katrina Lantos-Swett (individually
and as Treasurer)

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AFFIDAVIT

I, Tom Lantos, having been duly sworn and deposed, testify as follows:

1. I am a Member of Congress from the 11th District of California. In 1982, I was a successful candidate for reelection to this seat in the House of Representatives.

2. In the spring and summer of 1981, I and members of my campaign staff devoted substantial attention to the retirement of a debt outstanding from my previous 1980 election campaign. I was personally involved in planning and conducting this debt retirement effort.

3. Among the activities related to this debt retirement effort, my principal campaign committee held a debt retirement fundraising reception on May 21, 1981, at the National Democratic Club in Washington, D.C. Those solicited for attendance--and contributions toward the retirement of my debt--were specifically advised of the debt retirement function of the event. I personally made a number of telephone calls to encourage attendance and contributions and I routinely explained the fundraising event as one designed to raise funds necessary to retire my outstanding 1980 debt.

4. On May 13, 1980, a contribution of \$600 was received from the Engineers Political Education Committee (EPEC) in response to the solicitations to the National Democratic Club debt retirement reception. This contribution represents the

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purchase of three tickets to the reception (\$200.00 per ticket). While the check was not forwarded with an accompanying letter or designation for debt retirement purposes, the clear facts and circumstances surrounding this reception and its promotion, including my own personal appeals for contributions, left no doubt that the contribution was intended by EPEC as one to assist in retiring the 1980 debt.

5. Moreover, my concentration on debt retirement efforts spawned continuing efforts, beyond the May 21 National Democratic Club reception, to encourage contributions to assist with debt retirement. As a result, the same EPEC which made the \$600.00 contribution in May 1981, contributed an additional \$2500.00 in June 1981, toward the same 1980 campaign debt retirement effort. In this second instance, the check carried a clear statement of designation for 1980 debt retirement purposes.

I certify that this statement is true and accurate to the best of my knowledge and belief.

Dated: 6/26/84

Tom Lantos
TOM LANTOS

The above was sworn and signed before me this 26th day of June, 1984.

James Indelmet
NOTARY PUBLIC
my commission expires
June 30th 1985.



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RECEIVED

JUN 1 1982

TOM LANTOS
WASHINGTON OFFICE

TIMBER DICK

4320 Zenobia Street
Denver, Colorado 80212

I, Timber Dick, herewith aver & depose, the following:

I served as campaign manager for the Tom Lantos for Congress Committee from March 1982 thru December 1982. During that time, I had general responsibility for all areas of the campaign, including the production and dissemination of printed campaign media.

In this connection, I was involved in the production and distribution of a brochure printed as an in-kind contribution by SELFEC / Local 3 of the Operating Engineers for the Lantos campaign committee.

Because Congressman Lantos faced no primary opposition during the 1982 campaign, the overriding purpose of all activities undertaken by the campaign, including those activities prior to the date of the primary, was to affect and influence the outcome of the general election in November. This was clearly the case as regards the purpose of the in-kind printing contribution of SELFEC. It was intended to increase Congressman Lantos' name recognition, strengthen his support in the district, serve as a means of recruiting volunteer workers for the general election, and as a means of soliciting grassroots campaign contributions. It also had the subsidiary purpose of increasing voter turnout for the primary election; however since this turnout had little practical significance for the Congressman's reelection, this purpose was less important than those previously cited.

To the best of my recollection, the brochures were received in the latter half of May. A portion was distributed in the days before the primary election, and the balance was distributed during the remaining five months of the campaign by means of an extensive field operations program. This program included blanket distribution at all significant events in the district; leafletting at shopping centers, supermarkets, movie theatres, major traffic intersections, etc.; distribution thru a massive precinct walking program involving over 300 precincts; and distribution at local fundraising events.

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While the brochure was used extensively both before and after the primary election, its overriding purpose was to effect the outcome of the general election, and not to influence the results of an uncontested primary election.

I certify that this statement is true and accurate to the best of my knowledge and belief.

signed: [Signature]

date: JUNE 18, 1954

.....

The above was sworn and signed before me this 18th day of June, 1954.

notary's signature: [Signature]

1954

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International Union of Operating Engineers

1125 SEVENTEENTH STREET NORTHWEST • WASHINGTON, D. C. 20036

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

OFFICE OF GENERAL PRESIDENT • (202) 452-0100

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Attachment 3

June 26, 1984

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Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1719

Dear Mr. Steele:

This statement is submitted on behalf of the Engineers Political Education Committee of the International Union of Operating Engineers (EPEC/IUOE) and its Treasurer, Frank Hanley, in response to the Complaint filed in the above-captioned matter.

The Complaint alleges that EPEC/IUOE and its affiliated committee, Supporters of Engineers Local 3 Federal Endorsed Candidates (SELFEC) contributed \$8,600 to the Tom Lantos for Congress Committee (the Lantos Committee) in connection with the 1982 primary election, in violation of 2 U.S.C. § 441a(a)(2)(A).

Contrary to the allegations of the Complaint, EPEC/IUOE and its affiliated committee, consistent with 2 U.S.C. § 441a(a)(2)(A), could have contributed \$5,000 to the Lantos Committee for the 1982 primary election, as well as \$5,000 for the general election. The sole issue in this matter is whether the contributions in question were properly designated and allocated to assure that the \$5,000 per election restriction was not exceeded.

Upon information and belief, the \$5,000 contribution of in-kind printing services made to the Lantos Committee by SELFEC on June 7, 1982 was, in fact, utilized by the Lantos Committee, in part, for both the primary and general

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election campaigns. As a result, on May 24, 1984 the Lantos Committee filed an amended FEC Form 3 report indicating that \$1,250 of the June 7, 1982 contribution was allocated to the primary election and \$3,750 was allocated to the general election. This allocation of the in-kind services provided by SELFEC, establishes that the total contributions of EPEC/IUOE and SELFEC to the primary election of Congressman Lantos did not exceed \$4,850, well within the limitation of 2 U.S.C. § 441a(a)(2)(A).

Be advised, however, that in addition to the above, EPEC/IUOE has discovered that a further amendment of the FEC reports pertaining to this matter is necessary. In reviewing its records in connection with this matter EPEC/IUOE found that its June 22, 1981 contribution of \$2,500 to the Lantos Committee had been designated as a 1980 campaign deficit contribution in the transmittal letter which accompanied the contribution. A copy of that transmittal letter is enclosed as Exhibit 1. In EPEC/IUOE's FEC Form 3 report filed subsequent to the contribution, however, it was reported as a 1982 primary contribution. This administrative error has been corrected by EPEC/IUOE's filing of an amended report accurately identifying the purpose of the June 22, 1981 contribution. A copy of that amended report is enclosed as Exhibit 2.

Based upon the factual corrections to the record cited herein, it has been established that during the 1982 election cycle EPEC/IUOE and SELFEC contributed the following amounts to the Lantos Committee:

- 1980 deficit - \$2,500
- 1982 primary - \$2,350
- 1982 general - \$3,750

For the foregoing reasons it is requested that the General Counsel find no reason to believe that 2 U.S.C. § 441a(a)(2)(A) has been violated and that he recommend the Commission take no further action in this matter.

Sincerely,

Michael R. Fanning
Michael R. Fanning
Counsel

MRF/jlw

Enclosures

84040474355

HANLEY
Seventeenth Street, N.W.
Washington, D.C. 20036
47-0360

ENGINEERS
Political
Education
Committee

23



June 25, 1981

Mr. E. Caphan, Treasurer
TOM LANTOS FOR CONGRESS COMMITTEE
P. O. Box 2884
Washington, D.C. 20013

Dear Mr. Caphan:

Attached hereto is our check No. 000438 in the amount of
\$2,500.00 as a contribution from the Engineers
Political Education Committee of the International
Union of Operating Engineers for Congressman Lantos's
campaign deficit of 1980.

If this check together with any other contributions
from our Local Unions exceeds the amount provided
by Federal Law, please advise.

Sincerely,

J. C. Turner
J. C. Turner
CHAIRMAN

Frank Hanley
Frank Hanley
TREASURER

JCT:FR/kmg
Enc. (1)

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1. Name of Committee (in Full)
Engineers Political Education
Committee (EPEC)/International
Union of Operating Engineers (IUOE)

Address (Number and Street)
1125 17th Street, N. W.

City, State and ZIP Code
Washington, D. C. 20036

Check if address is different than previously reported.

2. FEC Identification Number
C-00029504

3. This committee qualified as a multicandidate com-
mittee during this Reporting Period on _____
(Date)

4. TYPE OF REPORT (check appropriate boxes)

- (a) April 15 Quarterly Report
 - July 15 Quarterly Report
 - October 15 Quarterly Report
 - January 31 Year End Report
 - July 31 Mid Year Report (Non-election Year Only)
 - Monthly Report for _____
 - Twelfth day report preceding _____
(Type of Election)
election on _____ in the State of _____
 - Thirtieth day report following the General Election
on _____ in the State of _____
 - Termination Report
- (b) Is this Report an Amendment?
 YES NO

SUMMARY

5. Covering Period 1-1-81 Through 6-30-81

6. (a) Cash on Hand January 1, 19_____

(b) Cash on Hand at Beginning of Reporting Period

(c) Total Receipts (from Line 18)

(d) Subtotal (add lines 6(b) and 6(c) for Column A and
lines 6(a) and 6(c) for Column B)

7. Total Disbursements (from Line 28)

8. Cash on Hand at Close of Reporting Period (subtract line 7 from 6(d)) ...

9. Debts and Obligations Owed TO the Committee
(Itemize all on Schedule C or Schedule D)

10. Debts and Obligations Owed BY the Committee
(Itemize all on Schedule C or Schedule D)

	Column A This Period	Column B Calendar Year-to-Date
6(a)		\$ 34,163.59
6(b)	\$ 34,163.59	
6(c)	\$ 125,679.38	\$ 125,679.38
6(d)	\$ 159,842.97	\$ 159,842.97
7	\$ 117,021.29	\$ 117,021.29
8	\$ 42,821.68	\$ 42,821.68
9	\$ 0	
10	\$ 0	

I certify that I have examined this Report and to the best of my knowledge and belief
it is true, correct and complete.

For further information, contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-623-4068

Frank Hanley
Type or Print Name of Treasurer

June 25, 1984

SIGNATURE OF TREASURER

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

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Any information copied from such Reports and 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) Engineers Political Education Committee (EPEC)/International Union of Operating Engineers (IUOE)			
A. Full Name, Mailing Address and ZIP Code Tom Lantos for Congress Committee P. O. Box 2884 Washington, D. C. 20013	Purpose of Disbursement \$3,100.00 Cong. Tom Lantos 11th C. D. Ca.	Date (month, day, year) 6-22-81	Amount of Each Disbursement This Period \$2,500.00
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify): 1980 Deficit		
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
C. Full Name, Mailing Address and ZIP Code 8	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
D. Full Name, Mailing Address and ZIP Code 5 4 3	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
E. Full Name, Mailing Address and ZIP Code 0 1	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
F. Full Name, Mailing Address and ZIP Code 0 4	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			

26

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1719

NAME OF COUNSEL: Michael P. Fanning

ADDRESS: International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 429-9100

1719: All: 58

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.

June 26, 1984
Date

Frank Hanley
Signature

84040474359

RESPONDENT'S NAME: Frank Hanley, Treasurer, Engineers Political Education Committee

ADDRESS: International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

HOME PHONE: -----

BUSINESS PHONE: (202) 429-9100

JOE R. McCRAY
WILLIAM S. LEWIS
CLIFF WEINGUS
JYLANA D. COLLINS
GENA RAE EICHENBERG

MCCRAY & LEWIS
A LAW CORPORATION
453 TURK STREET
SAN FRANCISCO, CA 94102
(415) 778-3900

June 23, 1984

THE FEC
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27

Attachment 4

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1719

Dear Mr. Gross:

This office serves as counsel for the Association of Supporters of Engineers Local 3 Endorsed Candidates ("SELEC"), in some ways a successor to SELFEC. The latter is mentioned in the above-named cases. Operating Engineers Local 3 received a copy of Mr. Antosh's complaint on June 12, 1984, addressed to Robert P. Marr. I returned from vacation on June 20, and have therefore had precious little time to investigate this matter.

The SELEC officers are different from the SELFEC officers. Mr. Marr, to whom your letter is directed, is no longer associated with SELFEC, Local 3 and never was associated with SELEC. Even so, certain materials are available to a preliminary response.

SELFEC printed brochures for the Tom Lantos for Congress Committee in May of 1982. It was SELFEC's understanding that the Committee was going to reimburse SELFEC for some or all of the printing. When the brochures were picked up on May 17, 1982, the Committee paid for the cost of the printing in excess of \$5,000.00 or \$1,275.70. When no reimbursement was received for any part of the remaining \$5,000.00 by June 7, 1982, the \$5,000.00 was shown as a campaign contribution for that period.

The Local and SELEC have no knowledge of any contributions by EPEC, nor do SELFEC records provide any information on EPEC contributions.

The Lantos Committee now tells us that the material printed was primarily intended for and used in the general election, so that \$3,750.00 of the \$5,000.00 should be allocated to the general, rather than the primary election.

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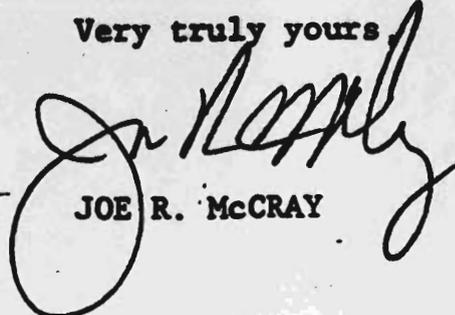
28

Kenneth A. Gross
June 23, 1984
Page Two

SELFEC reported accurately based on information it had and did not itself exceed the applicable limit. If the printing costs had been properly allocated the combined contributions of EPEC and SELFEC would have been under the maximums - if Mr. Antosh's complaint is accurate. It therefore appears that no further action by the FEC would be warranted.

If the FEC believes that SELFEC should file an amended report, we will attempt to do that even though SELFEC is no longer in existence. We feel it inappropriate to require the Committee to refund \$500.00 to SELFEC, but we would accede to a refund if the FEC feels it necessary.

Very truly yours,



JOE R. McCRAY

JRM/pp

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

29

Attachment 5

Robert F. Bauer
Perkins, Cole, Stone, Olsen & Williams
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 1719
Tom Lantos for Congress
Committee and Katrina
Lantos-Swett as treasurer

Dear Mr. Bauer:

On July , 1984, the Commission found reason to believe that your clients violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that accepting an excessive contribution of \$500 from Engineers Political Education Committee and Supporters of Engineers Local 3 Federal Endorsed Candidates nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

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30



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20163

Michael Fanning, Counsel
International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

RE: MUR 1719
Engineers Political Education
Committee/International Union of
Operating Engineers and Frank
Hanley as treasurer

Dear Mr. Fanning:

On July , 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. § 104.14(d) in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that making an excessive contribution of \$500 to the Lantos Committee and inaccurate reporting of receipts and expenditures nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

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31



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Joe R. McCray
McCray & Lewis
433 Turk Street
San Francisco, California 94102

Re: MUR 1719
Supporters of Engineers Local
3 Federal Endorsed Candidates
and Robert Marr as treasurer

Dear Mr. McCray:

On July , 1984, the Commission found reason to believe that your client violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that making an excessive contribution of \$500 to the Lantos Committee nevertheless appears to be a violation of the Act. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Deborah Curry, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

84040474364



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Attachment 6

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy, Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

Re: MUR 1719

Dear Mr. Avakian and Ms. Poindexter:

The Federal Election Commission has reviewed the allegations of your complaint dated May 31, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent, there is reason to believe that the Tom Lantos for Congress Committee and Katrina Lantos-Swett as treasurer violated 2 U.S.C. § 441a(f) a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Additionally, the Commission found reason to believe Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley as treasurer violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 104.14(d) and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr as treasurer violated 2 U.S.C. § 441a(a)(2)(A). However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

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PERKINS, COIE, STONE, OLSEN & WILLIAMS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SEATTLE OFFICE
1900 WASHINGTON BUILDING
SEATTLE, WASHINGTON 98101
TELEPHONE: (206) 462-8770
CABLE "PERKINS SEATTLE"
TELEX: 26-0610

ANCHORAGE OFFICE
SUITE 301
450 "L" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 579-0061

1110 VERMONT AVENUE, N.W.
WASHINGTON, D.C. 20005
TELEPHONE: (202) 597-9000
FACSIMILE (F.P.S. 20): (202) 523-2020
TELEX: 44-0877

PLEASE REPLY TO WASHINGTON, D.C. OFFICE

BELLEVUE OFFICE
ONE BELLEVUE CENTER
SUITE 1000
411 - 100TH AVENUE N.E.
BELLEVUE, WASHINGTON 98004
TELEPHONE: (206) 453-0000

PORTLAND OFFICE
ONE MAIN PLACE
SUITE 1000
101 S.W. MAIN STREET
PORTLAND, OREGON 97204
TELEPHONE: (503) 523-4400

June 27, 1984

Mr. Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1719

Dear Mr. Steele:

In response to your notification of June 7, 1984, that a complaint had been received from the Center for National Labor Policy on behalf of one James Edward Antosh, this letter is submitted on behalf of the Tom Lantos for Congress Committee ("the Lantos Committee"), Congressman Thomas P. Lantos and Katrina Lantos-Swett (individually and as treasurer of the Committee).^{1/}

The Antosh complaint seeks to make out a complaint based on the Lantos respondents' acceptance of contributions allegedly in excess of § 441a limits from the Engineers Political Education Committee/International (EPEC), and Supporters of Engineers Local 3 Federal Endorsed Candidates (SELFEC).^{2/} The complaint specifically claims that the Lantos respondents accepted \$8,600.00 in contributions from these two committees

^{1/} All of these respondents will be hereinafter referred to collectively as the "Lantos respondents."

^{2/} EPEC and SELFEC are "affiliated" political committees within the meaning of FEC regulations. See 11 C.F.R. § 110.3(a)(1)(ii)(B).

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Mr. Charles Steele
June 27, 1984
Page 2

combined for the primary election in 1982, in violation of § 441a.

As set forth below, there is no merit to the allegations of the complaint. These allegations rest on the demonstrably erroneous assumption that all of the contributions received by the Lantos Committee related to the primary election campaign of Congressman Lantos in 1982. In fact, however, two of these contributions were made by EPEC for the intended purpose of retiring the Lantos Committee debt from the 1980 general election, while an additional contribution was made by SELFEC toward the Congressman's 1982 general election campaign.

DEBT RETIREMENT CONTRIBUTIONS FROM EPEC

Two of the contributions in question, the amounts of \$600 and \$2,500, were contributed by EPEC to the Lantos Committee in May and June, 1981, respectively. These contributions had been specifically solicited by the Lantos Committee in the course of a sustained effort to raise the funds necessary to retire a substantial 1980 general campaign debt. See affidavit of Congressman Lantos (attached hereto as Exhibit "A") ¶ 2. The contribution of \$600 was made by EPEC in connection with a debt retirement reception held by the Lantos Committee on May 21, 1981 at the National Democratic Club in Washington, D.C. The function of this reception as a debt retirement event was known to all contributors and was stressed by the Congressman and other staff of the Lantos Committee in solicitations made to contributors. See Lantos Aff. ¶ 3. Moreover, after this reception was held, both EPEC and other known supporters of Congressman Lantos and prior contributors to the Lantos Committee continued to be solicited for contributions toward the retirement of the 1980 general election campaign deficit. Thus, the \$2,500 EPEC contribution, received by the Lantos Committee in 1981, was both solicited for this debt retirement purpose, see Lantos Aff. ¶ 5, and accompanied by a cover letter from EPEC identifying the check as related to the 1981 debt retirement effort of the Lantos Committee. See Attachment "B".

Accordingly, with respect to both the \$600 and \$2,500 EPEC contributions, the debt retirement intent of both the Lantos Committee and the contributor is clear from all surrounding facts and circumstances. Accordingly, as even the complainant notes, the contributions were duly reported at the time as debt

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Mr. Charles Steele
June 27, 1984
Page 3

retirement contributions related to the 1980 general election campaign debt. These contributions totalling \$3,100 were therefore erroneously attributed by complainant to the 1982 primary election campaign of Congressman Lantos.

SELFEC "IN-KIND" CONTRIBUTION OF \$5,000 IN PRINTING

SELFEC, an affiliated committee of EPEC, also made an "in-kind" contribution of printing costs to the Lantos Committee in 1982, received by that committee in the form of printed campaign flyers. In the course of seeking assistance from SELFEC with the printing of these flyers, the Lantos Committee reached agreement with SELFEC that all costs in excess of \$5,000 would be paid by the Committee, but that the balance of \$5,000 would be assumed as a contribution in-kind to the Committee. In the end, the total printing costs for the flyers was \$6,275.50; the Lantos Committee therefore paid \$1,275.70, while the \$5,000 balance was borne by SELFEC as a contribution in-kind.

While the nature of the contribution made in this context--i.e., primary or general election related--was not clearly addressed by the Lantos Committee at that time, the facts and circumstances show that this contribution of printing costs was made in connection with both the primary and general election campaigns in 1982. Due to clerical error, however, the contribution was reported in its entirety as a contribution toward the 1982 primary election. Once the error came to the attention of the Committee in May, 1984, a review of the Committee's records was immediately begun, and this review showed that, in fact, 75% of the in-kind contribution--or \$3,750--was allocable to the general election, whereas 25%--or \$1,250--was allocable to the Congressman's primary election campaign.

The position taken by the Committee on this point is fully supported by all relevant facts and circumstances. Congressman Lantos had no opposition in the primary election campaign; this fact was known to his supporters, of course, whose primary aim, therefore, was to enhance his prospects for the general election campaign in which the Congressman faced significant opposition from the Republican nominee. In addition, it is noted that the Congressman's Republican opponent also had no primary opposition, so the parameters of the general election campaign were set and well-known in mid-March. The overriding

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Mr. Charles Steele
June 27, 1984
Page 4

purpose in seeking the in-kind contribution of printing cost services--and its predominant use--related to the Congressman's pending general election campaign. See Affidavit of Timber Dick, campaign manager of the Lantos for Congress Committee (attached hereto as Exhibit "C").

Indeed this predominant general election function was true not only of those brochures which were distributed after the date of the primary election, but also of those which were distributed prior to the date of that election. Those brochures distributed prior to the primary served a variety of general election purposes including, but not limited to: fundraising, volunteer recruitment and building candidate name recognition. The only primary election purpose served by the brochures was to increase voter turnout. Since this voter turnout had no real bearing on the Congressman's re-election effort, this purpose was far less important than those which related to the general election.

As indicated above a significant portion of the in-kind printed materials were distributed during the period of the general election. The material served throughout the summer and fall months as the pamphlet used in connection with both the campaign field operations and fundraising efforts. Clearly its distribution in this context was exclusively for purposes of the general election.

In seeking to determine the appropriate allocation of the in-kind printing contribution between the primary and general elections, the committee sought to take into account, on a reasonable basis, the substantial general election purposes of those brochures distributed before the primary as well as the significant level of distribution after the primary election. An overall examination of the ratio of general election spending to primary election shows a ratio of approximately \$900,000.00 to \$210,000.00, or roughly 80% for the general to 20% for the primary. Using this overall ratio as a rough guideline, viewed also in light of the actual purpose and usage of the contributed material, the Committee concluded that an allocation of 75% of the in-kind printing contribution to the general election and 25% to the primary election would be conservative but realistic. Accordingly on May 24, 1984, the Committee filed an amendment with the FEC correcting the

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Mr. Charles Steele
June 27, 1984
Page 5

original clerical error and so allocating the in-kind contribution.

CONCLUSION

The Lantos respondents maintain that the Lantos Committee properly reported the May and June, 1981, contributions from EPEC as contributions towards the 1980 general election deficit. It further maintains that due to a clerical error the June, 1982 \$5,000.00 in-kind contribution from SELFEC was reported in its entirety as a contribution to the 1982 primary election. When this clerical error was brought to the attention of the Committee, a review of available information was begun. Based on that review an amendment reflecting a reasonable allocation of the contribution in-kind to both primary and general election was filed with the Commission.

The Committee believes that the facts clearly demonstrate that there has been no acceptance of excessive campaign contributions by the Lantos respondents. The Commission should take no further action in this matter.

Very truly yours,



Robert F. Bauer
Counsel
Congressman Tom Lantos
Tom Lantos for Congress Committee
Katrina Lantos-Swett (individually
and as Treasurer)

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AFFIDAVIT

I, Tom Lantos, having been duly sworn and deposed, testify as follows:

1. I am a Member of Congress from the 11th District of California. In 1982, I was a successful candidate for reelection to this seat in the House of Representatives.

2. In the spring and summer of 1981, I and members of my campaign staff devoted substantial attention to the retirement of a debt outstanding from my previous 1980 election campaign. I was personally involved in planning and conducting this debt retirement effort.

3. Among the activities related to this debt retirement effort, my principal campaign committee held a debt retirement fundraising reception on May 21, 1981, at the National Democratic Club in Washington, D.C. Those solicited for attendance--and contributions toward the retirement of my debt--were specifically advised of the debt retirement function of the event. I personally made a number of telephone calls to encourage attendance and contributions and I routinely explained the fundraising event as one designed to raise funds necessary to retire my outstanding 1980 debt.

4. On May 13, 1980, a contribution of \$600 was received from the Engineers Political Education Committee (EPEC) in response to the solicitations to the National Democratic Club debt retirement reception. This contribution represents the

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purchase of three tickets to the reception (\$200.00 per ticket). While the check was not forwarded with an accompanying letter or designation for debt retirement purposes, the clear facts and circumstances surrounding this reception and its promotion, including my own personal appeals for contributions, left no doubt that the contribution was intended by EPEC as one to assist in retiring the 1980 debt.

5. Moreover, my concentration on debt retirement efforts spawned continuing efforts, beyond the May 21 National Democratic Club reception, to encourage contributions to assist with debt retirement. As a result, the same EPEC which made the \$600.00 contribution in May 1981, contributed an additional \$2500.00 in June 1981, toward the same 1980 campaign debt retirement effort. In this second instance, the check carried a clear statement of designation for 1980 debt retirement purposes.

I certify that this statement is true and accurate to the best of my knowledge and belief.

Dated: 6/26/84

Tom Lantos
TOM LANTOS

The above was sworn and signed before me this 26th day of June, 1984.

James Indelmet
NOTARY PUBLIC
my commission expires
June 30th 1985

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RECEIVED

JUN 19 1984

TOM LANTOS
WASHINGTON OFFICE

TIMBER DICK

4320 Zenobia Street
Denver, Colorado 80212

I, Timber Dick, herewith aver & depose, the following:

I served as campaign manager for the Tom Lantos for Congress Committee from March 1982 thru December 1982. During that time, I had general responsibility for all areas of the campaign, including the production and dissemination of printed campaign media.

In this connection, I was involved in the production and distribution of a brochure printed as an in-kind contribution by SELFEC / Local 3 of the Operating Engineers for the Lantos campaign committee.

Because Congressman Lantos faced no primary opposition during the 1982 campaign, the overriding purpose of all activities undertaken by the campaign, including those activities prior to the date of the primary, was to affect and influence the outcome of the general election in November. This was clearly the case as regards the purpose of the in-kind printing contribution of SELFEC. It was intended to increase Congressman Lantos' name recognition, strengthen his support in the district, serve as a means of recruiting volunteer workers for the general election, and as a means of soliciting grassroots campaign contributions. It also had the subsidiary purpose of increasing voter turnout for the primary election; however since this turnout had little practical significance for the Congressman's reelection, this purpose was less important than those previously cited.

To the best of my recollection, the brochures were received in the latter half of May. A portion was distributed in the days before the primary election, and the balance was distributed during the remaining five months of the campaign by means of an extensive field operations program. This program included blanket distribution at all significant events in the district; leafletting at shopping centers, supermarkets, movie theatres, major traffic intersections, etc.; distribution thru a massive precinct walking program involving over 300 precincts; and distribution at local fundraising events.

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While the brochure was used extensively both before and after the primary election, its overriding purpose was to affect the outcome of the general election, and not to influence the results of an uncontested primary election.

I certify that this statement is true and accurate to the best of my knowledge and belief.

signed: *Tim Rish*

date: JUNE 18, 1984

.....

The above was sworn and signed before me this 18th day of June, 1984.

notary's signature: *[Signature]*



8404044374



★ OFFICE OF GENERAL PRESIDENT

★
★ *International Union of Operating Engineers*

★ 1125 SEVENTEENTH STREET NORTHWEST ★ WASHINGTON, D.C. 20036

★

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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11:44

600#3817



International Union of Operating Engineers

1125 SEVENTEENTH STREET NORTHWEST • WASHINGTON, D. C. 20036
AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

OFFICE OF GENERAL PRESIDENT • (202) 428-9100

DC

June 26, 1984

24 JUN 26 AM 11:44

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1719

Dear Mr. Steele:

This statement is submitted on behalf of the Engineers Political Education Committee of the International Union of Operating Engineers (EPEC/IUOE) and its Treasurer, Frank Hanley, in response to the Complaint filed in the above-captioned matter.

The Complaint alleges that EPEC/IUOE and its affiliated committee, Supporters of Engineers Local 3 Federal Endorsed Candidates (SELFEC) contributed \$8,600 to the Tom Lantos for Congress Committee (the Lantos Committee) in connection with the 1982 primary election, in violation of 2 U.S.C. § 441a(a)(2)(A).

Contrary to the allegations of the Complaint, EPEC/IUOE and its affiliated committee, consistent with 2 U.S.C. § 441a(a)(2)(A), could have contributed \$5,000 to the Lantos Committee for the 1982 primary election, as well as \$5,000 for the general election. The sole issue in this matter is whether the contributions in question were properly designated and allocated to assure that the \$5,000 per election restriction was not exceeded.

Upon information and belief, the \$5,000 contribution of in-kind printing services made to the Lantos Committee by SELFEC on June 7, 1982 was, in fact, utilized by the Lantos Committee, in part, for both the primary and general

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election campaigns. As a result, on May 24, 1984 the Lantos Committee filed an amended FEC Form 3 report indicating that \$1,250 of the June 7, 1982 contribution was allocated to the primary election and \$3,750 was allocated to the general election. This allocation of the in-kind services provided by SELFEC, establishes that the total contributions of EPEC/IUOE and SELFEC to the primary election of Congressman Lantos did not exceed \$4,850, well within the limitation of 2 U.S.C. § 441a(a)(2)(A).

Be advised, however, that in addition to the above, EPEC/IUOE has discovered that a further amendment of the FEC reports pertaining to this matter is necessary. In reviewing its records in connection with this matter EPEC/IUOE found that its June 22, 1981 contribution of \$2,500 to the Lantos Committee had been designated as a 1980 campaign deficit contribution in the transmittal letter which accompanied the contribution. A copy of that transmittal letter is enclosed as Exhibit 1. In EPEC/IUOE's FEC Form 3 report filed subsequent to the contribution, however, it was reported as a 1982 primary contribution. This administrative error has been corrected by EPEC/IUOE's filing of an amended report accurately identifying the purpose of the June 22, 1981 contribution. A copy of that amended report is enclosed as Exhibit 2.

Based upon the factual corrections to the record cited herein, it has been established that during the 1982 election cycle EPEC/IUOE and SELFEC contributed the following amounts to the Lantos Committee:

- 1980 deficit - \$2,500
- 1982 primary - \$2,350
- 1982 general - \$3,750

For the foregoing reasons it is requested that the General Counsel find no reason to believe that 2 U.S.C. § 441a(a)(2)(A) has been violated and that he recommend the Commission take no further action in this matter.

Sincerely,

Michael R. Fanning
Counsel

MRF/jlw

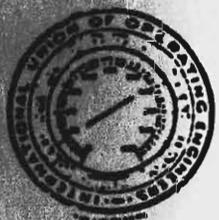
Enclosures

84040174377

FRANK HANLEY
25 Seventeenth Street, N.W.
Washington, D.C. 20036
347-8960

Engineers Political Education Committee

EXHIBIT 1



June 25, 1981

Mr. E. Caphan, Treasurer
TOM LANTOS FOR CONGRESS COMMITTEE
P. O. Box 2884
Washington, D.C. 20013

Dear Mr. Caphan:

Attached hereto is our check No. 000438 in the amount of
\$2,500.00 as a contribution from the Engineers
Political Education Committee of the International
Union of Operating Engineers for Congressman Lantos's
campaign deficit of 1980.

If this check together with any other contributions
from our Local Unions exceeds the amount provided
by Federal Law, please advise.

Sincerely,

J.C. Turner
J. C. Turner
CHAIRMAN

Frank Hanley

Frank Hanley
TREASURER

JCT:FH/kmg

Enc. (1)

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SCHEDULE B

ITEMIZED DISBURSEMENTS

Page 1 of 1 for
LINE NUMBER 21
 (Use separate schedule(s) for each
 category of the Detailed
 Summary Page)

Any information copied from such Reports and 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) Engineers Political Education Committee (EPEC)/International Union of Operating Engineers (IUOE)			
A. Full Name, Mailing Address and ZIP Code Tom Lantos for Congress Committee P. O. Box 2884 Washington, D. C. 20013	Purpose of Disbursement \$3,100.00 Cong. Tom Lantos 11th C. D. Ca.	Date (month, day, year) 6-22-81	Amount of Each Disbursement This Period \$2,500.00
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input checked="" type="checkbox"/> Other (specify): 1980 Deficit		
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
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I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
SUBTOTAL of Disbursements This Page (optional)			
TOTAL This Period (last page this line number only)			

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1719

NAME OF COUNSEL: Michael R. Fanning

ADDRESS: International Union of Operating Engineers
1125 17th Street, N.W.

Washington, D.C. 20036

TELEPHONE: (202) 429-9100

14 JUN 26 AM 11:58

GENERAL COUNSEL

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.

June 26, 1984
Date


Signature

RESPONDENT'S NAME: Frank Hanley, Treasurer, Engineers Political
Education Committee

ADDRESS: International Union of Operating Engineers
1125 17th Street, N.W.

Washington, D.C. 20036

HOME PHONE: -----

BUSINESS PHONE: (202) 429-9100

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McCRAY & LEWIS

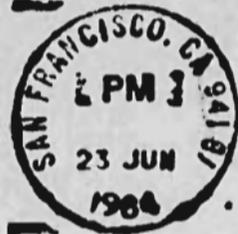
A LAW CORPORATION

433 TURK STREET

SAN FRANCISCO, CA 94102

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04 JUN 26 10:45

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463



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84 JUN 26 10:46

JOE B. MCGRAY
WILLIAM G. LEWIS
CLIFF WEINGUS
JYLANA D. COLLINS
GENA RAE EICHENBERG

MCGRAY & LEWIS
A LAW CORPORATION
433 TURK STREET
SAN FRANCISCO, CA 94102
(415) 775-3900

June 23, 1984

4 JUN 26 10:00

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1719

Dear Mr. Gross:

This office serves as counsel for the Association of Supporters of Engineers Local 3 Endorsed Candidates ("SELEC"), in some ways a successor to SELFEC. The latter is mentioned in the above-named cases. Operating Engineers Local 3 received a copy of Mr. Antosh's complaint on June 12, 1984, addressed to Robert P. Marr. I returned from vacation on June 20, and have therefore had precious little time to investigate this matter.

The SELEC officers are different from the SELFEC officers. Mr. Marr, to whom your letter is directed, is no longer associated with SELFEC, Local 3 and never was associated with SELEC. Even so, certain materials are available to a preliminary response.

SELFEC printed brochures for the Tom Lantos for Congress Committee in May of 1982. It was SELFEC's understanding that the Committee was going to reimburse SELFEC for some or all of the printing. When the brochures were picked up on May 17, 1982, the Committee paid for the cost of the printing in excess of \$5,000.00 or \$1,275.70. When no reimbursement was received for any part of the remaining \$5,000.00 by June 7, 1982, the \$5,000.00 was shown as a campaign contribution for that period.

The Local and SELEC have no knowledge of any contributions by EPEC, nor do SELFEC records provide any information on EPEC contributions.

The Lantos Committee now tells us that the material printed was primarily intended for and used in the general election, so that \$3,750.00 of the \$5,000.00 should be allocated to the general, rather than the primary election.

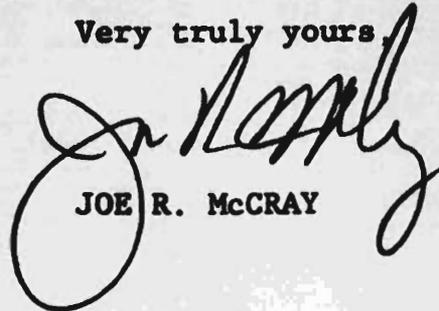
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Kenneth A. Gross
June 23, 1984
Page Two

SELFEC reported accurately based on information it had and did not itself exceed the applicable limit. If the printing costs had been properly allocated the combined contributions of EPEC and SELFEC would have been under the maximums - if Mr. Antosh's complaint is accurate. It therefore appears that no further action by the FEC would be warranted.

If the FEC believes that SELFEC should file an amended report, we will attempt to do that even though SELFEC is no longer in existence. We feel it inappropriate to require the Committee to refund \$500.00 to SELFEC, but we would accede to a refund if the FEC feels it necessary.

Very truly yours,



JOE R. McCRAY

JRM/pp

84040174384

STATEMENT OF DESIGNATION OF COUNSEL

84 JUN 28 P 1: 50

MUR 1719

NAME OF COUNSEL: Robert Bauer

GCC # 3828

ADDRESS: Perkins + Coie

1110 Vermont Ave Suite 1200, N.W.

Wash. D.C. 20005

TELEPHONE: 202 / 887-9030

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.

84040174385

6-20-84
Date

Katrina Lambos-Swift
Signature

RESPONDENT'S NAME: Katrina Lambos-Swift

ADDRESS: ~~www.katrina.com~~ ~~Home~~

P.O. Box 611

Burlingame, Ca. 94010

HOME PHONE: 415 / 344-3231

BUSINESS PHONE: 415 / 579-5511

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ANTOS
Democrat
Congress

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Street, NW
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EXPRESS MAIL
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RETURN RECEIPT REQUESTED

Congress of the United States
House of Representatives
Washington, D.C. 20515

OFFICIAL BUSINESS

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Federal Election Commission
Washington, D.C. 20463



JUN 13 11:00 AM '84

U.S. MAIL

STATEMENT OF DESIGNATION OF COUNSEL

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84 JUN 13 AIO: 57

MUR 1719

NAME OF COUNSEL: ROBERT BAYER

ADDRESS: SUITE 1200
1110 VERMONT AVE N.W.
WASHINGTON, D.C. 20005

TELEPHONE: 789-2920

24 JUN 13 P 2: 56

GENERAL COUNSEL

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.

6/11/84
Date

Tom Lantos
Signature

RESPONDENT'S NAME: TOM LANTOS

ADDRESS: 1707 LONGWORTH HO1B
WASHINGTON, D.C. 20515

HOME PHONE: _____

BUSINESS PHONE: 225-3531

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 7, 1984

Michael E. Avakian, Esquire
Martha M. Poindexter, Esquire
Center on National Labor Policy
Suite 400
5211 Port Royal Road
Springfield, Virginia, 22151

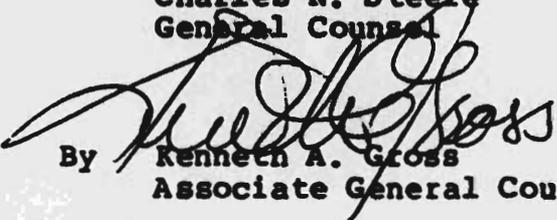
Dear Mr. Avakian and Ms. Poindexter:

This letter is to acknowledge receipt of the complaint of your client, James Edward Antosh, which we received on May 31, 1984, against Congressman Thomas P. Lantos; Katrina Lantos-Swett; Tom Lantos for Congress Committee; Frank Hanley; Engineers Political Education Committee/International Union of Operating Engineers; Robert P. Marr; and Supporters of Engineer Local 3 Federal Endorsed Candidates, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent 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 Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure

84040474389



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 7, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert P. Marr, Treasurer
Supporters of Engineers
Local 3 Federal Endorsed
Candidates
474 Valencia Street
San Francisco, California 94103

Re: MUR 1719

Dear Mr. Marr:

This letter is to notify you that on May 31, 1984 the Federal Election Commission received a complaint which alleges that the committee and you, individually, and as treasurer, 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 1719. 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 committee and you, individually, and as treasurer, 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.

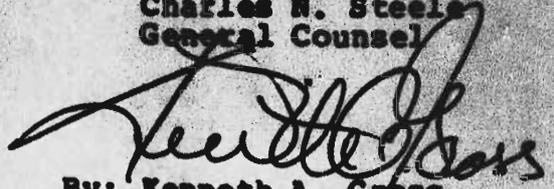
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000. 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

June 7, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Thomas P. Lantos
1707 Longworth House Office Building
Washington, D.C. 20515

Re: MUR 1719

Dear Congressman Lantos:

This letter is to notify you that on May 31, 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 1719. 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.

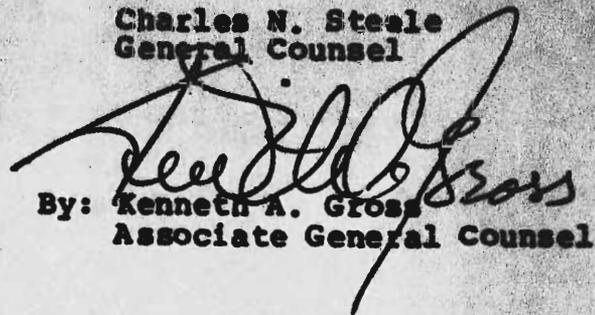
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steale
General Counsel



By: Kenneth A. Gross
Associate General Counsel

84040474393

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 7, 1984

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Katrina Lantos-Swett, Treasurer
Tom Lantos for Congress Committee
P.O. Box 611
Burlingame, California 94010

Re: MUR 1719

Dear Ms. Swett:

This letter is to notify you that on May 31, 1984 the Federal Election Commission received a complaint which alleges that the committee and you, individually, and as treasurer, 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 1719. 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 committee and you, individually, and as treasurer, 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.

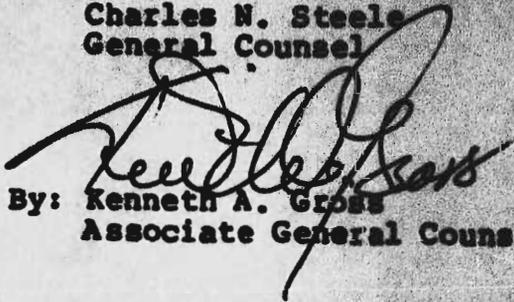
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000. 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

84040474395



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 7, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Hanley, Treasurer
Engineers Political Education
Committee/International Union
of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20013

Re: MUR 1719

Dear Mr. Hanley:

This letter is to notify you that on May 31, 1984 the Federal Election Commission received a complaint which alleges that the committee and you, individually, and as treasurer, 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 1719. 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 committee and you, individually, and as treasurer, 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.

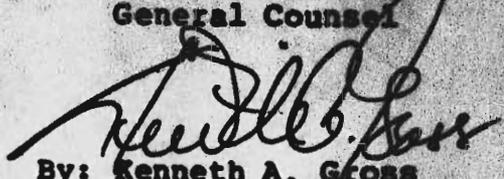
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

84040174396

If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000. 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

84040474397

Enclosures

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

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

James Edward Antosh
13 Gilpin
Shawnee, Oklahoma 74801,

Complainant,

v.

Thomas P. Lantos, Tom Lantos for
Congress Committee, Engineers
Political Education Committee/
International Union of Operating
Engineers and its affiliated
separate segregated fund, SELFEC:
Supporters of Engineers Local 3
Federal Endorsed Candidates, and
all the Committees' treasurers,

Respondents.

Complaint
MUR No. 1719

84040474398

I. INTRODUCTION

1. Pursuant to 2 U.S.C. §437g(a)(1) James Edward Antosh brings this complaint against candidate for federal public office, Thomas P. Lantos, Tom Lantos for Congress Committee, Engineers Political Education Committee/International Union of Operating Engineers ("EPEC/IUOE") and its affiliated separate segregated fund ("SSF"), SELPEC: Supporters of Engineers Local 3 Federal Endorsed Candidates ("SELPEC"), and all the Committees' treasurers individually and in their capacities as treasurers for the making and receiving of excessive contributions in violation of 2 U.S.C. §441a(f) and 2 U.S.C. §441a(a)(2)(A).

II. PARTIES

2. Complainant is James Edward Antosh who resides at 13 Gilpin, Shawnee, Oklahoma 74801. He is a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

Respondents are:

- a. Thomas P. Lantos,
P.O. Box 611
Burlingame, California 94010,

3819 South 14th Street
Arlington, Virginia 22204, and

P.O. Box 2884
Washington, D.C. 20013.

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84040474400

- b. Y. Katrina Lantos - Swett, individually and in her capacity as treasurer of Tom Lantos for Congress Committee,
P.O. Box 611
Burlingame, California 94010,

3819 South 14th Street
Arlington, Virginia 22204, and

P.O. Box 2884
Washington, D.C. 20013.
- c. Tom Lantos for Congress Committee,
P.O. Box 611
Burlingame, California 94010,

3819 South 14th Street
Arlington, Virginia 22204, and

P.O. Box 2884
Washington, D.C. 20013.
- d. Frank Hanley, individually and in his capacity as treasurer of Engineers Political Education Committee/International Union of Operating Engineers,
1125 17th Street, N.W.
Washington, D.C. 20036.
- e. Engineers Political Education Committee/International Union of Operating Engineers,
1125 17th Street, N.W.
Washington, D.C. 20036.
- f. Robert P. Marr, individually and in his capacity as treasurer of SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
474 Valencia Street
San Francisco, California 94103.
- g. SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
474 Valencia Street
San Francisco, California 94103.

III. LIABILITY

- 3. Liability may be imposed upon the candidate, Thomas P. Lantos,

Tom Lantos for Congress Committee, EPEC/IUOE and its affiliated SSP, SELFEC, pursuant to 2 U.S.C. §441a(a) which establishes the \$5,000.00 (FIVE THOUSAND DOLLAR) maximum contribution ceiling and 2 U.S.C. §441a(f) which proscribes a candidate or political committee from accepting any contributions in excess of \$5,000.00 (FIVE THOUSAND DOLLARS).

4. Liability may be imposed on the treasurers, personally and in their capacities as treasurers pursuant to 11 C.F.R. §104.14(d).

5. For purposes of this complaint, contributions made by EPEC/IUOE and its affiliated SSP, SELFEC, are treated as contributions made from a single committee in accordance with 2 U.S.C. §441a(a)(5) as implemented through 11 C.F.R. §100.5(g)(i)(B).

IV. OVERVIEW

6. Based on Complainant's information and belief, Respondents have contributed or received an aggregate in excess of \$5,000.00 (FIVE THOUSAND DOLLARS) for the 1982 federal primary election in which Thomas P. Lantos was a candidate for public office. Complainant bases his belief on review of the Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" which Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer; EPEC/IUOE and its treasurer; and SELFEC and its treasurer filed for the 1982 federal primary election.

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7. For the 1982 federal primary election, excessive funds were contributed to Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer by EPEC/IUOE and its treasurer, and SELFEC and its treasurer.

8. These unlawful contributions constitute a violation of the Federal Election Campaign Act, 2 U.S.C. §441a(a)(2)(A), which provides that a multicandidate political committee may not contribute more than \$5,000.00 (FIVE THOUSAND DOLLARS) to any candidate and his authorized political committee with respect to any election for federal office and §441a(f) which prohibits a candidate from receiving illegal contributions.

**V. VIOLATIONS OF THE F.E.C.A. BY
TOM LANTOS FOR CONGRESS COMMITTEE
IN THE 1982 FEDERAL PRIMARY ELECTION**

9. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, Complainant believes that candidate for public office, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer, in violation of 2 U.S.C. §441a(f), knowingly accepted contributions for the 1982 federal primary election from EPEC/IUOE and SELFEC in the amount of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

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10. Candidate Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer, for the 1982 federal primary election, accepted contributions from EPEC/IUOE and SELFEC in the following amounts:

<u>Date Received</u>	<u>Amount</u>	<u>Contributor</u>	<u>F.E.C. Microfilm Location</u>
5/13/81	\$600.00	EPEC/IUOE	81012043312
6/25/81	\$2,500.00	EPEC/IUOE	81012043312
2/16/82	\$500.00	EPEC/IUOE	82012141800
6/7/82	<u>\$5,000.00</u>	SELFEC	82012204894
Total	\$8,600.00		

11. A running total of the amount of contributions received from EPEC/IUOE and its affiliated SSF, SELFEC, would have put on notice Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer that they had received \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) on February 16, 1982. On that date, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer were only permitted to accept an additional contribution of \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS). In violation of 2 U.S.C. §441a(f), they accepted additional contributions and thereby exceeded the maximum \$5,000.00 (FIVE THOUSAND DOLLARS) the statute permits them to accept.

12. Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer failed to accurately report the \$600.00 (SIX HUNDRED DOLLAR) contribution of May 6, 1981, and the \$2,500.00 (TWO

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THOUSAND FIVE HUNDRED DOLLAR) contribution of June 22, 1981 which were designated by EPEC/IUOE as contributions for the primary election. (See F.E.C. Microfilm #81032023988). In violation of 11 C.F.R. §104.14(d), Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer reported them as contributions for the 1980 general election deficit. (See F.E.C. Microfilm #81012043312) F.E.C. regulation, 11 C.F.R. §104.14(d), provides that a treasurer "shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained therein."

**VI. VIOLATIONS OF THE F.E.C.A. BY
EPEC/IUOE AND SELFEC
IN THE 1982 FEDERAL PRIMARY ELECTION**

13. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, the Complainant believes that EPEC/IUOE and SELFEC for the 1982 federal primary election contributed to candidate Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer a total of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

14. EPEC/IUOE and SELFEC contributed the following amounts:

a. On May 6, 1981, EPEC/IUOE contributed \$600.00 (SIX HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

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b. On June 22, 1981, EPEC/IUOE contributed \$2,500.00 (TWO THOUSAND FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

c. On February 9, 1982, EPEC/IUOE contributed \$500.00 (FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #82032253391).

d. On June 7, 1982, SELFEC contributed \$5,000.00 (FIVE THOUSAND DOLLARS). (See F.E.C. Microfilm #82032351219).

15. A running total of the amount contributed to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer would have put on notice EPEC/IUOE and its affiliated SSP, SELFEC, that as of February 9, 1982, they had contributed \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) and that they could only contribute an additional \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS) if they wished to meet the mandates of the law. In violation of 2 U.S.C. §441a(a)(2)(A), a \$5,000.00 (FIVE THOUSAND DOLLAR) contribution was made to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer. This amount exceeded the statutory monetary ceiling by \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS).

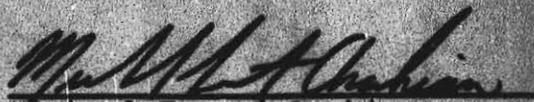
VII. CONCLUSION

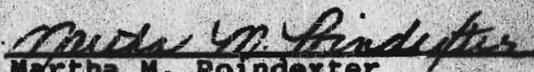
16. As documented above, Respondents have violated the spirit and letter of the Federal Election Campaign Act.

17. Complainant requests that an investigation into this complaint be undertaken, that Respondents be ordered to return the accepted

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excess contributions and that civil sanctions be imposed on the Respondents.


Michael Ernest Avakian
Center on National Labor Policy


Martha M. Poindexter
Center on National Labor Policy
5211 Port Royal Road, Suite 400
North Springfield, VA 22151
(703) 321-9180

Attorneys for Complainant

June 1 , 1984

84040174406

VERIFICATION OF CITIZEN COMPLAINANT

Shawnee)
State of Oklahoma) ss.

Pursuant to 2 U.S.C. §437g(a)(1), I, James Edward Antosh, being first duly sworn, say that I have read the foregoing complaint and know the contents thereof, and that the same is true on information and belief. This complaint was not filed at the request or suggestion of any candidate. I am a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

James Edward Antosh

Subscribed and sworn to before me this 21st day of May 1984.

Alvin R. Almon
Notary Public

My Commission expires:

My Commission Expires Sept. 17, 1986

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DESIGNATION OF COUNSEL

I, James Edward Antosh, a complainant to the attached complaint designate the attorneys identified below as complainant's attorneys of record. The Federal Election Commission shall direct all written and oral communications in connection with this matter to my designated counsel.

May 21, 1984
Date

James Edward Antosh
Complainant

DESIGNATED COUNSEL

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy
Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

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24 JUN 1 10:53

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

James Edward Antosh)
13 Gilpin)
Shawnee, Oklahoma 74801,)

Complainant,)

v.)

Thomas P. Lantos, Tom Lantos for)
Congress Committee, Engineers)
Political Education Committee/)
International Union of Operating)
Engineers and its affiliated)
separate segregated fund, SELPEC:)
Supporters of Engineers Local 3)
Federal Endorsed Candidates, and)
all the Committees' treasurers,)

Respondents.)

Complaint)
HUR No. 1719)

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I. INTRODUCTION

1. Pursuant to 2 U.S.C. §437g(a)(1) James Edward Antosh brings this complaint against candidate for federal public office, Thomas P. Lantos, Tom Lantos for Congress Committee, Engineers Political Education Committee/International Union of Operating Engineers ("EPEC/IUOE") and its affiliated separate segregated fund ("SSF"), SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates ("SELFEC"), and all the Committees' treasurers individually and in their capacities as treasurers for the making and receiving of excessive contributions in violation of 2 U.S.C. §441a(f) and 2 U.S.C. §441a(a)(2)(A).

II. PARTIES

2. Complainant is James Edward Antosh who resides at 13 Gilpin, Shawnee, Oklahoma 74801. He is a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

Respondents are:

- a. Thomas P. Lantos,
P.O. Box 611
Burlingame, California 94010,

3819 South 14th Street
Arlington, Virginia 22204, and

P.O. Box 2884
Washington, D.C. 20013.

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- b. Y. Katrina Lantos - Swett, individually and in her capacity as treasurer of Tom Lantos for Congress Committee,
P.O. Box 611
Burlingame, California 94010,
3819 South 14th Street
Arlington, Virginia 22204, and
P.O. Box 2884
Washington, D.C. 20013.
- c. Tom Lantos for Congress Committee,
P.O. Box 611
Burlingame, California 94010,
3819 South 14th Street
Arlington, Virginia 22204, and
P.O. Box 2884
Washington, D.C. 20013.
- d. Frank Hanley, individually and in his capacity as treasurer of Engineers Political Education Committee/International Union of Operating Engineers,
1125 17th Street, N.W.
Washington, D.C. 20036.
- e. Engineers Political Education Committee/International Union of Operating Engineers,
1125 17th Street, N.W.
Washington, D.C. 20036.
- f. Robert P. Marr, individually and in his capacity as treasurer of SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
474 Valencia Street
San Francisco, California 94103.
- g. SELFEC: Supporters of Engineers Local 3 Federal Endorsed Candidates,
474 Valencia Street
San Francisco, California 94103.

III. LIABILITY

3. Liability may be imposed upon the candidate, Thomas P. Lantos,

Tom Lantos for Congress Committee, EPEC/IUOE and its affiliated SSP, SELFEC, pursuant to 2 U.S.C. §441a(a) which establishes the \$5,000.00 (FIVE THOUSAND DOLLAR) maximum contribution ceiling and 2 U.S.C. §441a(f) which proscribes a candidate or political committee from accepting any contributions in excess of \$5,000.00 (FIVE THOUSAND DOLLARS).

4. Liability may be imposed on the treasurers, personally and in their capacities as treasurers pursuant to 11 C.F.R. §104.14(d).

5. For purposes of this complaint, contributions made by EPEC/IUOE and its affiliated SSP, SELFEC, are treated as contributions made from a single committee in accordance with 2 U.S.C. §441a(a)(5) as implemented through 11 C.F.R. §100.5(g)(i)(B).

IV. OVERVIEW

6. Based on Complainant's information and belief, Respondents have contributed or received an aggregate in excess of \$5,000.00 (FIVE THOUSAND DOLLARS) for the 1982 federal primary election in which Thomas P. Lantos was a candidate for public office. Complainant bases his belief on review of the Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" which Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer; EPEC/IUOE and its treasurer; and SELFEC and its treasurer filed for the 1982 federal primary election.

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7. For the 1982 federal primary election, excessive funds were contributed to Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer by EPEC/IUOE and its treasurer, and SELPEC and its treasurer.

8. These unlawful contributions constitute a violation of the Federal Election Campaign Act, 2 U.S.C. §441a(a)(2)(A), which provides that a multicandidate political committee may not contribute more than \$5,000.00 (FIVE THOUSAND DOLLARS) to any candidate and his authorized political committee with respect to any election for federal office and §441a(f) which prohibits a candidate from receiving illegal contributions.

**V. VIOLATIONS OF THE F.E.C.A. BY
TOM LANTOS FOR CONGRESS COMMITTEE
IN THE 1982 FEDERAL PRIMARY ELECTION**

9. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, Complainant believes that candidate for public office, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer, in violation of 2 U.S.C. §441a(f), knowingly accepted contributions for the 1982 federal primary election from EPEC/IUOE and SELFEC in the amount of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

10. Candidate Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer, for the 1982 federal primary election, accepted contributions from EPEC/IUOE and SELPEC in the following amounts:

<u>Date Received</u>	<u>Amount</u>	<u>Contributor</u>	<u>F.E.C. Microfilm Location</u>
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2/16/82	\$500.00	EPEC/IUOE	82012141800
6/7/82	<u>\$5,000.00</u>	SELPEC	82012204894
Total \$8,600.00			

11. A running total of the amount of contributions received from EPEC/IUOE and its affiliated SSF, SELPEC, would have put on notice Thomas P. Lantos, Tom Lantos for Congress Committee, and its treasurer that they had received \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) on February 16, 1982. On that date, Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer were only permitted to accept an additional contribution of \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS). In violation of 2 U.S.C. §441a(f), they accepted additional contributions and thereby exceeded the maximum \$5,000.00 (FIVE THOUSAND DOLLARS) the statute permits them to accept.

12. Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer failed to accurately report the \$600.00 (SIX HUNDRED DOLLAR) contribution of May 6, 1981, and the \$2,500.00 (TWO

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THOUSAND FIVE HUNDRED DOLLAR) contribution of June 22, 1981 which were designated by EPEC/IUOE as contributions for the primary election. (See F.E.C. Microfilm #81032023988). In violation of 11 C.F.R. §104.14(d), Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer reported them as contributions for the 1980 general election deficit. (See F.E.C. Microfilm #81012043312) F.E.C. regulation, 11 C.F.R. §104.14(d), provides that a treasurer "shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained therein."

**VI. VIOLATIONS OF THE F.E.C.A. BY
EPEC/IUOE AND SELFEC
IN THE 1982 FEDERAL PRIMARY ELECTION**

13. Based on a review of the periodic reports, Federal Election Commission Forms 3 and 3X, Schedules "A" and "B" and applicable amendments, which Respondents filed with the Federal Election Commission, the Complainant believes that EPEC/IUOE and SELFEC for the 1982 federal primary election contributed to candidate Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer a total of \$8,600.00 (EIGHT THOUSAND SIX HUNDRED DOLLARS).

14. EPEC/IUOE and SELFEC contributed the following amounts:

a. On May 6, 1981, EPEC/IUOE contributed \$600.00 (SIX HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

b. On June 22, 1981, EPEC/IUOE contributed \$2,500.00 (TWO THOUSAND FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #81032023988).

c. On February 9, 1982, EPEC/IUOE contributed \$500.00 (FIVE HUNDRED DOLLARS). (See F.E.C. Microfilm #82032253391).

d. On June 7, 1982, SELFEC contributed \$5,000.00 (FIVE THOUSAND DOLLARS). (See F.E.C. Microfilm #82032351219).

15. A running total of the amount contributed to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer would have put on notice EPEC/IUOE and its affiliated SSF, SELFEC, that as of February 9, 1982, they had contributed \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS) and that they could only contribute an additional \$1,400.00 (ONE THOUSAND FOUR HUNDRED DOLLARS) if they wished to meet the mandates of the law. In violation of 2 U.S.C. §441a(a)(2)(A), a \$5,000.00 (FIVE THOUSAND DOLLAR) contribution was made to Thomas P. Lantos, Tom Lantos for Congress Committee and its treasurer. This amount exceeded the statutory monetary ceiling by \$3,600.00 (THREE THOUSAND SIX HUNDRED DOLLARS).

VII. CONCLUSION

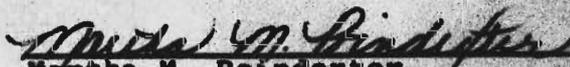
16. As documented above, Respondents have violated the spirit and letter of the Federal Election Campaign Act.

17. Complainant requests that an investigation into this complaint be undertaken, that Respondents be ordered to return the accepted

excess contributions and that civil sanctions be imposed on the Respondents.



Michael Ernest Avakian
Center on National Labor Policy



Martha M. Poindexter
Center on National Labor Policy
5211 Port Royal Road, Suite 400
North Springfield, VA 22151
(703) 321-9180

Attorneys for Complainant

June 1 , 1984

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VERIFICATION OF CITIZEN COMPLAINANT

Shawnee

State of Oklahoma

ss.

Pursuant to 2 U.S.C. §437g(a)(1), I, James Edward Antosh, being first duly sworn, say that I have read the foregoing complaint and know the contents thereof, and that the same is true on information and belief. This complaint was not filed at the request or suggestion of any candidate. I am a citizen of the United States, over the age of 18 years and a registered voter of the State of Oklahoma.

James Edward Antosh

Subscribed and sworn to before me this 21st day of May 1984.

Denise R. Almon
Notary Public

My Commission expires:

My Commission Expires Sept. 17, 1986

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DESIGNATION OF COUNSEL

I, James Edward Antosh, a complainant to the attached complaint designate the attorneys identified below as complainant's attorneys of record. The Federal Election Commission shall direct all written and oral communications in connection with this matter to my designated counsel.

May 21, 1984
Date

James Edward Antosh
Complainant

DESIGNATED COUNSEL

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy
Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

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FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1719

Date Filmed 8/31/84 Camera No. --- 2

Cameraman JRL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1719 .

87040630002

(1) 12 Day Reports & Comment sheets (2) Voting Slips

(3) Internal Memoranda (4) Conciliatory information

Including proposed agreements and counterproposals

The above-described material was removed from this file pursuant to the following exemptions provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

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- | | |
|---|--|
| <u> </u> (1) Classified Information | <u> </u> (6) Personal privacy |
| <u> </u> (2) Internal rules and practices | <u> </u> (7) Investigatory files |
| <u> </u> (3) Exempted by other statute | <u> </u> (8) Banking information |
| <u> </u> (4) Trade secrets and commercial or financial information | <u> </u> (9) Well information (geographic or geophysical) |
| <u> </u> (5) Internal Documents | |

Signed Eric Bleumfeld
Date November 20, 1986

FEC 9-21-77

Statement of the Lantos Committee
on MUR 1719

This case is a classic illustration of "much ado about nothing." After a period exceeding two years, the case has been brought to a close because the Tom Lantos for Congress Committee (the "Committee") has agreed to a conciliation agreement.

The Committee accepted this agreement for one reason only: too much time had been invested already in arguing over an utterly insignificant dispute. The Committee has maintained without exception that there was no violation of any law in this case, and therefore no grounds for any "settlement" or any civil penalty whatsoever.

The facts in this case are simple. During the 1981-82 election cycle, the Committee would have been entitled to receive a total of \$10,000 from EPEC. In actuality, during this election cycle, the Committee received a total of only \$8,600 in contributions, \$1,400 less than the law would have permitted. Furthermore, of the \$8,600 contributed by EPEC, \$2,000 was contributed toward the 1980 general election campaign debt.

Under these circumstances, one might well ask how the FEC could have reached the conclusion that any penalty should be assessed against the Committee. The Commission has, we believe, unfairly chosen to apply new debt retirement accounting rules retroactively to the Committee's efforts to retire its 1980 general election debt. Such retroactive application of rules violates the most basic concepts we in this country have of fair play and justice.

It is undisputed that the Committee carried into 1981 a debt from the 1980 general election. It is also undisputed that the Committee conducted a lawful, bona fide debt retirement effort in 1981, raising money from contributors specifically to retire that debt. And, finally, it is undisputed that the Committee raised less debt retirement money than it needed to retire the debt, and therefore was required to make use of funds generated for the 1982 election to pay off the 1980 debt.

The Commission, however, based its position on the fact that certain of the debt retirement funds solicited by the Committee came to the Committee only as and after the debt was retired in June 1981. The Commission has insisted, therefore, that these contributions had to be accounted for under 1982

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primary election limits, not 1980 general election limits. As a result, in the Commission's view, one contributor of 1980 debt retirement funds, who separately contributed towards the 1982 primary election, "exceeded" his contribution limits in the 1982 primary.

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The Committee has pointed out that these monies were plainly intended for debt retirement and that they were not directly applied for this purpose only because, solicited some time prior, they arrived late. In the meantime, the Committee had used 1982 funds to bridge the gap and to make sure that creditors were paid as promptly as possible. When the last 1980 money arrived, it did no more than replace the 1982 money used in the interim for this debt retirement purpose. Moreover, there is hardly any suggestion that the Lantos Committee's debt retirement activities posed any threats to 1982 contribution limits; the Committee, in the end, still raised far less debt retirement money than needed and had to make up the difference with 1982 funds. So this entire exercise did not benefit the 1982 primary election campaign, but in fact -- albeit in a minor way -- adversely affected the financing available for that campaign.

The Commission rests its case on new accounting rules presented to the public for the first time in 1984 -- three years after the Lantos Committee completed its debt retirement for the 1980 election. Moreover, the confusion over these new rules has been such that the Commission has recently prepared a new rulemaking to refine and clarify them. See, e.g., Agenda Document No. 86-84 (August 8, 1986). Yet still these rules have not been incorporated in final form in Commission regulations. So we have in this case the retroactive application of new rules which produce an illogical result and do not in any way answer a fundamental question: why was this proceeding even necessary? It also bears noting that the original complaint against the Committee was filed by a Mr. Antosh of Oklahoma, who, supported by the right-wing National Center on Labor Policy, has made a hobby of filing spurious complaints against Members of Congress who happen to have the support of the working men and women of this country. It is appalling that individuals and groups use our laws to conduct systematic campaigns of political harassment.

The Committee has no doubt that at all times its actions were fully lawful and eminently reasonable; and had the Committee chosen to pursue its remedies, it is convinced that its position would have been fully vindicated. However, to do so would have involved enormous additional expenditures of time and money, not only for the Committee, but more importantly,

for the taxpayers who must foot the bill for the activities of the Commission. In the interest of sparing the taxpayers and itself any further waste of time and money, the Committee has agreed to enter into this conciliation agreement, but we strongly maintain that the Committee's actions were proper, lawful and reasonable in every respect.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

Robert F. Bauer, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20036

Re: MUR 1719
Tom Lantos for Congress Committee,
and Katrina Lantos-Swett, as treasurer.

Dear Mr. Bauer:

As you know, on July 9, 1986, the Commission authorized the filing of suit against your clients, the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, if an acceptable conciliation agreement was not reached in the above-captioned matter.

This is to notify you that on October 27, 1986, the Commission accepted the signed proposed conciliation agreement which you recently submitted in settlement of this matter. A copy of that conciliation agreement, which has been executed on behalf of the Commission, is enclosed for your files.

The file has now been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, or should you still wish to submit a statement for inclusion in the record, please advise us in writing. Any such statement should be submitted within fifteen days from the date of this letter to insure its incorporation into the file before placement of the file on the public record.

Thank you again for your cooperation in resolving this matter.

Sincerely,

Robert W. Bonham, III
Robert W. Bonham, III
Attorney

Enclosure

87040530007



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 29, 1986

James Edward Antosh
13 Gilpin
Shawnee, Oklahoma 74801

Re: MUR 1719.

Dear Mr. Antosh:

This is in reference to the complaint you filed with the Commission on June 1, 1984 concerning the Tom Lantos for Congress Committee and others.

After reconsidering this matter following the decision in your lawsuit, the Commission found probable cause to believe that the Tom Lantos for Congress Committee and Katrina Lantos-Swett violated 2 U.S.C. § 441a(f) by accepting an excessive \$2,711.25 contribution from the Engineers Political Education Committee/International Union of Operating Engineers and Supporters of Engineers Local 3 Federal Endorsed Candidates. On October 27, 1986, a conciliation agreement signed by counsel for the respondents was accepted by the Commission, thereby concluding the matter. A copy of this agreement is enclosed for your information.

If you should have any questions or problems, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By:

Lawrence M. Noble
Deputy General Counsel

Enclosure:
Conciliation Agreement.

cc: Michael Ernest Avakian, Esquire

87040530008

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
 Tom Lantos for) MUR 1719
 Congress Committee)
 and Katrina Lantos-Swett)
 as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by James Edward Antosh. An investigation was conducted, and the Commission found probable cause to believe that the Tom Lantos for Congress Committee (hereinafter "Lantos Committee") and Katrina Lantos-Swett, as treasurer, (all "Respondents") violated 2 U.S.C. §441a(f) by accepting an excessive \$2,711.25 contribution from the Engineers Political Education Committee/International Union of Operating Engineers (hereinafter "EPEC/IUOE") and Supporters of Engineers Local 3 Federal Endorsed Candidates (hereinafter "SELFEC").

NOW, THEREFORE, the Commission and Respondents, having duly entered into conciliation pursuant to 2 U.S.C. §437g(a)(4)(A)(i) do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding.
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

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RECEIVED
GENERAL INVESTIGATIVE
DIVISION

1. The Lantos Committee is the authorized political committee of Thomas P. Lantos

2. Katrina Lantos-Swett is the treasurer of the Lantos Committee.

3. EPEC/IUOE is a multicandidate committee affiliated with SELFEC.

4. SELFEC was a multicandidate committee, now no longer in existence, affiliated with EPEC/IUOE.

5. On May 13, 1981, the Lantos Committee received a \$600 contribution from EPEC/IUOE. This contribution was designated by the Lantos Committee for the 1980 general election deficit on its reports.

6. On June 25, 1981, the Lantos Committee received a \$2,500 contribution from EPEC/IUOE. This contribution was designated in writing by EPEC/IUOE as a contribution toward the 1980 general election deficit. The Lantos Committee also designated this contribution on its reports for the 1980 general election deficit.

7. On February 16, 1982, the Lantos Committee received a \$500 contribution from EPEC/IUOE. The Lantos Committee designated this contribution for the 1982 primary election on its reports.

8. On June 7, 1982, the Lantos Committee received a \$5,000 in-kind contribution from SELFEC. The Lantos Committee designated this contribution for the 1982 primary election on its reports.

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9. The last itemized check drawn by the Lantos Committee to repay a 1980 general election debt expense was made on June 18, 1981.

10. Subsequent to the receipt of the June 25, 1981 contribution for \$2,500, the Lantos Committee made four unitemized disbursements totaling \$288.75 to repay the final 1980 general election debts.

11. 2 U.S.C. §441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized committees with respect to any federal election which in the aggregate exceeds \$5,000.

12. 2 U.S.C. §441a(f) prohibits a candidate or committee from knowingly accepting contributions in violation of the \$5,000 aggregate limitation imposed on contributions under this section.

13. 2 U.S.C. §441a(5) provides that for purposes of the contribution limitations all contributions made by political committees established or financed or maintained or controlled by a labor organization, including any subsidiary, branch, division, department, or local unit of the labor organization shall be considered to have been made by a single political committee.

14. 11 C.F.R. §110.1(a)(2) provides that a contribution designated in writing by the contributor for a particular election shall be attributed to that election.

15. Contributions designated for an election and made after that election shall be allowed only if the recipient

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committee has debts outstanding which are equal to or greater than the amount of the contribution.

16. EPEC/IUOE and SELFEC made a total of \$8,600 in contributions to the Lantos Committee, \$3,100 of which was designated for the 1980 general election.

17. Of the \$3,100 in contributions received by the Lantos Committee from EPEC/IUOE, on May 13 and June 5, 1981, and designated by the Committee for the 1980 general election deficit, \$888.75 were properly attributable to that deficit.

V. The Lantos Committee accepted an excessive contribution of \$2,211.25 from EPEC/IUOE and SELFEC in violation of 2 U.S.C. §441a(f).

VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of One Hundred and Fifty dollars (\$150), pursuant to 2 U.S.C. §437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days after the date this agreement becomes effective to comply with

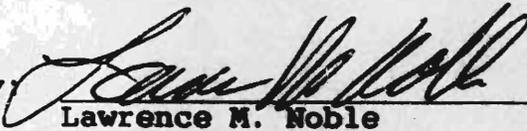
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and implement the requirements contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:

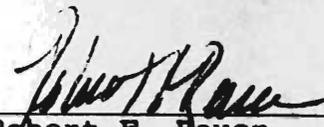
Charles N. Steele
General Counsel

By: 
Lawrence M. Noble
Deputy General Counsel

10/29/86
Date

FOR THE RESPONDENT:

Tom Lantos for Congress Committee

By: 
Robert F. Bauer
Counsel

10-16-86
Date

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) (formerly MUR 1719)
Federal Election Commission v.)
Tom Lantos for Congress Committee)
(Pre-litigation))

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 27, 1986, the Commission decided by a vote of 5-0 to take the following actions in the above-captioned matter:

1. Accept the signed proposed conciliation agreement, submitted by counsel for respondents the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, Attachment 3, in settlement of this matter, as recommended in the Memorandum to the Commission dated October 23, 1986.
2. Approve the proposed notification letters to the complainant and respondents, Attachments 4 and 5, as recommended in the Memorandum to the Commission dated October 23, 1986.

Commissioners Aikens, Elliott, Josefiak, McDonald and Thomas voted affirmatively for this decision; Commissioner McGarry did not cast a vote.

Attest:

10-27-86
Date

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

Received in Office of Commission Secretary:	Thurs.,	10-23-86,	11:23
Circulated on 48 hour tally basis:	Thurs.,	10-23-86,	4:00
Deadline for vote:	Mon.,	10-27-86,	4:00

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Tom Lantos for Congress Committee) MUR 1719
Katrina Lantos-Swett, treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 9, 1986, do hereby certify that the Commission took the following actions in MUR 1719:

1. Failed in a vote of 3-3 to pass a motion to
 - a) Reject the counterproposal submitted by the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer.
 - b) Authorize the Office of General Counsel to file a civil suit for relief in the United States District Court against the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer.

Commissioners Harris, McDonald, and McGarry voted affirmatively for the motion; Commissioners Aikens, Elliott, and Josefiak dissented.

(continued)

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2. Decided by a vote of 6-0 to take the following actions:

a) **Reject the counterproposal submitted by the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer.**

c) **Authorize the Office of General Counsel to file a civil suit for relief in the United States District Court against the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, if a conciliation agreement is not reached after an additional fifteen day period.**

d) **Direct the Office of General Counsel to send an appropriate letter.**

Attest:

7-11-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1719
Tom Lantos for Congress Committee)
Katrina Lantos-Swett, treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 25, 1986, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1719:

1. Find probable cause to believe the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. § 441a(f).

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald, and McGarry voted affirmatively for the motion.

Attest:

2-27-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE NEO
COMMISSION SECRETARY

EXECUTIVE SECRETARY

In the Matter of)
)
Tom Lantos for Congress)
Committee)
Katrina Lantos-Swett, treasurer)

MUR 1719
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FEB 25 1986

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a complaint filed by James Edward Antosh against Thomas P. Lantos, Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, (hereinafter "Lantos Committee"); the Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley, as treasurer, (hereinafter "EPEC/IUOE"); and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr, as treasurer, (hereinafter "SELFEC"), alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act").

On July 31, 1984, the Commission determined there was reason to believe that the Lantos Committee had violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from EPEC/IUOE. Additionally, the Commission determined there was reason to believe that EPEC/IUOE and SELFEC violated 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution to the Lantos Committee. The Commission also determined there was reason to believe that EPEC/IUOE violated 11 C.F.R. § 104.14(d). However, due to the small amount at issue, the Commission took no further action against respondents and closed the file in this matter.

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Subsequently, complainant filed suit pursuant to 2 U.S.C. § 437g(a)(8). The district court held that the Commission had acted contrary to law and on December 21, 1984, ordered the Commission to reopen MUR 1719 for further proceedings consistent with the court's opinion. On January 8, 1985, the Commission considered the court's order and opinion and voted to reopen MUR 1719 for further investigation. Respondents were notified of the Commission's action by letter dated January 17, 1985.

Multiple responses to the Commission's determinations were received from the Lantos Committee on February 12, April 15 and May 2, 1985. On November 5, 1985, the Office of General Counsel mailed a brief to respondents on the factual and legal issues of this matter. A response brief from the Lantos Committee was received in the Office of General Counsel on November 21, 1985.

II. LEGAL ANALYSIS

See OGC Brief of November 5, 1985. A response brief was received from the Lantos Committee on November 21, 1985. The core of respondents' legal argument is stated on page eight of their brief: "Effectively the 1982 [Lantos] committee advanced timely payment of 1980 general election debts; and the new [1982] committee was then "repaid" with [the] belatedly received EPEC/IUOE contribution". Thus, respondents argue that the Act permits them to participate in a system of "parallel fundraising," that is, raising contributions simultaneously to extinguish their 1980 general election debt and to finance their 1982 re-election campaign. To support their argument,

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respondents cite various Advisory Opinions and Commission Regulations.

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The central issue in this matter, as discussed in the General Counsel's Brief, is the meaning of the phrase "net debts outstanding" and its application to the circumstances in the present matter. Respondents make much of the fact that the Regulations are not clear as to what the proper "date" of a contribution actually is, and as a result, they draw a distinction between when a contribution is made and when a contribution is received. Such a distinction, however, has no bearing on resolving the issue at hand. Using the "real world" approach as urged by respondents, a committee that is not aware of a contribution and does not have particular funds at its disposal, is in no way able to use those funds, whether to retire a past debt or otherwise. Once a committee has knowledge of a contribution and has the funds at its disposal, it may, in certain circumstances, use that contribution to retire a past debt. Here, on June 18, 1981, when the Lantos Committee paid off its 1980 general election debt with funds designated for the 1982 campaign, it was not aware that a contribution from EPEC/IUOE would be forthcoming. 1/ Presumably, if the Lantos Committee had been aware of a forthcoming contribution, it would not have expended 1982 funds to pay the debt. The Lantos Committee

1/ This does not include \$288.75 in unitemized debt-related expenditures made subsequently.

became aware of the EPEC/IUOE contribution on June 25, 1981, (and had the \$2500 at its disposal on that date), at which point there no longer existed any net debts still outstanding from the 1980 general election. Respondents attempt to classify the applicable regulation, 11 C.F.R. § 110.1, as unclear or in flux. A reasonable reading of the regulation, however, under the circumstances as known to respondent on June 25, 1981, leads to the conclusion that respondents could not accept a contribution of \$2500 from EPEC/IUOE, because there was not \$2500 in net debts outstanding at that time.

Respondents attempt to use several of the Commission's Advisory Opinions to persuade the Commission that their actions comply with the Act's requirements. However, the Opinions cited are not related to respondents' circumstances, but rather deal with the occasions where either a candidate is unopposed and seeks to raise contributions for that election or where the contributions received were undesignated and the candidate seeks to apply a designation to them. Many past Advisory Opinions have allowed candidates with a surplus in one election cycle to transfer a portion (or all) to retire debts from a prior election cycle (See AOs 1980-32, 1980-143 and 1981-9). However the payment by a subsequent campaign of previous campaign debt does not cause an indebtedness which would allow further contributions to that previous campaign unless there is other debt outstanding. The consolidation or carrying forward of debt may not be used artificially to generate a new opportunity to use contribution limits from a past election that has no remaining debts.

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See A.O. 1980-43. In short, if 1982 contributions were used (on loan basis or otherwise) to retire 1980 debts, the 1980 debts were extinguished and no more 1980 contributions could be collected or designated. See AO 1978-99 and 1980-32.

In conclusion, the issue in this matter is not whether respondents' system of parallel fundraising, the raising of monies designated for a past and current election simultaneously, is permissible. The issue is whether such fundraising may continue when no debts remain from the past election. Under a reasonable reading of the Commission's Regulation and Advisory Opinion, when a committee pays off a prior election debt, it may no longer accept contributions designated for that election. The Lantos Committee accepted a \$2500 contribution for the 1980 general election at a time when it had only \$288.75 remaining in debt from that same election. Accordingly, the Office of General Counsel recommends that the Commission find probable cause to believe that the Lantos Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. § 441a(f) by accepting an excessive contribution in the amount of \$2211.25.

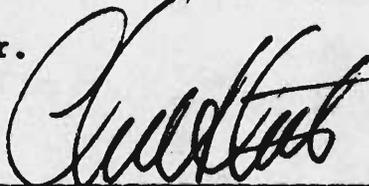
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IV. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Find probable cause to believe the Tom Lantos Committee for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. § 441a(f);
2. Approve the proposed conciliation agreement; and
3. Approve the attached letter.

13 February 1986
Date



Charles N. Steele
General Counsel

Attachments

1. Proposed Conciliation Agreement
2. Letter to Respondent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Tom Lantos)
for Congress Committee)
and Katrina Lantos-Swett)
as Treasurer)

MUR 1719

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This Brief is submitted on behalf of the Tom Lantos for Congress Committee, and its Treasurer, Katrina Lantos-Swett, in response to the General Counsel's Brief dated November 1, 1985, which recommends "probable cause to believe" in this matter. The General Counsel has specifically concluded that, in the course of 1980 general election debt retirement activities, "the Lantos Committee accepted an excessive contribution of \$2,711.25 [sic.] from EPEC/IUOE and SELFEC^{1/} in violation [of the Act]."^{2/}

INTRODUCTION

The Lantos Respondents must respectfully but strenuously dispute the General Counsel's conclusion. This entire case turns on one question and one question alone:

^{1/} EPEC/IUOE is the acronym for Engineers Political Education Committee/International Union of Operating Engineers; SELFEC, for Supporters of Engineers Local 3 Federal Endorsed Candidates.

^{2/} Elsewhere in his Brief, the General Counsel cites the excessive contribution as amounting to \$2,211.25. It would appear from the calculations used by the General Counsel that this latter figure is the "correct" one -- or at least the one he intended to use.

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contributions to retire this debt.^{1/} Among the \$25,000 raised was the \$2,500 contribution from EPEC/IUOE which, it is nowhere disputed, that committee could lawfully make in support of Congressman Lantos' 1980 general election campaign. The balance of the 1980 general election debt was paid by the Congressman's "new" committee operating in support of his 1982 primary election effort.

Nonetheless, on these innocuous facts, the General Counsel would have this case conclude a full finding of "violation" against the Committee. In this Brief, the Lantos Respondents will demonstrate the errors of the General Counsel's analysis as follows:

o The FEC should not "make law" at the expense of the Lantos Respondents. At the time of the debt retirement activities at issue, the Commission regulations governing debt retirement were subject to differing reasonable interpretations. The Lantos Respondents used what they believed to be the most reasonable interpretation; this interpretation posed no threat to the integrity of the contribution limitations applicable to the 1982 primary election. The Commission may choose now to revise the legal

^{1/} This figure reflects the total outstanding debts in connection with which the Lantos Committee made both itemized and unitemized debt retirement disbursements from February through October 1981.

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rules of the game, but it should not now, after the fact, attempt to hold the Lantos Respondents "liable" for this change of course.

o The rule articulated by the General Counsel in his brief serves no useful purpose or enforcement policy. As stated, on the facts of this case, nothing done by the Lantos Respondents poses any threat that the Lantos Committee "doubled up" on any contributor's limits, or in any way threatened the lawful application of the statute's contribution limitations.

o As an exercise in lawmaking, the General Counsel's position is shortsighted and irrational. The law currently provides for a wide range of circumstances in which a candidate's current committee may assist a previous committee with the retirement of debt -- and vice versa -- without regard to the impact on individual contribution limitations. If the General Counsel is concerned with "loopholes," these exist in ample quantity under existing law. The debt retirement efforts at issue here pale in significance. It is difficult in these circumstances for the Lantos Respondents to understand the grounds, must less the point, for proceeding against them in this case.

I. THE GENERAL COUNSEL IS "MAKING LAW" IN THIS PROCEEDING.

The Lantos Respondents have already pointed out that the heart of the matter -- the proper construction of the term "net debts outstanding" -- involves an issue of legal

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interpretation which is demonstrably unsettled. The Commission conceded as much in Advisory Opinion 1984-32, Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5777 (August 17, 1984), when it stated that "the regulations neither define 'net debts outstanding' nor provide a method for calculating this figure." Moreover, since the issuance of the Opinion, the FEC has proposed regulations which would formally adopt the findings of the Opinion. See Notice of Proposed Rulemaking, 50 Fed. Reg. 15,169 (1985). These regulations have been proposed for public comment only; they have also been the subject of a public hearing on October 16, 1985.

The General Counsel defends his position with the suggestion that the regulations are already clear on the issue. This is not the case. That this is not the case is clear from the General Counsel's own statement of the relevant rule which is not consistent with the very language of the regulations. Thus, the General Counsel states as follows:

. . . contributions made after the primary election shall be allowed only if the recipient committee has outstanding primary debts on the date of the contribution which are equal to or greater than the contribution. (Emphasis added.)

G.C. Br. at p. 7. The regulations, however, state:

. . . a contribution made after the primary election . . . shall be made only to the extent that the contribution does not exceed net debts outstanding

11 C.F.R. 110.1(a)(2)(i). The General Counsel has obviously added to his formulation that which does not appear in the

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regulations: the additional "information" that these debts must be in existence on the date of the contribution. The General Counsel's statement of the rule may be reasonable; but it is not the exclusive reasonable approach to the construction of these regulations.

The difference between the language appearing in the General Counsel's brief and in the regulations also underscores the indisputable fact that the law in question is in evolution. The General Counsel adds reference to the date of the contribution, but he does not state further whether the date in question is the date made or the date received. This very issue -- the proper "date" of the contribution -- is also the subject of the ongoing rulemaking proceeding under Part 110. See Notice of Proposed Rulemaking, 50 Fed. Reg. at 15,171. To make the case even more compelling, the General Counsel's brief cites to both dates, the date of receipt and the date of making, in stating the alleged "rule" at different points in his brief. Thus, on page 10, the General Counsel states that a committee must have net debts "before a contribution . . . can be made"; but on page 11, he states that the question is whether there were net debts "at the time the contributions were received." (Emphasis added.)

The Commission cannot expect Respondents to adhere to a law which, by the agency's own admission, is in flux; and which, in the General Counsel's own legal papers, appears in

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different formulations. Other respondents have argued before the Commission that the enforcement process is ill-suited to the creation of new legal rules, and surely no case is a better example than this one of the pitfalls of this approach. Here, a perfectly rational approach by the Respondents to their statutory responsibilities is suddenly the focus of an "investigation" into violations of "law." The very law alleged to have been violated is under revision by the Commission on the points at issue, and even the General Counsel does not consistently state the rules which the Respondents were expected to follow.

II. THERE IS NO SOUND OR RATIONAL ENFORCEMENT POLICY BEHIND THE GENERAL COUNSEL'S RECOMMENDATION.

The regulations governing debt retirement are necessarily concerned with safeguarding the integrity of the contribution limitations. If there were any obvious danger that these limitations were threatened by the actions of Respondents, the General Counsel's "law-making" might be justifiable as an admittedly after-the-fact but still necessary action to protect those limits. Such is not the case here, however.

Without belaboring the point, made here and elsewhere in this proceeding, the Lantos Committee did not engage in any circumvention, direct or indirect, of the contribution limitations. EPEC and SELFEC could lawfully make a \$2,500.00 contribution toward the Lantos Committee's 1980 general

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election debt; their joint limit with respect to that election had not been exhausted by the time of this contribution. The Lantos Committee had incurred some \$30,400 in debts; but it raised through debt retirement activities no more than \$25,000, including the contribution of \$2,500 from EPEC/IUOE. The EPEC/IUOE contribution was solicited before the debt was retired, and it was expressly solicited for debt retirement; but the contribution was received when that debt, save for several hundred dollars, had been paid with the use of "new" monies received into the 1982 Lantos Committee. Effectively the 1982 committee advanced timely payment of 1980 general election debts; and the new committee was then "repaid" with this belatedly received EPEC/IUOE contribution.

On the basis of its hypertechnical and after-the-fact construction of the net debts outstanding requirement, the General Counsel would launch this proceeding on a new course toward a formal Commission finding of a legal "violation." All that remains unanswered, and yet that which is critically missing, is the point of this exercise. There is no showing that the Lantos Committee was engaged in a broad-scale effort to use its debt retirement activities to "double up" on contributions to its 1982 primary election campaign. There is no attempt by the General Counsel to refute that the EPEC/IUOE contribution was actually solicited for debt retirement purposes. At most, the Lantos Committee, operating in the

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real world, raised money for a debt, covered the debt in the interim with "new" money, but then credited the debt retirement money properly when it was finally received.

The General Counsel objects that "the creation of new debt (by the prior election campaign to a current campaign) has never been sanctioned. Such an arrangement is actually a consolidation . . . of debt and may not be used to artificially generate a new a [sic] opportunity to use contribution limits from a past election." G.C. Br. at p. 10. Of course, on the facts, there is no artificial generation of any kind, but instead a perfectly reasonable approach by the Committee to the concurrent conduct of its debt retirement and current 1982 fundraising efforts.

It is furthermore incorrect that "the creation of new debt" has never been sanctioned. Such a practice has been sanctioned by the Commission in circumstances considerably more questionable than these. In Advisory Opinion 1978-99, Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5387 (Jan. 19, 1979), the candidate had ordered certain materials for use primarily in the general election; but the invoice was dated one day before the primary. The Commission permitted the candidate to treat the debt as a primary debt solely on the basis of the date of the invoice -- and without regard to the fact that "many" of the materials in question were used in the general election and in fact ordered for that purpose. The significance of

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this ruling was that the candidate could then solicit additional contributions to retire this "primary" debt from contributors who had already contributed the maximum allowable amount for the general election. As the Commission noted:

[the committee] may accept contributions . . . to liquidate the debt from those persons who may have exhausted their general election contribution limit with respect to your 1978 general election candidacy, but who have not exhausted their contribution limit with respect to your 1978 candidacy for the primary election.

Thus, by the technical feat of characterizing a debt as a primary election debt, rather than one related to the general, the Committee could finance materials used in the general under a second, separate contribution limit for individuals who had already donated the legal maximum towards the general election campaign.

Of a similar nature is Advisory Opinion 1980-32, Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5493 (May 20, 1980), where a candidate with an outstanding 1978 debt, who was also seeking reelection in 1980, raised monies in early 1979 in connection with a fundraiser which was not advertised, one way or another, as a current or debt retirement fundraising effort. The candidate proposed to transfer proceeds, in part, to retire the 1978 debt. The Commission approved this transaction, on the theory that political committees possess "considerable discretion" in the use of current funds on hand. As the dissent pointed out, this procedure allowed the Committee to

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use funds from individuals who had already contributed the maximum in 1978, to retire the 1978 debt.

In comparison to these broad and permissive rulings, it is far from clear what "policy" would be vindicated by a finding of violation in this case.

III. THE GENERAL COUNSEL'S POSITION CANNOT BE RATIONALLY RELATED TO THE COMMISSION'S POSITION ON OTHER CONTRIBUTION LIMITATION ISSUES.

This is not the first time, nor the last, when the Commission must consider what action would be necessary to safeguard the contribution limitations in debt retirement or other contexts. The Lantos Respondents contend that the Commission should avoid treating cases in isolation, but rather should address each one in relation to others within the broader framework of FEC enforcement policy. The General Counsel appears here to take an irrationally restrictive position which contrasts sharply with more permissive positions under the statute, the regulations and Commission Advisory Opinions on similar contribution limitation issues.

In considering this ruling, in the broader context of FECA contribution limitations enforcement, the Commission might consider the following:

(a) The Commission permits candidates to solicit and receive contributions for primary elections in which a candidate is wholly unopposed. 11 C.F.R. §110.1(j)(2). The candidate may then transfer the monies so raised, without

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limitation, to the general election, notwithstanding that the monies so transferred will include contributions from individuals who will provide funds separately to the general election campaign under a separate general election limit.

(b) The Commission also permits candidates to solicit and receive funds for elections which are not held, specifically general elections which are rendered unnecessary by a candidate's qualification for full election in a special all-party primary held pursuant to state law. The candidate, though elected, may still raise funds around a "general" in which the candidate will not appear on the ballot, for the simple reason that there is no ballot and the candidate has already been declared the Member-elect. Of course, this legal authority enables the candidate to solicit funds from the same individuals who already contributed to the "primary," and whose fresh but fictional general election contributions may then be used to retire any outstanding primary debt. Advisory Opinion 1978-79, Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5366 (Oct. 20, 1978).

(c) Commission regulations permit campaign committees to transfer without limitation any "excess campaign funds" to a new committee organized for an election in the future.

11 C.F.R. §110.3(a)(2)(iv). Candidates with nominal general election contributions may then accumulate enormous "surpluses" for transfers to their next election; and these

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surpluses may and do include contributions from individuals who will be asked to contribute separately to that next election.

(d) Moreover, in circumstances already cited, the Commission has permitted a committee to characterize a debt incurred largely for general election-related activities to be treated as a primary debt: this enabled the committee in turn to solicit funds from individuals, who had already contributed the maximum to the general election campaign, to retire this "primary debt" under unused primary election limits. Also cited previously is a case where the Commission allowed a committee with a debt from a previous election to schedule a fundraiser for unspecified purposes, and to exercise its "considerable discretion" in the use of current funds to transfer proceeds to retire the outstanding debts from the previous campaign. As the dissent in that case recognized, this procedure enabled the committee to solicit funds for debt retirement from individuals who had already contributed the maximum to the concluded or "old" campaign, in the guise of raising "new monies" from these contributors.

It would certainly appear that woven into the existing law are ample threads of opportunity for "avoiding" contribution limitations, if committees are concerned with doing so. The Lantos Committee is not now concerned with doing so, nor has it been so concerned in the past. All the

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same, on the most improbable set of facts, the Lantos Committee faces a General Counsel's recommendation of "probable cause" to believe that it violated the statute in connection with its 1980 debt retirement efforts.

IV. CONCLUSION

The Lantos Committee cannot overcome the impression that it is the victim of regulatory overkill and loss of perspective. While the Lantos Respondents recognize the special difficulties of this case, insofar as the Commission has been drawn into unwelcome litigation with Congressman Lantos' political opposition, the merits rather than the politics of the case must still be controlling. For these reasons, the Lantos Respondents respectfully request that the Commission reject the General Counsel's recommendation and close the file in this matter.

Respectfully submitted,

Robert F. Bauer

Robert F. Bauer

*(Counsel to
Lantos Respondents)*

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1110 VERMONT AVENUE, N.W.
WASHINGTON, D.C. 20005

General Counsel
Federal Election Commission
1325 K Street, N.W.
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1985

Robert F. Bauer
Perkins, Cole, Stone, Olsen & Williams
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

Re: Mur 1719
Tom Lantos for
Congress Committee
and Katrina Lantos-
Swett as treasurer

Dear Mr. Bauer:

Based on a complaint filed with the Commission on May 31, 1984, and information supplied by your clients, the Commission determined on July 31, 1984, that there was reason to believe that your clients violated 2 U.S.C. § 441a(f), a provision of Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and close the file.

On January 8, 1985, the Commission, pursuant to court order voted to reopen MUR 1719 for further investigation. After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

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

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an

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extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact, Deborah Curry, the attorney assigned to handle this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure
Brief

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

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an

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extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact, Deborah Curry, the attorney assigned to handle this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

November 15, 1985

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele *CNS/lm*
General Counsel

SUBJECT: MUR 1719 (Tom Lantos for Congress Committee
and Katrina Lantos-Swett as treasurer)

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 respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on November 15, 1985. 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 Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter

Tom Lantos
for Congress Committee
and Katrina Lantos-Swett
as treasurer

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MUR 1719

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

This matter was generated by a complaint filed by James Edward Antosh against Thomas P. Lantos, Tom Lantos for Congress Committee and Katrina Lantos-Swett as treasurer, (hereinafter "Lantos Committee"); Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley, as treasurer, (hereinafter "EPEC/IUOE"); and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr, as treasurer, (hereinafter "SELFEC"), alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act").

The allegations in the administrative complaint alleged that two affiliated separate segregated funds (EPEC/IUOE and SELFEC) had contributed \$3,600, in excess of the statutory limit to the Lantos Committee for the 1982 primary election.

A reivew of the reports filed with the Commission revealed that the following contributions were made to the Lantos Committee:

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<u>Contributor</u>	<u>Amount</u>	<u>Date Reported Given</u>	<u>Election Reported by Contributor</u>	<u>Date Reported Received</u>	<u>Election Reported by Recipient</u>
EPEC/IUOE	\$600	5 6/81	Primary	5/31/81	General '80 deficit
EPEC/IUOE	\$2,500	6/22/81	Primary	6/25/81	General '80 deficit
EPEC/IUOE	\$500	2/9/82	Primary	2/16/82	Primary
SELFEC	\$5,000	6/7/82	Primary (purchase of printing of campaign literature for Tom Lantos)	6/7/82	Primary in-kind

The California primary election was held on June 8, 1982. EPEC/IUOE and SELFEC are affiliated multicandidate political committees.

The Lantos Committee indicated in its response to notification of complaint that errors had been made in the designation of some of the contributions by EPEC/IUOE. The Lantos Committee provided evidence, by way of affidavit, indicating that two of the contributions in question, in the amounts of \$600 and \$2,500 totalling \$3,100, had actually been contributed to retire the Lantos Committees' 1980 general election debt. The Lantos Committee also indicated that the \$5,000 SELFEC contribution designated for the 1982 primary was a result of a clerical error. The Lantos Committee stated in

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response to the notification of complaint that their review indicated that 75% of the \$5,000 contribution or \$3,750 was attributable to the general election and 25% or \$1,250 was attributable to the primary election.

On July 31, 1984, the Commission rejected the Lantos Committee's argument that the \$5,000 in-kind contribution was primarily for the purpose of influencing the general election. Therefore, the \$5,000 in-kind contribution by SELFEC to the Lantos Committee was properly attributable by the parties to the 1982 primary election.

However, based on an affidavit signed by Thomas Lantos stating that the \$600 EPEC/IUOE contribution was made in connection with a debt retirement reception on May 21, 1981, at the National Democratic Club in Washington, D.C. and the letter accompanying the EPEC/IUOE check for \$2,500 specifying that it was for the 1980 campaign deficit, the Commission determined that the EPEC/IUOE contributions for \$600 and \$2,500 were properly attributable to the Lantos Committee's 1980 campaign deficit.

Based on the foregoing, on July 31, 1984, the Commission found reason to believe that the Lantos Committee had violated 2 U.S.C. §441a(f) and EPEC/IUOE and SELFEC had violated 2 U.S.C. §441a(a)(2)(A). Additionally, the Commission found reason to believe EPEC/IUOE violated 11 C.F.R. §104.14(d). However, due to the small amount at issue the Commission took no further action

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against Respondents and closed the file in this matter.

Subsequently, complainant filed suit pursuant to 2 U.S.C. §437g(a)(8). After the law suit was filed, plaintiff (complainant) alleged for the first time in court that the Lantos Committee's reports showed that the 1980 debt had been extinguished shortly before contributions at issue (the \$600 and 2,500 EPEC/IUOE contributions) were received. Therefore, plaintiff argued that the contribution should be attributed to the 1982 primary election rather than to the 1980 general election debts which would then result in the Lantos Committee exceeding the 1982 primary contribution limit. The district court adopted this argument and found that the Commission had acted contrary to law by failing to make this determination and continuing its enforcement proceedings.

On December 21, 1984, the court ordered the Federal Election Commission to reopen MUR 1719 for further proceedings consistent with the court's opinion. On January 8, 1985, the Commission considered the court's order and opinion and voted to reopen MUR 1719 for further investigation. Respondents were notified that MUR 1719 was reopened in a letter dated January 17, 1985.

On February 12, 1985, the Office of General Counsel received a preliminary response from the Lantos Committee. Pursuant to requests for additional information, the Lantos Committee submitted additional responses on April 15, 1985, and again on May 2, 1985 (all hereinafter "Lantos Committee Response"). These written responses were supplemented with telephone conversations at the end of May.

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A review of the Lantos Committees records on file at the Commission and the Lantos Committee responses indicates that there was a total of 30,157.67 in itemized disbursements related to the 1980 campaign deficit during the period January 21, 1981, through June 30, 1981. The Lantos Committee response notes the following debt-related disbursements made in 1981.

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	
2/3/81	Dependable Type- Writer Co.	\$498.90	<u>1/</u>
2/4/81	Douglas DeYoung	\$993.19	
2/12/81	Douglas DeYoung	\$1,000.00	
2/4/81	Rothstein-Buckley	\$528.65	
2/12/81	Rothstein-Buckley	\$1,500.00	
2/10/81	Candidates Outdoor Graphic Services	\$1,114.00	<u>2/</u>
3/13/81	Internal Revenue Service	\$2,563.75 \$625.62	
2/12/81	Tom Lantos	\$121.56	
3/30/81	Tom Lantos	\$15,000.00	
4/13/81	Tom Lantos	\$5,000.00	
6/18/81	Alice Carnes	<u>\$1,212.00</u>	
	Total	\$30,157.67	

1/ The 1981 Mid-Year Report lists the disbursement to Dependable Typewriter Co. as \$598.00.

2/ However, the 1981 Mid-Report shows the disbursement to Candidates Outdoor Graphic Services, on 2/10/81, for \$1,224.00. Additionally, that same report shows another disbursement to Candidates Outdoor Graphic Services for \$500 on 2/3/81.

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The Lantos Committee's response also states that during January-June 30, 1981, the Committee solicited and received a total of \$25,000 in contributions for debt retirement purposes. The Lantos Committee response and Committee records indicate that the last check drawn to pay an itemized 1980 debt was on June 18, 1981.

The Lantos Committee contends that a study of unitemized disbursements show that debt retirement was ongoing throughout June 1981 and into the fall 1981. Specifically, the Lantos Response indicates that the following unitemized debt related expenditures were made subsequent to June 25, 1981, the date of the \$2,500 EPEC/IUOE contribution. 3/

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
6/30/81	Pacific Bell	\$27.15
8/18 81	Siv Elwing	210.10
10/8/81	Doghouse Studio	161.00
10/14/81	Siv Elwing	<u>79.50</u>
	Total	\$288.75

II. LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized committees with respect to any federal election

3/The Lantos Committee response notes that these items do not represent all unitemized disbursements related to the 1980 campaign debts but only those drawn subsequent to June 25, 1981.

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which in the aggregate exceed \$5,000. 2 U.S.C. § 441a(f) prohibits a candidate or committee from knowingly accepting contributions in violation of the \$5,000 aggregate limitation imposed on contributions under this section.

2 U.S.C. § 441a(a)(5) provides that for purposes of the contribution limitations all contributions made by political committees established or financed or maintained or controlled by a labor organization, including any subsidiary, branch, division, department, or local unit of the labor organization shall be considered to have been made by a single political committee.

11 C.F.R. § 110.1(a)(2) provides that a contribution designated in writing by a contributor for a particular election shall be attributable to that election. Except, that contributions made after the primary election, shall be allowed only if the recipient committee has outstanding primary debts on the date of the contribution which are equal to or greater than the contribution. 11 C.F.R. § 110.1(a)(2) further provides that contributions not designated in writing by a contributor for a particular election are attributable to the primary election if made on or before the date of the primary election and are attributable to the general election if made after the date of the primary election.

Here, contributions designated to retire the 1980 general election deficit are only attributable to the extent that the contributions do not exceed the general election net debt outstanding. See Advisory Opinion 1977-24. Therefore, the

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pivotal issue here is whether or not the Lantos Committee had any 1980 general election debts, at the time the Lantos Committee received the EPEC/IUOE contribution of \$600 on May 13, 1981 and the EPEC/IUOE contribution of \$2,500 on June 25, 1981.

The evidence indicates that the last itemized check drawn to repay a 1980 general election debt expense was on June 18, 1981. The \$600 EPEC/IUOE contribution made on May 6, 1981, and received by the Lantos Committee on May 13, 1981, is attributable to the 1980 general election debt since it was received before June 18, 1981. However, the \$2,500 contribution made by EPEC/IUOE on June 22, 1981, and received by the Lantos Committee on June 25, 1981, is not fully attributable to the 1980 general debt.

As noted above, the last itemized general election debt was paid by the Lantos Committee on June 18, 1981. However, the Lantos Committee had a remaining unitemized 1980 general election debt of \$288.75. Therefore, only \$288.75 of the \$2,500 would be attributable to the 1980 general election deficit. The remaining 2,211.25 designated by EPEC/IUOE for the 1980 general election deficit should have been returned to the contributor or the contributor notified to redesignate the contribution for next upcoming election in accordance with the contribution limits of the Act. 4/ See Advisory Opinion 1984-32.

4/ Though Advisory Opinion 1984-32, was rendered by the Commission after the events cited herein had occurred, the rationale behind the refund or redesignation of the contribution is nevertheless an implicit result of the restriction on such contributions under 11 C.F.R. 110.1(a)(2). See also Advisory Opinions, 1980-30, 1978-37, 1977-24, Re: AOR 1976-101 and 1975-53

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The Lantos Committee's response makes essentially two arguments for the legality of the transactions cited herein. First, the Lantos Committee contends that construction of the term "net debt outstanding" did not receive clear definition by the Commission until the issuance of Advisory Opinion 1984-32 which occurred subsequent to the events in this matter.

Second, the Lantos Committee contends that the actual general election debt in this matter exceeded the debt-related contributions received by the Lantos Committee by over \$5,000. According to the Lantos Committee, this is a necessary conclusion because the entire 1980 general election deficit totalled approximately \$30,000 and the Lantos Committee was only able to raise \$25,000 for this purpose.

The Lantos Committee characterized its financial activity as "parallel fundraising" or raising funds for the upcoming 1982 campaign while at the same time raising funds for the 1980 election deficit. The Lantos Committee response explained that the Committee's contractual and legal obligations required that the 1980 debts be paid within a reasonable time. According to the Lantos Committee response, the Lantos Committee borrowed from its 1982 election campaign fund to pay the 1980 general election debts and then repaid the 1982 election campaign fund as debt-related contributions were received.

Consequently, the Lantos Committee believes that the \$2,500 debt retirement check from EPEC/IUOE should be viewed as funds which the Lantos Committee "repaid" the 1982 account for previously meeting 1980 general election debt obligations.

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The arguments by the Lantos Committee for the legality of these transactions are without merit. First, the language of 11 C.F.R. § 110.1(a) states that a committee must have net debts outstanding before a contribution designated to retire that debt can be made. Additionally, several prior advisory opinions while not explicating net outstanding obligations to the extent discussed in Advisory Opinion 1984-32, nonetheless state that net debts must be present at the time of receipt of the debt-designated contributions to avoid redesignation to a future election. Advisory Opinions 1980-30, 1978-37, 1977-24, RE: AOR 1976-101 and 1975-53.

Second, the Lantos Committee's reliance on a purported theory of "parallel fundraising" for the legality of the transactions cited herein is equally without merit. While past advisory opinions (AO's 1980-32, 1980-143, and 1981-9) have allowed a candidate with a surplus in one election cycle to transfer a portion (or all) to retire debts from a prior election cycle, the creation of new debt (by the prior election campaign to a current campaign) has never been sanctioned. Such an arrangement is actually a consolidation, or carrying forward, of debt and may not be used to artificially generate a new opportunity to use contributions limits from a past election. Consequently, if 1982 contributions were used (on loan basis or otherwise) to retire 1980 debts, the 1980 debts would be extinguished and no more 1980 contributions could be collected or designated. See Advisory Opinion 1980-32 and 1978-99.

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Therefore, here the focus of the inquiry is not on the actual or original amount of the general election deficit but as noted, supra, whether or not there were any outstanding 1980 general election debts at the time the contributions were received. In this case with the exception of certain unitemized 1980 general election debts totalling 288.75, there was no other significant outstanding 1980 general election debts at the time the \$2,500 EPEC/IUOE debt retirement check was received on June 25, 1981.

EPEC/IUOE and SELFEC made a total of 8,600 in contributions to the Lantos Committee. Affiliated multicandidate political committees have one contribution limit of \$5,000 per election. Only the \$600 check from EPEC/IUOE together with \$288.75 of the \$2,500 EPEC/IUOE check was attributable to the 1980 general election deficit. Therefore, the Lantos Committee accepted an excessive contribution of \$2,711.25 from EPEC/IUOE and SELFEC in violation of 2 U.S.C. § 441a(f).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. §441a(f).

1 November 1985
Date



Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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SENSITIVE

November 15, 1985

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele *CNS*
General Counsel *lm*

SUBJECT: MUR 1719 (Tom Lantos for Congress Committee
and Katrina Lantos-Swett as treasurer)

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 respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on November 15, 1985. 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 Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter)	
)	
Tom Lantos)	MUR 1719
for Congress Committee)	
and Katrina Lantos-Swett)	
as treasurer)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

This matter was generated by a complaint filed by James Edward Antosh against Thomas P. Lantos, Tom Lantos for Congress Committee and Katrina Lantos-Swett as treasurer, (hereinafter "Lantos Committee"); Engineers Political Education Committee/International Union of Operating Engineers and Frank Hanley, as treasurer, (hereinafter "EPEC/IUOE"); and Supporters of Engineers Local 3 Federal Endorsed Candidates and Robert Marr, as treasurer, (hereinafter "SELFEC"), alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act").

The allegations in the administrative complaint alleged that two affiliated separate segregated funds (EPEC/IUOE and SELFEC) had contributed \$3,600, in excess of the statutory limit to the Lantos Committee for the 1982 primary election.

A reievew of the reports filed with the Commission revealed that the following contributions were made to the Lantos Committee:

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response to the notification of complaint that their review indicated that 75% of the \$5,000 contribution or \$3,750 was attributable to the general election and 25% or \$1,250 was attributable to the primary election.

On July 31, 1984, the Commission rejected the Lantos Committee's argument that the \$5,000 in-kind contribution was primarily for the purpose of influencing the general election. Therefore, the \$5,000 in-kind contribution by SELFEC to the Lantos Committee was properly attributable by the parties to the 1982 primary election.

However, based on an affidavit signed by Thomas Lantos stating that the \$600 EPEC/IUOE contribution was made in connection with a debt retirement reception on May 21, 1981, at the National Democratic Club in Washington, D.C. and the letter accompanying the EPEC/IUOE check for \$2,500 specifying that it was for the 1980 campaign deficit, the Commission determined that the EPEC/IUOE contributions for \$600 and \$2,500 were properly attributable to the Lantos Committee's 1980 campaign deficit.

Based on the foregoing, on July 31, 1984, the Commission found reason to believe that the Lantos Committee had violated 2 U.S.C. §441a(f) and EPEC/IUOE and SELFEC had violated 2 U.S.C. §441a(a)(2)(A). Additionally, the Commission found reason to believe EPEC/IUOE violated 11 C.F.R. §104.14(d). However, due to the small amount at issue the Commission took no further action

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	Total	\$30,157.67

^{1/} The 1981 Mid-Year Report lists the disbursement to Dependable Typewriter Co. as \$598.00.

^{2/} However, the 1981 Mid-Report shows the disbursement to Candidates Outdoor Graphic Services, on 2/10/81, for \$1,224.00. Additionally, that same report shows another disbursement to Candidates Outdoor Graphic Services for \$500 on 2/3/81.

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which in the aggregate exceed \$5,000. 2 U.S.C. § 441a(f) prohibits a candidate or committee from knowingly accepting contributions in violation of the \$5,000 aggregate limitation imposed on contributions under this section.

2 U.S.C. § 441a(a)(5) provides that for purposes of the contribution limitations all contributions made by political committees established or financed or maintained or controlled by a labor organization, including any subsidiary, branch, division, department, or local unit of the labor organization shall be considered to have been made by a single political committee.

11 C.F.R. § 110.1(a)(2) provides that a contribution designated in writing by a contributor for a particular election shall be attributable to that election. Except, that contributions made after the primary election, shall be allowed only if the recipient committee has outstanding primary debts on the date of the contribution which are equal to or greater than the contribution. 11 C.F.R. § 110.1(a)(2) further provides that contributions not designated in writing by a contributor for a particular election are attributable to the primary election if made on or before the date of the primary election and are attributable to the general election if made after the date of the primary election.

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The Lantos Committee's response makes essentially two arguments for the legality of the transactions cited herein. First, the Lantos Committee contends that construction of the term "net debt outstanding" did not receive clear definition by the Commission until the issuance of Advisory Opinion 1984-32 which occurred subsequent to the events in this matter.

Second, the Lantos Committee contends that the actual general election debt in this matter exceeded the debt-related contributions received by the Lantos Committee by over \$5,000. According to the Lantos Committee, this is a necessary conclusion because the entire 1980 general election deficit totalled approximately \$30,000 and the Lantos Committee was only able to raise \$25,000 for this purpose.

The Lantos Committee characterized its financial activity as "parallel fundraising" or raising funds for the upcoming 1982 campaign while at the same time raising funds for the 1980 election deficit. The Lantos Committee response explained that the Committee's contractual and legal obligations required that the 1980 debts be paid within a reasonable time. According to the Lantos Committee response, the Lantos Committee borrowed from its 1982 election campaign fund to pay the 1980 general election debts and then repaid the 1982 election campaign fund as debt-related contributions were received.

Consequently, the Lantos Committee believes that the \$2,500 debt retirement check from EPEC/IUOE should be viewed as funds which the Lantos Committee "repaid" the 1982 account for previously meeting 1980 general election debt obligations.

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Therefore, here the focus of the inquiry is not on the actual or original amount of the general election deficit but as noted, supra, whether or not there were any outstanding 1980 general election debts at the time the contributions were received. In this case with the exception of certain unitemized 1980 general election debts totalling 288.75, there was no other significant outstanding 1980 general election debts at the time the \$2,500 EPEC/IUOE debt retirement check was received on June 25, 1981.

EPEC/IUOE and SELFEC made a total of 8,600 in contributions to the Lantos Committee. Affiliated multicandidate political committees have one contribution limit of \$5,000 per election. Only the \$600 check from EPEC/IUOE together with \$288.75 of the \$2,500 EPEC/IUOE check was attributable to the 1980 general election deficit. Therefore, the Lantos Committee accepted an excessive contribution of \$2,711.25 from EPEC/IUOE and SELFEC in violation of 2 U.S.C. § 441a(f).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. §441a(f).

1 November 1981
Date



Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter)
)
Tom Lantos) MUR 1719
for Congress Committee)
and Katrina Lantos-Swett)
as treasurer)

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The Lantos Committee indicated in its response to notification of complaint that errors had been made in the designation of some of the contributions by EPEC/IUOE. The Lantos Committee provided evidence, by way of affidavit, indicating that two of the contributions in question, in the amounts of \$600 and \$2,500 totalling \$3,100, had actually been contributed to retire the Lantos Committees' 1980 general election debt. The Lantos Committee also indicated that the \$5,000 SELFEC contribution designated for the 1982 primary was a result of a clerical error. The Lantos Committee stated in

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response to the notification of complaint that their review indicated that 75% of the \$5,000 contribution or \$3,750 was attributable to the general election and 25% or \$1,250 was attributable to the primary election.

On July 31, 1984, the Commission rejected the Lantos Committee's argument that the \$5,000 in-kind contribution was primarily for the purpose of influencing the general election. Therefore, the \$5,000 in-kind contribution by SELFEC to the Lantos Committee was properly attributable by the parties to the 1982 primary election.

However, based on an affidavit signed by Thomas Lantos stating that the \$600 EPEC/IUOE contribution was made in connection with a debt retirement reception on May 21, 1981, at the National Democratic Club in Washington, D.C. and the letter accompanying the EPEC/IUOE check for \$2,500 specifying that it was for the 1980 campaign deficit, the Commission determined that the EPEC/IUOE contributions for \$600 and \$2,500 were properly attributable to the Lantos Committee's 1980 campaign deficit.

Based on the foregoing, on July 31, 1984, the Commission found reason to believe that the Lantos Committee had violated 2 U.S.C. §441a(f) and EPEC/IUOE and SELFEC had violated 2 U.S.C. §441a(a)(2)(A). Additionally, the Commission found reason to believe EPEC/IUOE violated 11 C.F.R. §104.14(d). However, due to the small amount at issue the Commission took no further action

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against Respondents and closed the file in this matter.

Subsequently, complainant filed suit pursuant to 2 U.S.C. §437g(a)(8). After the law suit was filed, plaintiff (complainant) alleged for the first time in court that the Lantos Committee's reports showed that the 1980 debt had been extinguished shortly before contributions at issue (the \$600 and 2,500 EPEC/IUOE contributions) were received. Therefore, plaintiff argued that the contribution should be attributed to the 1982 primary election rather than to the 1980 general election debts which would then result in the Lantos Committee exceeding the 1982 primary contribution limit. The district court adopted this argument and found that the Commission had acted contrary to law by failing to make this determination and continuing its enforcement proceedings.

On December 21, 1984, the court ordered the Federal Election Commission to reopen MUR 1719 for further proceedings consistent with the court's opinion. On January 8, 1985, the Commission considered the court's order and opinion and voted to reopen MUR 1719 for further investigation. Respondents were notified that MUR 1719 was reopened in a letter dated January 17, 1985.

On February 12, 1985, the Office of General Counsel received a preliminary response from the Lantos Committee. Pursuant to requests for additional information, the Lantos Committee submitted additional responses on April 15, 1985, and again on May 2, 1985 (all hereinafter "Lantos Committee Response"). These written responses were supplemented with telephone conversations at the end of May.

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A review of the Lantos Committees records on file at the Commission and the Lantos Committee responses indicates that there was a total of 30,157.67 in itemized disbursements related to the 1980 campaign deficit during the period January 21, 1981, through June 30, 1981. The Lantos Committee response notes the following debt-related disbursements made in 1981.

<u>Date</u>	<u>Payee</u>	<u>Amount</u>	
2/3/81	Dependable Type- Writer Co.	\$498.90	<u>1/</u>
2/4/81	Douglas DeYoung	\$993.19	
2/12/81	Douglas DeYoung	\$1,000.00	
2/4/81	Rothstein-Buckley	\$528.65	
2/12/81	Rothstein-Buckley	\$1,500.00	
2/10/81	Candidates Outdoor Graphic Services	\$1,114.00	<u>2/</u>
3/13/81	Internal Revenue Service	\$2,563.75 \$625.62	
2/12/81	Tom Lantos	\$121.56	
3/30/81	Tom Lantos	\$15,000.00	
4/13/81	Tom Lantos	\$5,000.00	
6/18/81	Alice Carnes	<u>\$1,212.00</u>	
	Total	\$30,157.67	

1/ The 1981 Mid-Year Report lists the disbursement to Dependable Typewriter Co. as \$598.00.

2/ However, the 1981 Mid-Report shows the disbursement to Candidates Outdoor Graphic Services, on 2/10/81, for \$1,224.00. Additionally, that same report shows another disbursement to Candidates Outdoor Graphic Services for \$500 on 2/3/81.

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The Lantos Committee's response also states that during January-June 30, 1981, the Committee solicited and received a total of \$25,000 in contributions for debt retirement purposes. The Lantos Committee response and Committee records indicate that the last check drawn to pay an itemized 1980 debt was on June 18, 1981.

The Lantos Committee contends that a study of unitemized disbursements show that debt retirement was ongoing throughout June 1981 and into the fall 1981. Specifically, the Lantos Response indicates that the following unitemized debt related expenditures were made subsequent to June 25, 1981, the date of the \$2,500 EPEC/IUOE contribution. 3/

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<u>Date</u>	<u>Payee</u>	<u>Amount</u>
6/30/81	Pacific Bell	\$27.15
8/18 81	Siv Elwing	210.10
10/8/81	Doghouse Studio	161.00
10/14/81	Siv Elwing	<u>79.50</u>
	Total	\$288.75

II. LEGAL ANALYSIS

2 U.S.C. § 441a(a)(2)(A) states that no multicandidate political committee shall make contributions to any candidate and his authorized committees with respect to any federal election

3/The Lantos Committee response notes that these items do not represent all unitemized disbursements related to the 1980 campaign debts but only those drawn subsequent to June 25, 1981.

which in the aggregate exceed \$5,000. 2 U.S.C. § 441a(f) prohibits a candidate or committee from knowingly accepting contributions in violation of the \$5,000 aggregate limitation imposed on contributions under this section.

2 U.S.C. § 441a(a)(5) provides that for purposes of the contribution limitations all contributions made by political committees established or financed or maintained or controlled by a labor organization, including any subsidiary, branch, division, department, or local unit of the labor organization shall be considered to have been made by a single political committee.

11 C.F.R. § 110.1(a)(2) provides that a contribution designated in writing by a contributor for a particular election shall be attributable to that election. Except, that contributions made after the primary election, shall be allowed only if the recipient committee has outstanding primary debts on the date of the contribution which are equal to or greater than the contribution. 11 C.F.R. § 110.1(a)(2) further provides that contributions not designated in writing by a contributor for a particular election are attributable to the primary election if made on or before the date of the primary election and are attributable to the general election if made after the date of the primary election.

Here, contributions designated to retire the 1980 general election deficit are only attributable to the extent that the contributions do not exceed the general election net debt outstanding. See Advisory Opinion 1977-24. Therefore, the

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pivotal issue here is whether or not the Lantos Committee had any 1980 general election debts, at the time the Lantos Committee received the EPEC/IUOE contribution of \$600 on May 13, 1981 and the EPEC/IUOE contribution of \$2,500 on June 25, 1981.

The evidence indicates that the last itemized check drawn to repay a 1980 general election debt expense was on June 18, 1981. The \$600 EPEC/IUOE contribution made on May 6, 1981, and received by the Lantos Committee on May 13, 1981, is attributable to the 1980 general election debt since it was received before June 18, 1981. However, the \$2,500 contribution made by EPEC/IUOE on June 22, 1981, and received by the Lantos Committee on June 25, 1981, is not fully attributable to the 1980 general debt.

As noted above, the last itemized general election debt was paid by the Lantos Committee on June 18, 1981. However, the Lantos Committee had a remaining unitemized 1980 general election debt of \$288.75. Therefore, only \$288.75 of the \$2,500 would be attributable to the 1980 general election deficit. The remaining 2,211.25 designated by EPEC/IUOE for the 1980 general election deficit should have been returned to the contributor or the contributor notified to redesignate the contribution for next upcoming election in accordance with the contribution limits of the Act. 4/ See Advisory Opinion 1984-32.

4/ Though Advisory Opinion 1984-32, was rendered by the Commission after the events cited herein had occurred, the rationale behind the refund or redesignation of the contribution is nevertheless an implicit result of the restriction on such contributions under 11 C.F.R. 110.1(a)(2). See also Advisory Opinions, 1980-30, 1978-37, 1977-24, Re: AOR 1976-101 and 1975-53

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The Lantos Committee's response makes essentially two arguments for the legality of the transactions cited herein. First, the Lantos Committee contends that construction of the term "net debt outstanding" did not receive clear definition by the Commission until the issuance of Advisory Opinion 1984-32 which occurred subsequent to the events in this matter.

Second, the Lantos Committee contends that the actual general election debt in this matter exceeded the debt-related contributions received by the Lantos Committee by over \$5,000. According to the Lantos Committee, this is a necessary conclusion because the entire 1980 general election deficit totalled approximately \$30,000 and the Lantos Committee was only able to raise \$25,000 for this purpose.

The Lantos Committee characterized its financial activity as "parallel fundraising" or raising funds for the upcoming 1982 campaign while at the same time raising funds for the 1980 election deficit. The Lantos Committee response explained that the Committee's contractual and legal obligations required that the 1980 debts be paid within a reasonable time. According to the Lantos Committee response, the Lantos Committee borrowed from its 1982 election campaign fund to pay the 1980 general election debts and then repaid the 1982 election campaign fund as debt-related contributions were received.

Consequently, the Lantos Committee believes that the \$2,500 debt retirement check from EPEC/IUOE should be viewed as funds which the Lantos Committee "repaid" the 1982 account for previously meeting 1980 general election debt obligations.

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The arguments by the Lantos Committee for the legality of these transactions are without merit. First, the language of 11 C.F.R. § 110.1(a) states that a committee must have net debts outstanding before a contribution designated to retire that debt can be made. Additionally, several prior advisory opinions while not explicating net outstanding obligations to the extent discussed in Advisory Opinion 1984-32, nonetheless state that net debts must be present at the time of receipt of the debt-designated contributions to avoid redesignation to a future election. Advisory Opinions 1980-30, 1978-37, 1977-24, RE: AOR 1976-101 and 1975-53.

Second, the Lantos Committee's reliance on a purported theory of "parallel fundraising" for the legality of the transactions cited herein is equally without merit. While past advisory opinions (AO's 1980-32, 1980-143, and 1981-9) have allowed a candidate with a surplus in one election cycle to transfer a portion (or all) to retire debts from a prior election cycle, the creation of new debt (by the prior election campaign to a current campaign) has never been sanctioned. Such an arrangement is actually a consolidation, or carrying forward, of debt and may not be used to artificially generate a new opportunity to use contributions limits from a past election. Consequently, if 1982 contributions were used (on loan basis or otherwise) to retire 1980 debts, the 1980 debts would be extinguished and no more 1980 contributions could be collected or designated. See Advisory Opinion 1980-32 and 1978-99.

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Therefore, here the focus of the inquiry is not on the actual or original amount of the general election deficit but as noted, supra, whether or not there were any outstanding 1980 general election debts at the time the contributions were received. In this case with the exception of certain unitemized 1980 general election debts totalling 288.75, there was no other significant outstanding 1980 general election debts at the time the \$2,500 EPEC/IUOE debt retirement check was received on June 25, 1981.

EPEC/IUOE and SELFEC made a total of 8,600 in contributions to the Lantos Committee. Affiliated multicandidate political committees have one contribution limit of \$5,000 per election. Only the \$600 check from EPEC/IUOE together with \$288.75 of the \$2,500 EPEC/IUOE check was attributable to the 1980 general election deficit. Therefore, the Lantos Committee accepted an excessive contribution of \$2,711.25 from EPEC/IUOE and SELFEC in violation of 2 U.S.C. § 441a(f).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe the Tom Lantos for Congress Committee and Katrina Lantos-Swett, as treasurer, violated 2 U.S.C. §441a(f).

1 November 1981
Date



Charles N. Steele
General Counsel

87040630073



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1985

Robert F. Bauer, Esquire
Perkins, Coie, Stone, Olsen
& Williams
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

Re: MUR 1719
Tom Lantos for Congress
Committee and Katrina
Lantos-Swett as treasurer

Dear Mr. Bauer:

On December 21, 1984, the court ordered the Federal Election Commission (the "Commission") to reopen MUR 1719 for further proceedings consistent with the court's opinion also of December 21, 1984. James Edward Antosh v. Federal Election Commission, et. al. 84 Civ. 3048 (D.D.C. December 21, 1984). On January 8, 1985, the Commission considered the court's order and opinion and voted to reopen MUR 1719 for further investigation.

The confidentiality provisions of the Act (2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A)) are in effect unless you notify the Commission in writing that you wish the matter to be made public.

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

Enclosure

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BCC # 7360
M 1719

PERKINS, COIE, STONE, OLSEN & WILLIAMS

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ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 279-8881

May 2, 1985

BY HAND DELIVERY

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Dear Sir:

In response to your most recent request for further clarification of the 1980 debt retirement activities of the Lantos Committee, we have sought to obtain more detailed information on the specific debts involved and the way in which they were retired.

As background, to address the more general questions your office has raised, the timing and related circumstances of its 1980 debt retirement effort require elaboration. The Committee sought throughout the first half of 1981 to raise funds for the retirement of these and other 1980 campaign obligations. At the same time, the Committee was engaged in fundraising for its upcoming 1982 election -- an election which it was anticipated would be and, in fact turned out to be, hard fought and costly.

In the course of its fundraising efforts, the Lantos Committee discovered what conventional wisdom has long stated -- namely, that it is much harder to raise money for a deficit than it is for a future election. Because of this, contributions in response to debt solicitations came more slowly and sporadically and, as pointed out in our previous submissions, the total raised for such purposes fell below both the Committee's expectations and needs. While the Committee sought to delay paying 1980 campaign obligations while awaiting the response to its deficit fundraising efforts, these payments could not be delayed indefinitely. Both the Committee's contractual and legal obligations, as well as its need to maintain a responsible financial reputation with key community businesses, required payment of these 1980 debts within a reasonable period of time. Consequently, the Committee in effect borrowed from its 1982 campaign fund to pay these pressing obligations and those 1982 funds were replenished as debt-related contributions were received.

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COMM. COUNSEL

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What follows is a specific breakdown and analysis of the itemized debt-related disbursement during the period from January 1981 through June 1981:

1. 2/3/81 -- Dependable Typewriter -- \$498.90

This payment was for the replacement cost of a rented typewriter which disappeared during the closing days of the 1980 Campaign. Every effort was made to locate and recover the machine, and payment for it was deferred while these efforts were ongoing. However, after three months' time, Dependable Typewriter, a small local business, required full payment for the loss of the equipment.

2. 2/4/81 -- Douglas DeYoung \$ 993.19
2/12/81 -- Douglas DeYoung \$1,000.00

Douglas DeYoung is an independent computer consultant who provided data processing services to the Campaign in connection with the preparation of mailing lists and labels which were used during late September and October 1980. Mr. DeYoung is recognized as an experienced campaign computer consultant in the Bay area and the Lantos Committee intended to use his services in the upcoming 1982 election. In order to maintain his good will, payment had to be made in February -- approximately four months after the services were rendered.

3. 2/4/81 -- Rothstein-Buckley \$ 528.65
2/12/81 -- Rothstein-Buckley \$1,500.00

The campaign consulting firm of Rothstein-Buckley served as consultants to the Lantos Committee during the 1980 Campaign. As was the case with Mr. DeYoung, the Campaign hoped to make use of their services in future campaigns. This necessitated payment for services within a reasonable period of time -- approximately three and a half months.

4. 2/10/81 -- Candidates Outdoor Graphic Services -- \$1,114.00

Candidates Outdoor Graphic Services ("COGS") provided lawn, window and poster signs for the Lantos Campaign during the late summer of 1980 for use during the fall

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campaign. As with the other businesses dealt with above, the Committee intended to use COGS' services in future campaigns. Final payment on their bill could not be deferred past mid-February -- almost six months after the signs were delivered.

5. 3/13/81 -- Internal Revenue Service \$2,563.75
625.62

Political committees are required by law to pay their taxes by March 15 and this obligation clearly could not be delayed.

6. 2/12/81 -- Tom Lantos \$ 121.56
3/30/81 -- Tom Lantos 15,000.00
4/13/81 - Tom Lantos 5,000.00

The first disbursement to Mr. Lantos was for reimbursement of telephone expenses incurred in connection with the 1980 Campaign. The last two disbursements were repayments for loans made by Mr. Lantos to the Campaign between October 31 and November 24, 1980.

7. 6/18/81 - Alice Carnes \$1,212.00

This last itemized debt disbursement was a reimbursement to the previous Campaign Treasurer for a variety of items, including travel, telephone, xeroxing, storage and catering expenses. Most of these expenses had been incurred during and immediately following the election itself. By the time Mrs. Carnes was reimbursed for these expenses, most of the items had been outstanding for over seven months.

The Committee firmly believes that the debt retirement effort described here was fully consistent with the relevant law in effect at that time. As the Committee has noted in its February 12, 1985 submission, the Commission's subsequent gloss on the term "net debts outstanding" -- set forth in Advisory Opinion 1984-32 and the pending rulemaking on part 110 -- was developed well after the events under review in this matter.

Moreover, the Committee's management of these debts raises no conceivable policy concerns under the Act with respect to the integrity of the contribution limitations. This was not a situation where excess funds were received in response to debt solicitation, and where the excess, therefore,

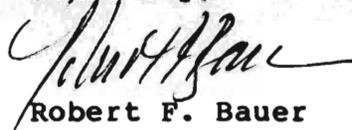
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General Counsel
Federal Election Commission
May 2, 1985
Page 4

should properly be attributed to the next upcoming election limit. On the contrary, the actual debt exceeded the debt-related contributions received by over \$5,000. Thus, the \$2,500 contribution received from EPEC on June 25, 1981 in no way represented excess contributions to the Committee's 1980 campaign debt. This last \$2,500 debt retirement check should more properly be viewed as funds with which the Committee "repaid" the 1982 account for previously meeting 1980 debt obligations. Under these circumstances, there is no ground in law, policy or logic to require the Committee to attribute debt-related contributions to an upcoming primary campaign simply because of the time frame in which they were received.

The Lantos Committee urges the Commission to re-examine this matter carefully in light of the legal, policy and practical aspects of the case. We believe that the Committee's actions were lawful and reasonable.

Sincerely,



Robert F. Bauer

RFB/lff

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 11, 1985

Robert F. Bauer, Esquire
PERKINS, COIE, STONE, OLSEN & WILLIAMS
1110 Vermont Avenue, NW
Washington, D.C. 20005

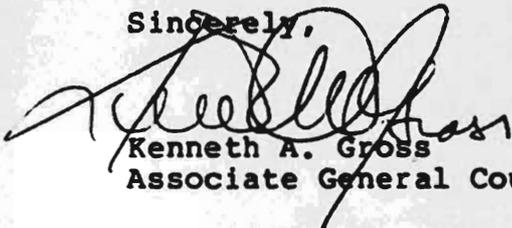
Re: MUR 1719
Tom Lantos Committee and
Katrina Lantos Swett, as
Treasurer

Dear Mr. Bauer:

This letter is written confirmation of your telephone conversation with a staff member in our office. According to that conversation, you indicated that a detailed response of the Lantos Committee explaining the Committee's position on various issues raised in this matter would be sent to the Commission by April 12, 1985.

If the response is not received on that date by this office, we will proceed with the investigation of this matter in accordance with the procedures in the FECA.

Sincerely,


Kenneth A. Gross
Associate General Counsel

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

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SECRETARY

In the Matter of)
)
 Thomas P. Lantos,)
 Tom Lantos for)
 Congress Committee and)
 Katrina Lantos-Swett)
 as treasurer)
 Engineers Political Education)
 Committee/International Union)
 of Operating Engineers and)
 Frank Hanley as treasurer)
 Supporters of Engineers Local 3)
 Federal Endorsed Candidates)
 and Robert Marr as treasurer)

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MUR 1719

COMPREHENSIVE INVESTIGATIVE REPORT #2

On December 21, 1984, the court ordered the Federal Election Commission to reopen MUR 1719 for further proceedings consistent with the Court's opinion. On January 8, 1985, the Commission considered the Court's order and opinion and voted to reopen MUR 1719 for further investigation. On January 14, 1985, the Respondents and Complainant were notified that MUR 1719 had been reopened pending further investigation. In telephone conversations with Counsel for the Lantos Committee, Counsel promised that certain information regarding the matter would be sent to this office by February 4 or 5, 1985.

On February 12, 1985, the Office of the General Counsel received a response from Counsel for the Lantos Committee. The response was characterized by the Lantos Committee as a preliminary response pending a more formal presentation by the Committee shortly. To date no written response has been received from the Lantos Committee.

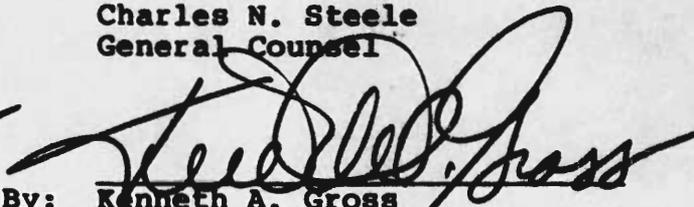
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On April 8, 1985, Counsel for the Lantos Committee indicated that a detailed accounting of the transactions surrounding the 1980 debt retirement effort would be sent to the Commission on April 12, 1985. Counsel for the Lantos Committee stated that this information would explain how the net debt outstanding was calculated and what monies were used to pay the 1980 debt.

On April 15, 1985, the Office of General Counsel received the Lantos response. Upon review of that response, a report with recommendations will be circulated to the Commission.

Charles N. Steele
General Counsel

April 18, 1985
Date


By: Kenneth A. Gross
Associate General Counsel

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Curry
1719

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April 15, 1985

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

ATTN: Ms. Deborah Curry

Dear Ms. Curry:

As we discussed last week, a misunderstanding between your office and the Lantos respondents in this matter appears to have developed over the timing for our next submission. While our letter of February 12, 1985 reflected our intention to elaborate on the figures presented in connection with our review of 1980 general election debt retirement activity, it was my impression from a telephone conference we had at the time that the Lantos respondents would shortly hear from the Commission about its proposed action in the wake of the decision of the United States District Court in Antosh v. Federal Election Commission.

For this reason, the Lantos respondents concluded that any additional submission to you should be deferred pending receipt of further word from the Commission, so that any material subsequently submitted would be responsive to the specific questions and needs of your office. In the end, it now appears that your office postponed further action until the receipt of a Lantos submission which was, in fact, pending further agency action. We regret, of course, any inconvenience this misunderstanding may have caused for both the Commission and the Lantos respondents who are committed to expeditious resolution of the matter.

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GENERAL COUNSEL
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Charles N. Steele, Esq.
April 15, 1985
Page 2

With respect to the additional detail we have offered on the debt retirement and related financial activity of the Lantos Committee in 1981, we direct your attention to the following:

A further review of available Committee records indicates the following: during the period from January 21, 1981 through June 30, 1981, the Lantos Committee reports reflect a total of \$30,367.67 in itemized disbursements related to the 1980 campaign deficit. During this same period, the Committee solicited and received a total of \$25,000 in contributions for debt retirement purposes. All contributions received in response to debt retirement solicitations were so designated on the Committee reports.

While the January through June 1981 report shows the last check drawn to pay an itemized 1980 debt on June 18, 1981, a study of the unitemized disbursements shows that debt retirement was ongoing throughout June and into the fall. Specifically, the Committee records reflect the following debt-related expenditures made subsequent to June 25, 1981-- the date on which the Committee received a contribution from EPEC in the amount of \$2,500.

<u>Date</u>	<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
6/30/81	152	Pacific Bell	\$ 27.15	Wrapup charge on 1980 campaign phone
8/18/81	234	Siv Elwing	21.10	1980 Campaign Photography
10/8/81	271	Doghouse Studio	161.00	1980 Campaign Office furniture relocation
10/14/81	276	Siv Elwing	79.50	1980 Campaign Photography

The above items do not represent all unitemized disbursements related to the 1980 campaign debts but merely those drawn subsequent to June 25, 1981.

In the real world of campaign finance, it is often necessary to conduct parallel fundraising efforts--one aimed at raising funds for upcoming races and the other aimed at past debt reduction. The responses to such efforts are always varied and unpredictable. In this case, the Lantos Committee's

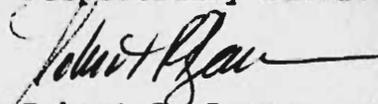
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Charles N. Steele, Esq.
April 15, 1985
Page 3

intention was to raise funds sufficient to cover the entire deficit which totalled in excess of \$30,000. In fact, the Committee was able to raise only \$25,000 for this purpose. These funds were raised over a period of approximately six months from January 1981 through June 1981. Debt-related disbursements were made over a period of approximately ten months from January 1981 through October 1981.

In accordance with sound and reasonable accounting principles, the Committee applied all contributions solicited for and contributed towards the deficit for that purpose.

Respectfully submitted,



Robert F. Bauer
Counsel

RFB/taw

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION SECRETARY

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In the Matter of)
)
 Thomas P. Lantos,)
 Tom Lantos for)
 Congress Committee and)
 Katrina Lantos-Swett)
 as treasurer)
 Engineers Political Education)
 Committee/International Union)
 of Operating Engineers and)
 Frank Hanley as treasurer)
 Supporters of Engineers Local 3)
 Federal endorsed Candidates)
 and Robert Marr as treasurer)

MUR 1719

COMPREHENSIVE INVESTIGATIVE REPORT #1

On July 31, 1984, the Commission determined to close the file in this matter. Subsequently, complainant filed suit pursuant to 2 U.S.C. § 437g(a)(8). The allegation in the administrative complaint alleged that two affiliated separate segregated funds had contributed \$3,600 in excess of the statutory limit to the Lantos for Congress Committee for the 1982 primary election. The Respondents in the matter provided evidence indicating that \$3,100 had actually been contributed to retire the Lantos Committee's 1980 general election debt, so that there was only a \$500 excessive primary campaign contribution. Consequently, the Commission found reason to believe there was a violation, but decided to take no further action because of the small amount at issue.

After the law suit was filed, plaintiff (complainant) alleged for the first time in court that the Lantos Committee's reports showed that the 1980 debt had been extinguished shortly before the contributions at issue were received. Plaintiff

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therefore argued that the contributions should be attributed to the 1982 primary election rather than the 1980 general election debt. The district court adopted this argument and found that the Commission had acted contrary to law by not making this finding and continuing its enforcement proceeding.

On December 21, 1984, the court ordered the Federal Election Commission to reopen MUR 1719 for further proceedings consistent with the Court's opinion. On January 8, 1985, the Commission considered the Court's order and opinion and voted to reopen MUR 1719 for further investigation. On January 17, 1985, the Respondents and Complainant were notified that MUR 1719 had been reopened pending further investigation. In telephone conversations with Counsel for the Lantos Committee, Counsel promised that certain information regarding the matter would be sent to this office by February 4 or 5, 1985.

On February 12, 1985, the Office of the General Counsel received a response from Counsel for the Lantos Committee. (Attachment 1) The response was characterized by the Lantos Committee as a preliminary response pending a more formal presentation by the Committee shortly.

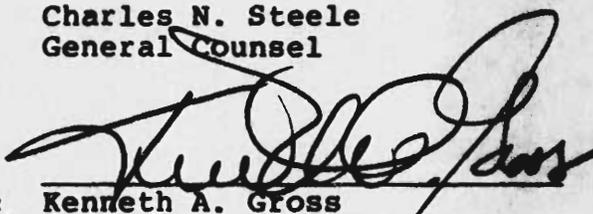
The response of the Lantos Committee indicated that at present they are reviewing all the facts and figures in their reports for accuracy. The response further indicated that the forthcoming information will elaborate on how figures were determined and discuss the uncertain state of the law at that time. We will be in contact with the Lantos Committee to make

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sure that the information is received by the Commission in a reasonable time. Upon receiving and analyzing the Lantos Committee's detailed response, a report with recommendations will be circulated to the Commission.

Charles N. Steele
General Counsel

February 15, 1985
Date


By: Kenneth A. Gross
Associate General Counsel

Attachment

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ACCT 2007
Curry

PERKINS, COIE, STONE, OLSEN & WILLIAMS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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1900 WASHINGTON BUILDING
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ANCHORAGE OFFICE
SUITE 301
420 "L" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 279-9561

PLEASE REPLY TO WASHINGTON, D.C. OFFICE

PORTLAND OFFICE
U.S. BANCORP TOWER
SUITE 2800
111 SOUTHWEST FIFTH AVENUE
PORTLAND, OREGON 97204
TELEPHONE: (503) 296-4400

February 12, 1985

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463.

Re: MUR 1719

Dear Ms. Curry:

In accordance with our telephone conversation of January 31, 1985, I have prepared this letter setting forth the preliminary response of the Lantos Committee and its Treasurer, Katrina Lantos-Swett, to the recently received notification that the Commission had reopened its investigation in this matter. The Commission decision to reopen this compliance matter followed upon the opinion of the United States District Court for the District of Columbia (Richey J.) in Antosh v. Federal Election Commission (CA 80-3048).

At this time, in the wake of the District Court decision, the Lantos respondents are prepared to assist the Commission with a prompt and cooperative resolution of what should be, in context, a simple matter. At issue is nothing more, and nothing less, than the proper construction of the term "net debts outstanding" appearing at § 110.1(a)(2)(i) of the Commission's regulations. 11 C.F.R. § 110.1(a)(2)(i). As you know, this term did not receive clear definition by the Commission until the issuance of Advisory Opinion 1984-32 in August 1984. Indeed, the Commission noted in that Advisory Opinion that "the regulations neither define 'net debts outstanding' nor provide a method for calculating this figure." The Commission is only now considering a recommendation by staff that this construction of "net debts outstanding" be addressed in a fresh rulemaking to restore clarity to the regulations and end confusion among candidates and committees. It is significant that, in this uncertain

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Ms. Deborah Curry
February 12, 1985
Page 2

state of the law, neither Antosh in his administrative complaint nor the General Counsel in his report to the Commission on that complaint, made any reference whatever to this regulatory construction.

Under these circumstances, years before this new construction of the law, the Lantos respondents sought to account for debt retirement efforts on a reasonable basis. As respondents will show in this new proceeding, the methodology selected for this purpose, now under attack by Antosh, is grounded in standard bookkeeping and accounting principles and practices. While these principles and practices may conflict with the new FEC interpretation of the debt retirement regulations, the Commission must recognize that the Lantos respondents have been caught in the middle.

In fact, the Lantos respondents are effectively defending against a political attack wearing the thinnest of legal disguises. The "violations" alleged appear to Congressman Lantos and his Committee, as they would to any reasonable political observer, as hyper-technical in nature. Thus it is that the Lantos respondents face a charge of violating contribution limitations on the basis of fine legal calculations about which limits apply to the "primary," and which to the "general." These calculations mask the point that the Lantos respondents received an aggregate \$8,600 from the political committees in question in the 1980 election, or fully \$1,400 less than the law allows on an aggregate basis. In this same vein, it has been concluded by the Commission that the in-kind contribution in the form of a brochure must be chalked up to primary election limits--notwithstanding the undisputed fact, on the record, that this brochure was intended for and used primarily in connection with the general election. Surely the Commission will understand the bewilderment and frustration of the Lantos respondents upon discovering that these tangled strands of the law have been woven by Mr. Antosh into a federal court case and now a new Commission investigation to be conducted at taxpayer expense.

Nevertheless, the Antosh decision brings the new construction of "net debts outstanding" to the fore and has prompted the Lantos respondents to conduct a review of its reports and records. This letter serves to notify the Commission of the results of this preliminary review which are now being verified and prepared for formal submission to the Commission.

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Ms. Deborah Curry
February 12, 1985
Page 3

From January 1, 1981 through June 30, 1981, Lantos Committee reports and records reflect \$30,300 in debts and obligations relating to the 1980 general election. By May 13, 1981, the date that the first disputed debt retirement contribution of \$600 was received, the Lantos respondents had received contributions, both for 1980 debt retirement and for the 1982 primary election, in the total amount of \$65,110. On June 18, 1981, the Lantos Committee reports and records reflect the last check drawn to pay a debt related to the 1980 elections, in the amount of \$1,212. Seven days later, on June 25, 1981, the Lantos Committee received an additional check for \$2,500 originally solicited and intended by the contributor for debt retirement purposes.

At present, in consultation with Committee officials and qualified accounting advice, the Lantos respondents are reviewing these figures to assure their accuracy for presentation to the Commission. The presentation of those figures, together with a further elaboration of the means by which they were determined, will be forthcoming shortly. The Lantos Committee specifically expects to show the Commission how this entire matter arose out of the uncertain state of the law at the time, which left the Lantos respondents to pursue a reasonable methodology reflected in standard accounting principles and practices.

The Lantos respondents welcome the opportunity to set the record straight in this matter and spare all parties unnecessary expense and effort.

Very truly yours,


Robert F. Bauer
Counsel

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ACC#6654

PERKINS, COIE, STONE, OLSEN & WILLIAMS

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February 12, 1985

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

12
9:11:43

Re: MUR 1719

Dear Ms. Curry:

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Ms. Deborah Curry
February 12, 1985
Page 2

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Ms. Deborah Curry
February 12, 1985
Page 3

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The Lantos respondents welcome the opportunity to set the record straight in this matter and spare all parties unnecessary expense and effort.

Very truly yours,



Robert F. Bauer
Counsel

97040530093



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1985

Michael Ernest Avakian
Martha M. Poindexter
Center on National Labor Policy
Suite 400
5211 Port Royal Road
Springfield, Virginia 22151

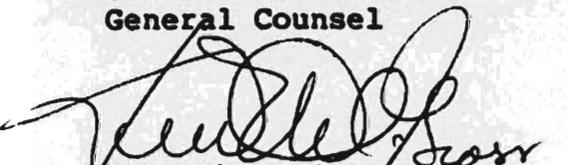
Re: MUR 1719

Dear Mr. Avakian and Poindexter:

On December 21, 1984, the court ordered the Federal Election Commission (the "Commission") to reopen MUR 1719 for further proceedings consistent with the court's opinion also of December 21, 1984. James Edward Antosh v. Federal Election Commission, et. al. 84 Civ. 3048 (D.D.C. December 21, 1984). On January 8, 1985, the Commission considered the court's order and opinion and voted to reopen MUR 1719 for further investigation.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

87040530094



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1985

Joe R. McCray, Esquire
MrCray & Lewis
433 Turk Street
San Francisco, California 94102

Re: MUR 1719
Supporters of Engineers Local
3 Federal Endorsed Candidates
and Robert Marr as treasurer

Dear Mr. McCray:

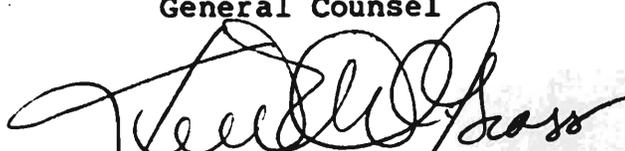
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The confidentiality provisions of the Act (2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A)) are in effect unless you notify the Commission in writing that you wish the matter to be made public.

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

Enclosure

87040630095



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 17, 1985

Michael Fanning, Counsel
International Union of Operating Engineers
1125 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 1719
Engineers Political Education
Committee/International Union of
Operating Engineers and
Frank Hanley as treasurer

Dear Mr. Fanning:

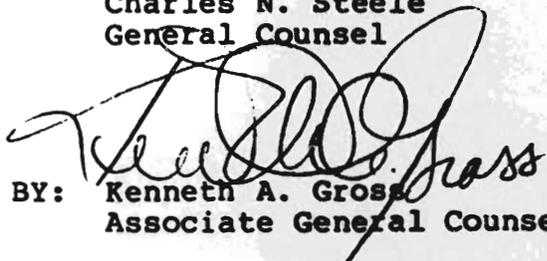
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If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

87040530096



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 24, 1986

MEMORANDUM TO FILE

FROM: Eric Kleinfeld *ek*

Please note that other documents regarding MUR 1719
may be found at:

Microfilm reel 47
Frame 4419

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1719 .

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2/13/87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1719

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Statement of the Lantos Committee
on MUR 1719

This case is a classic illustration of "much ado about nothing." After a period exceeding two years, the case has been brought to a close because the Tom Lantos for Congress Committee (the "Committee") has agreed to a conciliation agreement.

The Committee accepted this agreement for one reason only: too much time had been invested already in arguing over an utterly insignificant dispute. The Committee has maintained without exception that there was no violation of any law in this case, and therefore no grounds for any "settlement" or any civil penalty whatsoever.

The facts in this case are simple. During the 1981-82 election cycle, the Committee would have been entitled to receive a total of \$10,000 from EPEC. In actuality, during this election cycle, the Committee received a total of only \$8,600 in contributions, \$1,400 less than the law would have permitted. Furthermore, of the \$8,600 contributed by EPEC, \$2,000 was contributed toward the 1980 general election campaign debt.

Under these circumstances, one might well ask how the FEC could have reached the conclusion that any penalty should be assessed against the Committee. The Commission has, we believe, unfairly chosen to apply new debt retirement accounting rules retroactively to the Committee's efforts to retire its 1980 general election debt. Such retroactive application of rules violates the most basic concepts we in this country have of fair play and justice.

It is undisputed that the Committee carried into 1981 a debt from the 1980 general election. It is also undisputed that the Committee conducted a lawful, bona fide debt retirement effort in 1981, raising money from contributors specifically to retire that debt. And, finally, it is undisputed that the Committee raised less debt retirement money than it needed to retire the debt, and therefore was required to make use of funds generated for the 1982 election to pay off the 1980 debt.

The Commission, however, based its position on the fact that certain of the debt retirement funds solicited by the Committee came to the Committee only as and after the debt was retired in June 1981. The Commission has insisted, therefore, that these contributions had to be accounted for under 1982

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GENERAL COUNSEL

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primary election limits, not 1980 general election limits. As a result, in the Commission's view, one contributor of 1980 debt retirement funds, who separately contributed towards the 1982 primary election, "exceeded" his contribution limits in the 1982 primary.

The Committee has pointed out that these monies were plainly intended for debt retirement and that they were not directly applied for this purpose only because, solicited some time prior, they arrived late. In the meantime, the Committee had used 1982 funds to bridge the gap and to make sure that creditors were paid as promptly as possible. When the last 1980 money arrived, it did no more than replace the 1982 money used in the interim for this debt retirement purpose. Moreover, there is hardly any suggestion that the Lantos Committee's debt retirement activities posed any threats to 1982 contribution limits; the Committee, in the end, still raised far less debt retirement money than needed and had to make up the difference with 1982 funds. So this entire exercise did not benefit the 1982 primary election campaign, but in fact -- albeit in a minor way -- adversely affected the financing available for that campaign.

The Commission rests its case on new accounting rules presented to the public for the first time in 1984 -- three years after the Lantos Committee completed its debt retirement for the 1980 election. Moreover, the confusion over these new rules has been such that the Commission has recently prepared a new rulemaking to refine and clarify them. See, e.g., Agenda Document No. 86-84 (August 8, 1986). Yet still these rules have not been incorporated in final form in Commission regulations. So we have in this case the retroactive application of new rules which produce an illogical result and do not in any way answer a fundamental question: why was this proceeding even necessary? It also bears noting that the original complaint against the Committee was filed by a Mr. Antosh of Oklahoma, who, supported by the right-wing National Center on Labor Policy, has made a hobby of filing spurious complaints against Members of Congress who happen to have the support of the working men and women of this country. It is appalling that individuals and groups use our laws to conduct systematic campaigns of political harassment.

The Committee has no doubt that at all times its actions were fully lawful and eminently reasonable; and had the Committee chosen to pursue its remedies, it is convinced that its position would have been fully vindicated. However, to do so would have involved enormous additional expenditures of time and money, not only for the Committee, but more importantly,

for the taxpayers who must foot the bill for the activities of the Commission. In the interest of sparing the taxpayers and itself any further waste of time and money, the Committee has agreed to enter into this conciliation agreement, but we strongly maintain that the Committee's actions were proper, lawful and reasonable in every respect.

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5 NOV 26 P 2: 28

GENERAL COUNCIL

PERKINS COIE

No 4071

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WASHINGTON, D.C. 20005

FIRST AMERICAN BANK, NA
WASHINGTON, D.C.

15-4
540 5

November 20, 1986

PAY One Hundred Fifty and no/100-----DOLLARS \$ 150.00

TO THE
ORDER OF

United States Treasurer

Linna A. Mansour
2 SIGNATURES REQUIRED OVER \$ 200.00

⑈00004071⑈ ⑆054000043⑆ 207 188⑈

GCC# 2107

MEMORANDUM

TO: Debra A. Reed

TO: Judy Smith

FROM: Judy Smith

FROM: Debra A. ^{Trimmell} ~~Reed~~

CHECK NO. 4071 (a copy of which is attached)

TO MUR 1719 (Kleitfeld) AND NAME Thomas P Lantos, Tom Lantos
for Congress Cmte, Engrs Political
Education Cmte, etc.

WAS RECEIVED ON 11/26/86. PLEASE INDICATE THE ACCOUNT INTO

WHICH IT SHOULD BE DEPOSITED:

- / / BUDGET CLEARING ACCOUNT (\$95F3875.16)
- / ✓ CIVIL PENALTIES ACCOUNT (\$95-1099.160)
- / / OTHER _____

SIGNATURE Debra A Trimmell

DATE 11/23/86

16 NOV 25 4 29 PM '86

GENERAL COUNCIL